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No 39.

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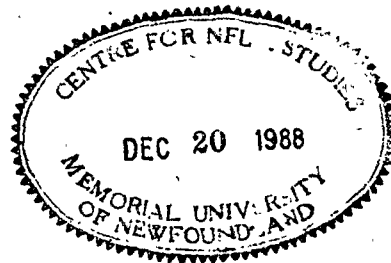
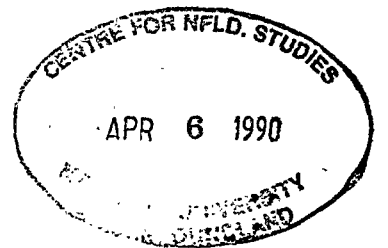
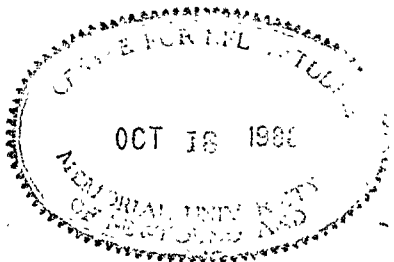
CORRESPONDENCE

RESPECTING THE

NORTH AMERICAN FISHERIES.

(IN CONTINUATION OF TWO PREVIOUS PAPERS, PRINTED CONFIDENTIALLY, AND DATED RESPECTIVELY JANUARY AND FEBRUARY, 1871.)

(From January to October, 1871.)



COLONIAL OFFICE,
NOVEMBER, 1871.

LONDON:

PRINTED BY WILLIAM CLOWES & SONS, STAMFORD STREET AND CHARING CROSS,
FOR HER MAJESTY'S STATIONERY OFFICE.

1871.

SCHEDULE.

Number in Series.	Date and Number.	Subject.	Page.
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CANADA.

DESPATCHES FROM THE GOVERNOR.

1	Nov. 16, 1870 - - (Confidential.)	General Butler's proposal on behalf of the United States' Fishermen for unrestricted admission into Canadian Ports of entry. Refers to Despatch (secret) of the 4th instant, and transmits statements.	1
2	Dec. 20, 1870 (No. 293)	Seizure of the United States' schooner 'Granada' by the Canadian Police vessel 'Ida E.'	3
3	Dec. 28, 1870 - - (Confidential.)	Transmits two Documents, prepared by the Privy Council of the Dominion of Canada, on the subject of British Fisheries and the Navigation of the River St. Lawrence.	5
4	Dec. 28, 1870 - - (Confidential.)	Transmits Report of the Honourable the Minister of Marine and Fisheries on certain Despatches concerning the protection of the Inshore Fisheries of Canada.	13
5	Jan. 18, 1871 (No. 17)-	Reports the Capture of the 'Perseverance' by the Canadian Police vessel 'Water Lily.'	19
6	Jan. 19, 1871 (No. 18) -	Seizure of the 'Granada.' Refers to Despatch, No. 293, of the 20th ultimo, and forwards extract from Captain Tory's Diary, and extract from the 'New York Tribune.'	19
7	Jan. 19, 1871 (No. 19) -	Transmits Copies of Depositions relating to the seizure of the United States' schooner 'Romp' by the Dominion schooner 'Water Lily.'	22
8	Jan. 24, 1871 (No. 25) -	Seizure of the American fishing schooner 'Perseverance' by the Canadian Police vessel 'Water Lily.'	24
9	Feb. 2, 1871 (No. 34) -	Seizure of the 'Granada.' Refers to Despatch, No. 18, of 19th ultimo, and regrets that further details cannot at present be furnished.	25
10	Feb. 20, 1871 (No. 44) -	Report of the Committee of the Privy Council of the Dominion upon Vice-Admiral Fanshawe's Despatch of December 15, 1870, and upon Lord Kimberley's Despatch, No. 318, of 22nd December last.	25
11	Feb. 22, 1871 - - (Confidential.)	Inaccuracy of a Minute of the Privy Council of Canada. Encloses copy of Mr. Campbell's Report.	27
12	Feb. 23, 1871 - - (Confidential.)	Encloses Minute of Privy Council relating to their Report of the 17th instant, which was forwarded in Despatch No. 44, of the 20th instant.	30
13	March 2, 1871 (No. 54)	Regulations to be observed by the Commanders of the Canadian cruisers during the fishing season of 1871.	30
14	(Telegram) - - - (Received 10th March, 1871.)	Canada considers Inshore Fisheries her property, which cannot be sold without her consent.	33
15	March 2, 1871 - - (Confidential.)	Debates in the two Houses of the Dominion on High Commission upon Fishery Question. Comments of the 'New York Herald.'	34
16	March 9, 1871 - - (Confidential.)	Refers to Telegram respecting the sale of Inshore Canadian Fisheries.	48
17	March 16, 1871 - - (Confidential.)	Fishery Questions, in reply to Lord Kimberley's Confidential Despatch of the 1st ultimo.	49

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18	May 4, 1871 (No. 99) -	Suspension of Instructions to Commanders of Police Vessels relating to the entry of United States' Fishing Vessels into Bays and Harbours for purposes of trade.	50
19	May 25, 1871 - (Confidential.)	The Treaty of Washington and its effect upon Canadian interests. Encloses extracts from various newspapers showing the views of the people in Canada.	53
20	June 1, 1871 - (Confidential.)	Forwards several extracts from various newspapers on the subject of the Fishery Question.	71
21	June 7, 1871 (No. 118)	Protection of the Fisheries. Encloses copy of a Minute of Council embodying the views of his responsible advisers.	77
22	July 5, 1871 (No. 126)	Concession of Fishing Rights to Citizens of the United States under the Treaty of Washington.	78
23	Cap. 23 of 1871 -	Act further to amend the Act respecting Fishing by Foreign Vessels.	79
24	August 15, 1871 - (No. 140)	Seizure of the United States' fishing schooner 'Samuel Gilbert' by Canadian Cruisers.	80
25	August 15, 1871 - (No. 149)	Transmits Report of Committee of the Privy Council of the Dominion on the Treaty of Washington in so far as it affects Canada.	83
26	September 13, 1871 (No. 163)	Seizure of the United States' fishing schooner the 'Franklin S. Schenck,' by the Canadian police vessel the 'New England.'	85
27	October 4, 1871 - (No. 173)	Seizure of the United States' schooner 'Edward A. Horton' for a violation of the Fishery Laws of the Dominion of Canada.	89

DESPATCHES FROM THE SECRETARY OF STATE.—(CANADA.)

1	January 6, 1871 - (Confidential.)	Transmits Memorandum relating to treatment of French Fishing Vessels under Convention signed at Paris in August, 1839.	91
2	January 13, 1871 - (Confidential.)	Acknowledges receipt of Despatch No. 292, of 15th December, respecting Seizure of Vessels by Imperial and Canadian cruisers. Refers to rule with regard to "Secret" and "Confidential" Despatches.	92
3	January 16, 1871 - (Confidential.)	Requests information relating to the exclusion of United States' Fishing Vessels from Canadian Waters.	92
4	January 24, 1871 - (Confidential.)	Misapprehension of statement made to Mr. Campbell respecting a reference of the Fishing Question to a Mixed Commission. States what was really communicated to Mr. Campbell.	92
5	January 26, 1871 - (Confidential.)	Comments upon Enclosures in Lord Lisgar's two Confidential Despatches of 28th ultimo, transmitting Minutes of his Privy Council, and Mr. Mitchell's Report.	93
6	February 1, 1871 - (Confidential.)	Requests to be supplied with further information on the subject of Canadian Fisheries, and with any relevant extracts from records of the Vice-Admiralty Courts.	94
7	February 16, 1871 (Confidential.)	Views of Her Majesty's Government upon the Fishery Question.	95
8	March 9, 1871 - (Confidential.)	States that the two Confidential Despatches of the 28th December, 1870, have been referred to Lord Granville, who is of opinion that the matter under discussion at Washington cannot at present be dealt with.	96
9	March 11, 1871 - (Telegram.)	Never had any intention of selling the Inshore Fisheries of Canada without consent.	96
10	March 17, 1871 - (Confidential.)	Acknowledges Lord Lisgar's Confidential Despatch of the 23rd ultimo, enclosing Report of Committee of the Canadian Privy Council on the Fishery Question.	96

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12	March 18, 1871 (No. 375)	Despatch No. 44, of the 20th ultimo, has been forwarded to the Secretary of State for Foreign Affairs for transmission to Washington.	97
13	April 10, 1871 - - (Confidential.)	Points out the particular parts of the Canadian Fishery Questions upon which additional information is sought.	97
14	April 12, 1871 (No. 389)	Remarks upon Instructions to Commanders of Canadian cruisers for the approaching fishery season.	98
15	May 25, 1871 (No. 427)	Alteration of Instructions to Officers of Government vessels engaged in the Protection of Fisheries. Transmits copies of Correspondence with the Admiralty.	98
16	June 7, 1871 (No. 437)	Directs attention to Despatch, No. 427, of the 25th ultimo, and encloses copy of a Letter from the Admiralty on the subject.	98
17	June 15, 1871 (No. 442)	Refers to Despatches Nos. 427 and 437, and forwards copies of further Correspondence on the subject with the Admiralty.	99
18	June 17, 1871 (No. 444)	Transmits copy of Treaty signed by the Joint High Commissioners at Washington, and of the Instructions to Her Majesty's High Commissioners, and Protocols of Conferences.	99
19	June 20, 1871 (No. 445)	Losses inflicted on Canada by the Fenian Raid. Refers to Despatch No. 444 of the 17th instant.	102
20	June 26, 1871 (No. 452)	Refers to Correspondence with the Admiralty enclosed in Despatch No. 442, and does not consider it necessary that he should pursue the matter there discussed further at present.	102
21	July 6, 1871 (No. 461)	Admiralty Instructions to Vice-Admiral Fanshawe respecting the protection of the North American Fisheries.	102
22	July 20, 1871 - - (Confidential.)	Acknowledges Lord Lisgar's Confidential Despatch of 25th May, conveying views of the Dominion on the Treaty of Washington.	103
23	July 20, 1871 (No. 470)	Transmits copy of Despatch from Her Majesty's Minister at Washington, with Enclosure from Mr. Fish, and copy of Reply. Lord Granville has approved the proceedings of Sir E. Thornton.	103
24	July 27, 1871 (No. 476)	Acknowledges receipt of Address adopted by the Legislative Council and Assembly of New Brunswick, relating to Fishing Rights of United States' Citizens under the Treaty of Washington.	103
25	Sept. 3, 1871 (No. 503)	Governments of Newfoundland and Prince Edward Island are willing to grant United States' Fishermen certain privileges, during the present season, ceded to them by the Treaty of Washington.	103
26	September 5, 1871 - (No. 504)	Treaty of Washington. Refers to Despatch of the 3rd instant, and transmits Copy of Letter from the Foreign Office on the subject.	104
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28	September 20, 1871 - (No. 516)	Transmits Copy of a Letter from the Foreign Office on the subject of the seizure of the 'Samuel Gilbert.'	104
29	October 3, 1871 - - (No. 527)	Seizure of the United States' fishing vessel 'Franklin S. Schenck' by the Canadian police vessel 'New England.' Refers to Despatch, No. 516, of the 20th September.	105
30	October 4, 1871 - - (Confidential.)	Seizure of American vessels for violation of the Canadian Fishery Laws. Approves of the Suggestions made by Mr. Fish.	105
31	October 21, 1871 - - (No. 540)	Capture of the United States' schooner 'Edward A. Horton' by Canadian schooner 'Sweepstakes.' Refers to Despatch, No. 516, of the 20th of September.	105
32	November 2, 1871 - (No. 546)	Refers to Despatch, No. 576, respecting the Seizure of the 'Samuel Gilbert,' and transmits Copy of a Despatch from Her Majesty's Chargé d'Affairs at Washington on the subject of Illegal Fishing.	106

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND THE FOREIGN OFFICE.
(CANADA.)

Number in Series.	From whom.	Date.	Subject.	Page.
1	The Colonial Office to the Foreign Office.	Jan. 6, 1871	Seizure of the United States' schooner 'Granada' by the Canadian police vessel 'Ida E.'	106
2	The Foreign Office to the Colonial Office.	Jan. 7, 1871	Sir E. Thornton's Despatch enclosing Petition relating to capture of American Fishing Vessels on the coast of Canada. Transmits copy of.	106
3	The Colonial Office to the Foreign Office.	Jan. 7, 1871	Forwards copy of Despatch from Governor-General of Canada enclosing revised List of Vessels seized by Imperial and Canadian cruisers for violation of Fishery Laws.	107
4	Ditto. Ditto.	Jan. 20, 1871	Application of Anglo-American Committee for copy of Instructions to British Officers commanding vessels of war in Canadian waters. Requests to be informed whether or not it should be complied with.	107
5	Ditto. Ditto.	Jan. 30, 1871	Requests to be furnished with Earl Granville's views upon two Minutes of the Privy Council of the Dominion respecting the President's Message.	107
6	The Foreign Office to the Colonial Office.	Feb. 1, 1871.	Respecting application by Mr. Thos. Hughes for copy of the Instructions given to British Officers in command of Her Majesty's vessels of war in Canadian waters. Transmits Letter from the Admiralty, leaving it to Lord Kimberley to decide whether the application should be acceded to.	108
7	The Colonial Office to the Foreign Office.	Feb. 7, 1871	Capture of the United States' fishing vessels 'Perseverance' and 'Rompe,' for having fished within three marine miles of the shore.	108
8	Ditto. Ditto.	Feb. 9, 1871	Seizure of the United States' schooner 'Granada' by the Canadian police vessel 'Ida E.'	108
9	Ditto. Ditto.	Feb. 17, 1871	Seizure of the American fishing schooner 'Perseverance' for an infraction of the Fishing Laws of the Dominion.	109
10	Ditto. Ditto.	Feb. 20, 1871	Suggests that copy of Confidential Despatch of 16th instant, respecting the Fishery Question, should be forwarded to the High Commissioners at Washington.	109
11	Ditto. Ditto.	Feb. 20, 1871	Seizure of the 'Granada.' Transmits copy of further Despatch from the Governor-General of Canada on the subject.	109
12	The Foreign Office to the Colonial Office.	Feb. 23, 1871	Copy of Confidential Despatch of the 16th instant to Lord Lisgar will be forwarded to the High Commissioners at Washington.	109
13	Ditto. Ditto.	Mar. 3, 1871	Refers to Colonial Office Letter of the 30th January, relating to the Fishery Question, and states that the matter now under discussion at Washington cannot be dealt with at present.	109
14	The Colonial Office to the Foreign Office.	Mar. 9, 1871	Admiralty Letter in answer to inquiries on the subject of Canadian Fisheries generally; transmits, and suggests it should be communicated to the High Commissioners at Washington.	110
15	Ditto. Ditto.	Mar. 18, 1871	Transmits copies of Correspondence on the question of the Canadian Fisheries.	110

Number in Series.	From whom.	Date.	Subject.	Page.
16	The Foreign Office to the Colonial Office.	Mar. 21, 1871	Correspondence relative to the case of the British schooner 'Bessie;' transmits.	110
17	The Colonial Office to the Foreign Office.	Mar. 24, 1871	Special Instructions to Commanders of Canadian cruisers for the approaching fishery season.	112
18	The Foreign Office to the Colonial Office.	April 6, 1871	Lord Granville's approval of the above-mentioned Instructions.	113
19	Ditto. Ditto.	May 9, 1871	Requests to be informed whether the Earl of Kimberley has any objection to the proposal for carrying out the stipulations, as regards Fisheries, of the Treaty which has been signed by the Joint High Commissioners.	113
20	The Colonial Office to the Foreign Office.	May 18, 1871	Suspension of Instructions for protection of the North American Fisheries. Requests to be favoured with Lord Granville's opinion upon this subject.	114
21	The Foreign Office to the Colonial Office.	May 19, 1871	Lord Granville considers that the Instructions referred to in Colonial Office Letter of the 18th instant should be suspended until the action of the United States' Government regarding the Treaty signed at Washington is known.	114
22	The Colonial Office to the Foreign Office.	May 24, 1871	Amended Instructions for admitting United States' fishermen to Canadian Ports for purposes of trade. Refers to Colonial Office Letter of the 24th March.	114
23	The Foreign Office to the Colonial Office.	May 25, 1871	Acknowledges Colonial Office Letter of the 24th instant in regard to the suspension of Instructions for protection of Fisheries. Approval of proposed Despatch to Lord Lisgar on the subject.	115
24	The Foreign Office to the Colonial Office.	May 26, 1871	Transmits Correspondence between Sir E. Thornton and Mr. Fish relative to the immediate application of the stipulations of the Fishery Treaty.	115
25	Ditto. Ditto.	May 31, 1871	Wish of the United States' Commissioners that the Treaty between them and Her Majesty's Commissioners might come into operation on the opening of the approaching fishing season.	116
26	The Colonial Office to the Foreign Office.	June 5, 1871	Treaty between the United States' Commissioner and Her Majesty's Commissioner should be ratified by the Queen before it comes into operation.	117
27	The Foreign Office to the Colonial Office.	June 7, 1871	Suggests that the Government of the Dominion should be informed of the Correspondence between Sir E. Thornton and Mr. Fish regarding the privileges of American fishermen.	117
28	The Colonial Office to the Foreign Office.	June 12, 1871	Transmits copy of a letter which it is proposed to address to the Admiralty on the subject of Instruction to British Naval Officers.	117
29	The Foreign Office to the Colonial Office.	June 12, 1871	Earl Granville concurs in proposed Instructions to British Naval Officers on the North American Station respecting Canadian Fisheries.	117
30	The Colonial Office to the Foreign Office.	June 23, 1871	Views of Her Majesty's Government respecting the Washington Treaty have been communicated to the Governor-General of Canada.	118
31	The Foreign Office to the Colonial Office.	June 24, 1871	Suspension of Instructions to British Naval Officers. Earl Granville approves of proposed Despatch to Governor-General of Canada on this subject.	118

Number in Series.	From whom.	Date.	Subject.	Page.
32	The Colonial Office to the Foreign Office.	July 8, 1871	Transmits copy of Despatch from Vice-Admiral Fanshawe reporting the orders given by him to Officers on the North American Station.	118
33	The Foreign Office to the Colonial Office.	July 12, 1871	Earl Granville approves the proceedings of Sir E. Thornton in certain matters connected with the Canadian Fishery Question.	118
34	The Colonial Office to the Foreign Office.	July 27, 1871	Concession of Fishing rights to United States' citizens under the Treaty of Washington.	119
35	The Foreign Office to the Colonial Office.	Aug. 22, 1871	Seizure of the 'Samuel Gilbert' by a Dominion cutter.	120
36	The Colonial Office to the Foreign Office	Aug. 29, 1871	Acknowledges receipt of Letter of 22nd instant on the above subject.	120
37	The Foreign Office to the Colonial Office.	Sept. 2, 1871	Approves Mr. Pakenham's proceedings in the case of the 'Samuel Gilbert.'	121
38	The Colonial Office to the Foreign Office.	Sept. 4, 1871	Seizure of the 'Samuel Gilbert.' Transmits Copy of Despatch from Governor-General of Canada on the subject.	121
39	Ditto. Ditto.	Sept. 8, 1871	Canadian Government decline to admit United States' fishermen to the provisional enjoyment of the privileges granted by the Treaty of Washington.	121
40	The Foreign Office to the Colonial Office.	Sept. 14, 1871	Seizure of the 'Samuel Gilbert.' Requests that instructions may be issued for dealing with this vessel leniently.	121
41	The Colonial Office to the Foreign Office.	Sept. 18, 1871	Transmits Copy of proposed Despatch to Governor-General of Canada relating to the case of the 'Samuel Gilbert.'	122
42	The Foreign Office to the Colonial Office.	Sept. 19, 1871	Approves of proposed Despatch referred to in Colonial Office Letter of the 18th instant.	122
43	Ditto. Ditto.	Sept. 27, 1871	Seizure of American vessels for violation of the Canadian Fishery Laws. Refers to Letter of the 19th instant.	122
44	The Colonial Office to the Foreign Office.	Oct. 3, 1871	Transmits Depositions relating to the seizure of the United States' fishing vessel 'Franklin S. Schenck' by the Canadian police vessel 'New England.'	123
45	The Foreign Office to the Colonial Office.	Oct. 7, 1871	Acknowledges receipt of Depositions in the case of the 'Franklin S. Schenck,' and returns them as requested.	123
46	The Colonial Office to the Foreign Office.	Oct. 21, 1871	Forwards Depositions in the case of the 'Edward A. Horton,' which was seized by the Canadian schooner 'Sweepstakes.'	123
47	The Foreign Office to the Colonial Office.	Oct. 26, 1871	Illegal fishing by United States' vessels in Canadian waters. Refers to Letter of the 14th ultimo on the subject, and transmits Despatches from Her Majesty's Chargé d'Affaires.	124

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND THE ADMIRALTY.
(CANADA.)

Number in Series.	From whom.	Date.	Subject.	Page.
1	The Colonial Office to the Admiralty.	Jan. 7, 1871	Transmits revised List of Vessels seized by Imperial and Canadian cruisers for violation of Fishery and Revenue Laws. Also sent to Foreign Office.	125
2	Ditto. Ditto.	Jan. 20, 1871	Application of Anglo-American Committee for a copy of Instructions to Naval Officers. Asks if it should be furnished.	125
3	The Admiralty to the Colonial Office.	Jan. 23, 1871.	In reply to the above, states that their Lordships have no objection to the instructions being communicated to Mr. Hughes, if the Secretary of State considers it expedient.	125
4	The Colonial Office to the Admiralty.	Feb. 7, 1871	Requests information with regard to the practice which existed between the Convention of 1818 and the ratification of the Reciprocity Treaty in 1854 as to admission of fishing vessels to North American ports.	126
5	The Admiralty to the Colonial Office.	Feb. 15, 1871	Capture of the American fishing vessels 'Clara F. Friend' and 'Foam' by Her Majesty's ships 'Plover' and 'Valorous.'	126
6	Ditto. Ditto.	Feb. 25, 1871	Refers to Colonial Office Letter of the 7th instant, and encloses extracts from General Instructions to Naval Officers on North American Stations.	126
7	Ditto. Ditto.	May 12, 1871	Requests Instructions for the guidance of Naval Officers employed in protecting Canadian Fisheries.	128
8	The Colonial Office to the Admiralty.	May 24, 1871	Refers to Admiralty Letter of the 12th instant, and states that the Instructions to Naval Officers should be postponed for the present.	129
9	Ditto. Ditto.	May 27, 1871	Instructions proposed by Canadian Government to be issued to Naval Officers for the protection of Fisheries.	129
10	The Admiralty to the Colonial Office.	June 1, 1871	Postponement of Instructions to Naval Commander-in-Chief on the North American Station.	129
11	Ditto. Ditto.	June 6, 1871	Vice-Admiral Fanshawe's caution to Officers engaged in protecting Canadian Fisheries. As to capture of offending vessels, Foreign Office has been communicated with.	129
12	The Colonial Office to the Admiralty (Confidential).	June 10, 1871	Canadian Fishermen to be admitted to Inshore Fisheries upon ratification by the Queen of the Washington Treaty. Instructions to cruisers should in the meantime be suspended.	130
13	Ditto. Ditto.	June 12, 1871	Officers commanding Her Majesty's ships should be directed to assist local authorities in preserving order during suspension of Instructions to cruisers.	131
14	The Admiralty to the Colonial Office.	June 16, 1871	Movements of Her Majesty's ships in connection with the protection of Canadian Fisheries.	131
15	Ditto. Ditto.	July 1, 1871	Orders given by Vice-Admiral Fanshawe in regard to suspension of the Canadian Fisheries' Instructions.	131
16	The Colonial Office to the Admiralty.	Sept. 20, 1871.	Referring for consideration the Act No. 23 of 1871.	132

SCHEDULE.

NEWFOUNDLAND.

DESPATCHES FROM THE GOVERNOR.

Number in Series.	Date and Number.	Subject.	Page.
1	March 18, 1871 (No. 17)	Transmits copy of Correspondence between Mr. Vail, Provincial Secretary, Nova Scotia, and Mr. Bennett, the Premier of his Government, respecting a Resolution passed in the Nova Scotia House of Assembly, protesting against transfer of Fisheries.	133
2	March 29, 1871 (No. 19)	Alleged illegal prosecution of Seal Fishery by an American vessel named the 'Monticello,' in seas adjacent to Newfoundland. Attorney-General is of opinion that such an act is against Statute Law and existing Treaties.	134
3	March 24, 1871 - (Confidential.)	Admission of United States' vessels between 1818 and 1854 to British ports in North America, for purposes of trade, &c. Transmits Letter from Sir Hugh Hoyles on this subject.	136
4	April 21, 1871 (No. 26)	Entrance of foreign vessels into Newfoundland for the prosecution of Seal Fishery. Refers to the case of the 'Monticello.'	138
5	April 28, 1871 (No. 31)	Transmits further Address from the Legislative Council on subject of Seal Fishery by foreign vessels.	139
6	May 20, 1871 (No. 37)	Alleged encroachments by American Fishermen in the neighbourhood of Fortune and Hermitage Bays. Mr. Penny's Complaint on the subject.	141
7	June 6, 1871 (No. 43) -	Ditto. Ditto. Ditto.	142
8	July 1, 1871 (Telegram.)	Requests to be informed whether or not Fish Oil includes Seal Oil.	143
9	June 23, 1871 (No. 49)	Capt. Malcolm's investigation of alleged encroachments of American Fishermen in the vicinity of Fortune and Hermitage Bays.	143
10	July 4, 1871 (No. 51) -	Acknowledges reply to Telegram of 1st instant, stating that the term Fish Oil does not include Seal Oil.	148
11	July 14, 1871 (No. 55)	Observations upon the Correspondence relating to the Treaty of Washington.	148
12	July 17, 1871 (No. 57)	Transmits Minute of Council respecting Seal Fishery of Newfoundland in connection with the Treaty of Washington.	150
13	July 21, 1871 (No. 61)	Settlement of the Question of the Prosecution of Seal Fishery by foreign vessels. Trusts that an agreeable solution may be arrived at.	151
14	Sept. 11, 1871 - (Confidential.)	Relative to the supposed transfer of the Island of St. Pierre to the United States.	151

DESPATCHES FROM THE SECRETARY OF STATE.—(NEWFOUNDLAND.)

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2	February 4, 1871 (Confidential.)	Transmits Copy of Despatch addressed to Governor-General of Canada on the Fishery Question, and points out that portion of it upon which information is specially desired.	152
3	April 22, 1871 (No. 11)	Acknowledges receipt of, and expresses opinion upon, Correspondence between Provincial Secretary of Nova Scotia and Mr. Bennett, relative to a Resolution passed in the Nova Scotian House Assembly on points connected with North American Fisheries.	153

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4	April 28, 1871 - - (Confidential.)	Requests that his thanks may be conveyed to the Chief Justice of Newfoundland for certain information which he has supplied.	153
5	May 5, 1871 (No. 17) -	Illegal Prosecution of Seal Fishery by the 'Monticello.' Approves proceedings which have been adopted in the matter.	153
6	June 2, 1871 (No. 22) -	Approves proceedings relating to Correspondence on the subject of Seal Fishery by foreign vessels.	154
7	June 17, 1871 (No. 28) -	Transmits Copy of the Treaty of Washington, and suggests that American Fishermen should be allowed the privileges granted by it during the present season.	154
8	June 20, 1871 (No. 29)	Law Officer's opinion upon the Treaty of 1818 as regards the Prosecution of Seal Fishery.	154
9	June 23, 1871 (No. 30)	Suspension of Instructions to British Naval Officers engaged in protection of the North American Fisheries.	155
10	July 3, 1871 (No. 31) -	Repeats Telegram of even date; "Fish Oil does not include Seal Oil."	155
11	July 6, 1871 (No. 32) -	Vice-Admiral Fanshawe's Instructions to Officers engaged in protecting the North American Fisheries.	155
12	July 19, 1871 (No. 34)	Encroachments on the Fishing Grounds of the Southern Coasts of Newfoundland.	155
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14	August 17, 1871 (No. 36)	Approves proceedings of the Government of Newfoundland in not prohibiting Seal Fishing until the opinion of Her Majesty's Government is made known.	156
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17	Oct. 24, 1871 (No. 46) -	Proposal for granting right to United States of taking Seals and making Outfits in Ports of Newfoundland, requires Congressional approval before it can be accepted by the Department of State.	157
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CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND THE FOREIGN OFFICE.
(NEWFOUNDLAND.)

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2	Ditto. Ditto.	April 27, 1871	Illegal Prosecution of Seal Fishery by the 'Monticello;' proposes to address enclosed Despatch on the subject to Governor of Newfoundland.	159
3	The Foreign Office to the Colonial Office.	May 4, 1871	Seal Fishery by the 'Monticello.' Concurs in proposed Despatch referred to in Colonial Office Letter of the 27th ultimo.	159
4	The Colonial Office to the Foreign Office.	May 27, 1871	Law Officers have been requested to give their opinion upon the legality of Seal Fishing by foreign vessels in Newfoundland Waters.	159
5	Ditto. Ditto.	June 30, 1871	Transmits Law Officers' opinion upon Seal Fishery, and Copy of Despatch to Governor Hill on the same subject.	160

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Number in Series.	From whom.	Date.	Subject.	Page.
6	The Colonial Office to the Foreign Office.	July 3, 1871	States that in reply to a question raised by the Governor of Newfoundland, it is proposed to inform him that the term Fish Oil does not include Seal Oil.	160
7	The Foreign Office to the Colonial Office.	July 3, 1871	Concurs in proposed answer to Governor of Newfoundland respecting Seal and Fish Oil.	161
8	Ditto. Ditto.	July 12, 1871	Respecting the possible transfer of the Island of St. Pierre to the United States.	161
9	The Colonial Office to the Foreign Office.	July 28, 1871	Alleged Encroachments on the Fishing Groundson the South Coast of Newfoundland. Is of opinion that no action is required in this matter.	161
10	The Foreign Office to the Colonial Office.	August 5, 1871	Directs attention to nature of complaints preferred against American Fishermen, and to Reports from Vice-Admiral Fanshawe and Captain Malcolm.	162
11	The Colonial Office to the Foreign Office.	Aug. 15, 1871	Considers that the Encroachments referred to in Foreign Office Letter of the 5th instant are unimportant, and require no notice.	162
12	Ditto. Ditto.	Aug. 19, 1871	Transmits Copy of a Despatch from Governor Hill in reference to the Prosecution of Seal Fishery by foreign vessels.	162
13	Ditto. Ditto.	Aug. 19, 1871	Right of taking Fish and of making Outfits in Ports of Newfoundland should be conceded to the United States on certain conditions. Is of opinion that it would be desirable to make this arrangement.	162
14	Ditto. Ditto.	Aug. 21, 1871	Governments of Newfoundland and Prince Edward Island agree to admit United States' fishermen to their Inshore Fisheries during present season.	163
15	Ditto. Ditto.	Aug. 21, 1871	Refers to Letter of even date, and encloses Copies of Despatches which it is proposed to address to Governors of Newfoundland and Prince Edward Island.	163
16	The Foreign Office to the Colonial Office.	Aug. 31, 1871.	Approves Despatches to Governor of Newfoundland and Lieut.-Governor of Prince Edward Island, respecting the admission of American fishermen to Inshore Fisheries of those Islands.	164
17	Ditto. Ditto.	Aug. 31, 1871.	Admission of American Fishermen to Inshore Fisheries of Newfoundland and Prince Edward Island. Mr. Fish's Note to Sir E. Thornton.	164
18	Ditto. Ditto.	Aug. 31, 1871.	American fishermen should be admitted to Newfoundland Seal Fisheries, on condition that the produce of those fisheries be admitted into United States free of duty.	164
19	The Colonial Office to the Foreign Office.	Oct. 13, 1871.	Possible transfer of the Island of St. Pierre by the French Government to the Government of the United States. Refers to Foreign Office Letter (Confidential) of the 12th July last.	165
20	The Foreign Office to the Colonial Office.	Oct. 14, 1871.	Admission of United States' fishermen to Newfoundland Seal Fisheries upon certain conditions.	165
21	Ditto. Ditto.	Oct. 26, 1871.	Explanation of Mr. Fish's Note of the 8th of May on the subject of the Fishery Stipulations of the Washington Treaty.	166

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2	The Colonial Office to the Admiralty.	Aug. 22, 1871	Transmits copies of Despatches from Governors of Newfoundland and Prince Edward Island respecting Treaty of Washington, and the admission of United States' fishermen to certain privileges under it.	168
3	The Admiralty to the Colonial Office.	Sept. 6, 1871	Copies of certain Despatches have been sent to the Naval Commander-in-Chief on the Station.	168

PRINCE EDWARD ISLAND.

DESPATCHES FROM THE GOVERNOR.

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2	March 2, 1871 - (Confidential.)	- Refers to his Confidential Despatch of the 17th ultimo, and submits Minute of the Executive Council on the subject therein referred to.	170
3	March 29, 1871 - (Confidential.)	- Replys to Lord Kimberley's Confidential Despatch of the 4th ultimo, relative to admission of fishing vessels to Ports of Prince Edward Island.	171
4	May 4, 1871 - (Confidential.)	- General question of Privileges of American fishermen and the Inshore Fisheries.	174
5	May 29, 1871 - (Confidential.)	- Transmits extracts from various local Papers on the subject of the Treaty of Washington, and expresses his opinion that public feeling on this question is formed from these Articles.	175
6	June 20, 1871 - (Confidential.)	- Appointment of two Members of the Government of New Brunswick, to confer with the Government of Nova Scotia and Prince Edward Island on the subject of the Fisheries.	179
7	July 12, 1871 (No. 55)	Admission of American fishermen to the privileges of Inshore Fisheries provisionally.	180
8	July 25, 1871 (No. 59)	Transmits Minutes prepared by his Advisers recording the result of their deliberations on the subject of the Treaty of Washington.	181
9	August 10, 1871 - (No. 63.)	- Transmits Copy of Memorial protesting against the construction of a Railway from Alberton to Georgetown.	182
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11	September 30, 1871 (No. 72.)	- Transmits Copy of Letter from Mr. J. C. Hall relating to the Treaty of Washington, and refers to Despatch, No. 59, of the 25th July, 1871.	187

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2	January 16, 1871 (Confidential.) -	Protection of Fisheries and Reports of Naval Officers engaged in this service during the past season. Admiral Fanshawe's opinion.	188
3	February 4, 1871 (Confidential.) -	Transmits copy of Despatch which has been addressed to Governor-General of Canada on Fishery Question, and points out that portion of it upon which information is required.	189
4	March 17, 1871 - (Confidential.) -	Approves of remarks upon Fisheries in Speech opening Legislative Session.	189
5	June 17, 1871 (No. 22)	Transmits Documents relating to the Fishery Question. Same course should be pursued now as in 1854.	189
6	June 28, 1871 (No. 23)	Suspension of Instructions to British Naval Officers engaged in the Protection of the North American Fisheries.	190
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10	Sept. 3, 1871 (No. 32) -	Privileges of United States' fishermen granted by the Treaty of Washington, and reference of the Question of Money Compensation to Arbitrations.	191
11	Sept. 5, 1871 (No. 34) -	Correspondence with the Foreign Office relative to the Treaty of Washington.	191
12	Sept. 20, 1871 - (Confidential.) -	Agrees with the Governor that a little delay in bringing the Treaty before the Legislature will be advantageous.	191
13	Sept. 20, 1871 (No. 37)-	Approves of the Governor's refusal to summon a Special Session of Parliament to consider the Treaty of Washington.	192

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(PRINCE EDWARD ISLAND.)

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2	Ditto. Ditto.	April 28, 1871.	Transmits correspondence respecting the privileges extended to United States' fishing vessels between 1818 and 1854, and raises the question of forwarding the papers to High Commissioners at Washington.	192
3	Ditto. Ditto.	June 14, 1871.	Refers to Letters of 25th March and 28th April, and transmits Copy of further Despatch from the Governor-General on the subject.	193
4	Ditto. Ditto.	August 1, 1871.	Admission of United States' fishermen to Inshore Fisheries of Prince Edward Island.	193

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6	The Colonial Office to the Foreign Office.	Sept. 12, 1871.	Memorial of certain Members of the Legislature of Prince Edward Island relating to the Treaty of Washington.	194
7	The Foreign Office to the Colonial Office.	Sept. 18, 1871.	Approves Despatch which the Earl of Kimberley proposes to address to the Lieut.-Governor of Prince Edward Island on the subject of the above-mentioned Memorial.	194
8	The Colonial Office to the Foreign Office.	Oct. 21, 1871.	Transmits Copy of Despatch from Lieut.-Governor of Prince Edward Island, enclosing correspondence with Mr. J. C. Hall.	194

LETTER FROM THE ADMIRALTY.—(PRINCE EDWARD ISLAND.)

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CORRESPONDENCE

RESPECTING THE

NORTH AMERICAN FISHERIES.

CANADA.

DESPATCHES FROM THE GOVERNOR.

(Confidential.)

No. 1.

CANADA.

No. 1.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, November 16, 1870.

(Registered 16th January, 1871.)

(Answered Confidential 6th January, 1871, p. 91.)

MY LORD,

CRAVING reference to my Despatch (secret) of the 4th instant, I have the honour to forward a statement with references, which has been drawn up in the Department of the Minister of Customs, in order to throw light upon the difficulties which surround the proposal or claim made by General Butler and others on behalf of the United States' fishermen for unrestricted admission into Canadian ports of entry.

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

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 1.

Enclosures in
No. 1.

MEMO.

The requirements of the law in regard to vessels arriving from sea or coastwise in any port in Canada are laid down in Customs Act. See 31 Vict., cap. 6, sec. 10.

The British Customs Consolidation Act (16 & 17 Vict., cap. 107) contains provisions substantially similar to those found in the Canada Customs Act as regards reporting, &c., &c. See Sections 50, 53, 77, 164, and also Sections 43 and 175.

Under the United States' law the requirements in similar cases are still more stringent. See Act of Congress, March 3, 1817, and in connection therewith see General Regulations under the Revenue and Collection Laws of the United States. Section IV., p. 68, Arts. 83, 84, 86 to 103 inclusive.

EXTRACT FROM THE IMPERIAL ACT, 16 & 17 VICT., CAP. 107.

CUSTOMS CONSOLIDATION ACT.

XLIII.—No goods shall be deemed to be imported from any particular place unless they be imported direct from such place, and shall have been there laden on board the importing ship, either as the first shipment of such goods, or after the same shall have been actually landed at such place. Importation direct.

CLXXV.—Whenever a ship shall be cleared out from any port in Newfoundland or in any other port of Her Majesty's dominions for the fisheries on the banks or coasts of Newfoundland, or Labrador, or the dependencies thereof, without having on board an article of traffic (except only such provisions, nets, tackle, and other things as are usually employed in and about the said fishery, and for the conduct and carrying on of the same), the master of any such ship shall be entitled to demand from the principal officer of Customs at such port a certificate under his hand that such ship hath been specially cleared out for the Newfoundland fishery, and such certificate shall be in force for the fishing season for the year in which the same may be granted, and no longer; and upon the first arrival in any port in the said Colony of Newfoundland or its dependencies, of any ship having on board any such certificate as aforesaid, a report thereof shall be made by the master of such ship to the principal officer of Customs at such port; and every ship having such certificate which has been so reported, and being actually engaged in the said fishery, or in carrying coastwise, to be landed or put on board any ship engaged in the said fishery, any fish, oil, salt, provisions, or other necessaries for the use and purposes thereof, shall be exempt from all obligation to make an entry at, or obtain any clearance from, any Custom House at Newfoundland, upon arrival or departure from any of the ports or harbours of the said Colony or its dependencies during the British Possessions.
Newfoundland fishing certificates in lieu of clearance during fishing season.

CANADA.

At the end of the season the certificate to be delivered up. Ships trading to forfeit certificate.

continuance of the fishing season for which such certificate may have been granted; and previously to obtaining a clearance at the end of such season for any voyage at any of such ports, the master of such ship shall deliver up the before-mentioned certificate to the principal officer of the Customs of such port: Provided always, that in case any such ship shall have on board during the time the same may be engaged in the said fishery any goods or merchandise whatsoever other than fish, seals, oil made of fish or seals, salt, provisions, and other things, being the produce of, or usually employed in, the said fishery, such ship shall forfeit the said fishing certificate, and shall thenceforth become and be subject and liable to all such and the same rules, restrictions, and regulations as ships in general are subject or liable to.

REGULATIONS UNDER THE REVENUE LAWS OF THE UNITED STATES. 1857.

On arrival of foreign vessel at port of entry in the United States, certain of the ship's papers to be deposited with the consul or vice-consul of the country to which the vessel belongs.

Sec. 1 and 2, Act March 3, 1817.

Certificate of such deposit to be delivered to collector by master of vessel.

Fine incurred by master of vessel failing to comply with this regulation.

Exception to application of the rule.

Papers deposited not to be returned to master by consul until clearance of vessel be exhibited to him by master.

Fine incurred by consul offending against this regulation.

103. It is required by Act of March 3, 1817, that the register, or other document in lieu thereof, together with the clearance and other papers granted by the officers of the Customs to any foreign vessel at the port of departure for the United States, shall, before entry in any port of the United States, be produced to the collector with whom such entry is to be made, and the master or commander of such foreign vessel is required, within 48 hours after such entry, to deposit the said papers with the consul or vice-consul of the nation to which the vessel belongs, and to deliver to the collector the certificate of that officer that the papers have been so deposited. For a failure to comply with this regulation, the master or commander of the vessel so offending, is, on due conviction thereof in a court of competent jurisdiction, subject to a fine of not less than \$500 nor more than \$2,000. The foregoing regulation, however, does not apply to vessels of foreign nations in whose ports consuls of the United States are not permitted to have the custody of the papers of vessels of the United States entering the ports of such nations.

The papers thus lodged with the consul cannot be returned to the master or commander of the vessel until the production by him to the consul of a clearance in due form from the collector of the port where the vessel has been entered; and any consul offending against this regulation, on conviction thereof before the Supreme Court of the United States, is subject to a fine, at its discretion, of not less than \$500 nor more than \$5,000.

Ottawa, October 25. 1870.

The view taken in the accompanying paper (extract) touching the right of American fishing vessels to be admitted into Canadian Custom House ports on the same terms as any other American merchant vessel appears to me correct.

If an American fishing vessel, after taking in a cargo of fish on the coasts of Newfoundland or Labrador or the Magdalen Islands, in legal waters, as limited and prescribed to them by treaty, should repair to an American port, and from thence clear in the usual and regular way for a Canadian port, she would no doubt enjoy and be entitled to all the rights of all other foreign merchant vessels and traders in our ports.

Such fishing vessel would then be in a position to conform to the Customs and Navigation laws of Canada, which require that vessels arriving at a port of entry from ports or places without the Dominion should exhibit their papers, including of course the clearance from the foreign port of departure, the manifest of cargo, bills of lading, &c. In this respect the laws of Canada are similar to the laws of England, of the United States, and indeed of most other commercial nations trading directly with other countries beyond seas, and having ports of entry of their own.

In this way only, it seems to me, could American fishing vessels enter our ports as trading vessels, for it is quite clear that fishing vessels whilst on their fishing voyage and venture, generally under some licence, and enjoying some bounty or privilege in the country to which they belong, are dealt with as a class apart, and are governed in certain respects by special laws; they are, as it were, so affiliated to the country whence they sail on their venture under those special laws, that they are expected, as a general thing at least, to complete their voyage by returning to some port in their own country before they can change their character from a mere fishing vessel into that of a merchant vessel in the ordinary acceptation of the term.

So true is it that fishing vessels are considered to form a class apart, that if they enjoy privileges at home they are shut out by treaty stipulations from frequenting ports or places which may be entered by other vessels of the same nation. The Treaty of 1818 itself offers an illustration of this, for it expressly prohibits American fishermen from entering certain bays, harbours, &c., except "for the purposes of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever." The access to such bays, harbours, &c. is free to other American merchant vessels conforming to the laws of customs and navigation of Newfoundland, which it is believed are identical with the laws of England.

(Signed) R. S. M. BOUCHETTE,
Commissioner of Customs.

EXTRACT from the DECLARATION annexed to the CONVENTION between HER MAJESTY and the EMPEROR OF THE FRENCH relative to FISHERIES in the SEAS between GREAT BRITAIN and FRANCE (11th November, 1867).

The fishermen of each country shall not be allowed to land or discharge their fish in the other country except at places where there is a Custom House, and during office hours.

* * * * *

The Custom House officers shall have power to board and search the fishing boats of the other country in the manner directed by the Customs laws.

During their stay in the ports of the other country the fishermen of either country shall, if required to do so by the Customs authorities, deposit in a warehouse or in the Custom House, until their departure, all stores subject to duty which shall not be necessary for their daily consumption. No charge shall be made for such warehousing.

No. 2.

CANADA.

No. 2.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 293.)

Government House, Ottawa, December 20, 1870.

(Received January 4, 1871.)

MY LORD,

I HAVE the honour to transmit, herewith, for your information, copy of a correspondence which has passed between Her Majesty's Minister at Washington and myself on the subject of the seizure of the United States' schooner 'Granada' by the Canadian police vessel 'Ida E,' for an infraction of the Customs laws of the Dominion.

I have, &c.,

(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

Sir Edward Thornton,
December 8, 1870.

Lord Lisgar,
December 13, 1870.

Lord Lisgar,
December 16, 1870.

Enclosures in No. 2.

Enclosures in No. 2.

SIR EDWARD THORNTON, to The Right Honourable the LORD LISGAR.

(No. 56.)

MY LORD,

Washington, December 8, 1870.

I have the honour to enclose copy of a resolution which was submitted yesterday to the House of Representatives by Mr. Buffinton, a member from Massachusetts, relative to the seizure by the 'Ida E' of the American vessel 'Granada,' at Port Hood, Nova Scotia. The seizure of this vessel for smuggling is mentioned in the enclosure of your Excellency's Despatch No. 85, of the 8th ultimo. Should any further details relative to the capture of this vessel have reached your Excellency, I should be much obliged if they could be forwarded to me.

I have, &c.,

(Signed) EDWARD THORNTON.

The Lord Lisgar,
&c. &c.

SEIZURE OF THE SCHOONER 'GRANADA.'

Mr. Buffinton, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:—

Resolved, That the Secretary of State be directed to communicate to this House any and all information that may be in the possession of the Department of State relative to an alleged seizure of the schooner 'Granada,' of Provincetown, Massachusetts, a regularly licensed vessel, by the British cutter 'Ida E,' Captain Torry, while lying peacefully at anchor in the harbour of Port Hood, Nova Scotia, on the pretext that said schooner had on board too much provision for a two months' fishing voyage, and without clearance papers; and to state whether in his opinion, in view of the facts, any legislation is required for the better security of the rights of American citizens when engaged in a legitimate fishing voyage.

(No. 91.)

LORD LISGAR to SIR E. THORNTON.

Ottawa, December 13, 1870.

SIR,

I have the honour to acknowledge the receipt of your letter of the 8th inst., on the subject of the seizure by the Canadian police vessel 'Ida E' of the U. S. schooner 'Granada.'

I have caused an application to be made to the proper Department for all the details relating to this vessel, and so soon as I receive them I will again communicate with you.

I have, &c.,

(Signed) LISGAR.

Sir Edward Thornton, &c., &c.,
British Legation, Washington.

LORD LISGAR to SIR E. THORNTON.

(No. 93.)

SIR,

Government House, Ottawa, December 16, 1870.

I have the honour to forward, in accordance with the request contained in your Despatch of the 8th inst., all the information my Government possesses up to this date of the seizure of the U. S. schooner 'Granada,' at Port Hood.

2. In the absence of precise information it will be well to consider this communication as private and unofficial, though you are of course at liberty to make such use of it as you may think safe and proper.

3. The offence of which the schooner in question is accused is the breach of the Customs and Navigation laws, and has no relation to or bearing upon the fishery question.

4. The parties accused it would appear were anxious for the immediate release of the vessel, and sought the option of paying a fine instead of submitting to detention and defending themselves in a Court of Justice.

I have, &c.,

(Signed) LISGAR.

Sir Edward Thornton, K.C.B., &c., &c.,
Washington.

December 15, 1870.

CANADA.

THE CASE OF SCHOONER 'GRANADA.'

Department of Customs, Ottawa, December 15, 1870.

The Despatch of Sir Edward Thornton's of the 8th December, enclosing copy of a resolution submitted on the 7th inst. to the House of Representatives relative to the seizure of this schooner at Port Hood, Nova Scotia, requests that any further details relative thereto should be forwarded to him.

The first information given by Captain Tory, commander of the 'Ida E.,' and holding a commission as an officer of Customs, was by telegraph on the 1st November, stating that he had "seized American fishing schooner 'Granada,' at Port Hood, for smuggling—vessel in the hands of the Custom House officer, Guysborough."

This telegram was communicated to the Minister of Customs, who telegraphed on the same day to the collector at Guysborough to report to him particulars of the seizure.

November 5th.—The Hon. H. Blanchard, Halifax, telegraphed to the Minister of Customs as follows:—

"Schooner 'Granada' seized by Tory—infraction of Customs laws. Had on board molasses, kerosene oil, boxes tobacco, tea, liquor, and other dutiable goods, value about one thousand dollars."

To which on the same day the Minister of Customs replied as follows:—

"Give exact locality where schooner 'Granada' was seized, and how long she had been there."

November 6th.—Mr. Blanchard telegraphed to Minister of Customs:—

"Very anxious to hear about schooner 'Granada.' Owners here impatient—season late—moderate fine advisable."

November 7th.—The Minister of Customs replied as follows:—

"Delay deciding in 'Granada' case until receive full information. If captain trading in our ports with thousand dollars' worth of goods, must impose penalty equal to exaction on our vessels and merchants. Small penalty would not do this."

November 7th.—Mr. Blanchard replied to the telegram of the Minister of Customs of the 5th as follows:—

"Schooner 'Granada' lay about two days in Plaista Cove—bought butter there. Was seized in Port Hood Harbour—had been laying there two or three hours, and fair wind blowing."

November 7th.—In reply to the telegram of the Minister of Customs of the 1st inst., the Collector at Guysborough (Mr. Marshall) stated that the American prize schooner 'Granada' was delivered to him on the 27th October by Captain Tory, who reported to him that she was without papers. He enclosed a list of articles found on board of her, and proceeds to say:—"It is very evident she has been trading on the coast, as you will see by the articles marked N. S. on the memorandum. These articles have been purchased in Nova Scotia. He told me he had purchased some of the articles from Mr. McKeen, Ship Harbour, Straits of Canso, and had paid for them by a draft on his owners. There are lines, leads, and hooks on board, but do not appear to be prepared for fishing, as they are not put together. The 'Granada' is at anchor in the harbour of Guysborough; I have had her dismantled, and her sails put in a place of safety. All her cargo is still on board. I think she is perfectly safe."

The following is a copy of the memo. of articles referred to by Mr. Marshall:—

A memorandum of articles on board the prize schooner 'Granada,' but as the cargo has not been discharged, a correct inventory cannot be obtained:—

20 barrels flour; 8 small boxes tobacco; 7 nets; 3 chests tea; 1 puncheon molasses; 12 coils rope; a quantity of small cordage; 1 box rubber boots; 3 casks kerosene oil; 1 cask gin; quantity of cotton, lines and twines, and hooks; a quantity of salt, and a variety of small articles; a lot of Nova Scotia half barrels; 3 tubs N. S. butter; 1 ditto lard; 30 bushels potatoes, N. S.; 1 barrel pork; lot of other small stores.

(Signed) JAMES MARSHALL,
Collector.

November 7th.—The Department of Justice having heard of the case, but having received no instructions from the Customs as to proceedings, referred to know whether proceedings were to be instituted.

November 11th.—Received reply from the Minister of Customs, submitting the following telegram from Mr. Blanchard, Halifax, 10th inst.

"Owners of 'Granada' have deposited eight hundred dollars, and I have discharged. Awaiting orders of Government."

November 12th.—Communication was held by Deputy-Minister of Justice, and also on the 16th November by letter to Mr. Blanchard, instructing him to proceed; and on the 13th December the Deputy of Justice requested Mr. Blanchard to report fully what action had been taken by him.

December 14th.—Mr. Blanchard states by telegraph that he will report by letter.

(Signed) S. L. TILLEY,
Minister of Customs.

There is no direct communication by telegraph with Guysborough, hence the delay. Presumed the captain of the 'Granada' is referred to, although it is not so stated.

No. 3.

CANADA.

No. 3.

The LORD LISGAR to The EARL OF KIMBERLEY.

(Confidential.)

Government House, Ottawa, December 28, 1870.

(Registered January 12, 1871.)

MY LORD,

(Answered Confidential, January 24, 1871, page 92.)

I HAVE the honour to forward two documents prepared by the Privy Council of the Dominion of Canada.

Document No. 1 is respectfully submitted for your consideration, and for that of Her Majesty's Government.

No. 1.

No. 2.

Document 2 is forwarded for transmission to the authorities of the United States, should your Lordship think it expedient and desirable to so transmit it.

I have, &c.,

(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

Enclosure 1 in No. 3.

Enclosure 1 in
No. 3.*(Confidential.)*

Privy Council Chamber, Ottawa, December 27, 1870.

The Committee of the Privy Council, while engaged in the consideration of a Report from the Minister of Marine and fisheries, on various Despatches on the subject of the regulations for protecting the British fisheries in North America, which were referred to them by your Excellency for their advice, have learned, with considerable surprise, that the conduct of the Canadian Government with regard both to the protection of those fisheries and to the navigation of the River St. Lawrence, has been animadverted on by the President of the United States in his recent Message to Congress.

It is, in the opinion of the Committee of the Privy Council, a significant fact that the President of the United States has in his late Message adopted the unusual course of animadverting on the proceedings of Canada, which is styled, "this semi-independent Dominion," instead of remonstrating through the usual diplomatic channels against any acts committed by Canadian authorities in violation of the Treaty of 1818, under which the United States renounced all right on the part of their citizens to fish in British waters, with certain exceptions which have not led to controversy.

Such a course is obviously calculated to produce uneasiness in the minds of Her Majesty's subjects in Great Britain, who—having comparatively little interest in the British American fisheries, and a very deep interest in maintaining friendly relations with the United States—must have experienced considerable anxiety on learning, from such high authority as the President, that Canada had acted in an unfriendly way to the citizens of the United States.

It is, in the opinion of the Committee of the Privy Council, a circumstance that ought to be adverted to in connection with this most important subject, that in the same Message the President had previously stated it as his opinion, that "the time is not probably far distant when, in the natural course of events, "the European political connection with this continent will cease," and had, when referring to the contemplated acquisition of San Domingo by the United States, given as one reason for such acquisition, "it is to promote honest means of paying our honest debts, without overtaxing the people." Her Majesty's Government cannot be unaware that the acquisition of Canada, and the consequent annihilation of British power and influence on this continent, is held by many influential American statesmen to be the "manifest destiny" of their country, and to be an object the accomplishment of which they think themselves justified in promoting by every kind of pressure that they can bring to bear on Her Majesty's Canadian subjects. Under such circumstances, and with a distinct recommendation from the President of the United States to the Senate and House of Representatives, that they should confer upon the Executive the power to suspend the operation of the laws authorizing the transit of goods, wares, and merchandise, in bond, across the territory of the United States to Canada, and also to suspend the operation of any laws whereby Canadian vessels are permitted to enter the waters of the United States, the Committee of the Privy Council feel it their duty to request your Excellency to transmit to Her Majesty's Government their views on the subjects adverted to in the Message of the President of the United States, in which Canada is interested.

The Committee of the Privy Council readily acknowledge that the execution of the President's threat of abolishing the bonding system, and of excluding Canadian vessels from American waters, would inflict serious inconvenience and loss on Her Majesty's Canadian subjects; but they feel assured that such inconvenience and loss would be borne with fortitude by the people of the Dominion, and they entertain little doubt that such a policy as that which has been recommended by the President, avowedly in retaliation of the measures adopted by the Imperial and Canadian Governments for the protection of the British fisheries during last season, would ere long lead to a reaction in the United States, many of whose citizens would be as deeply injured as Her Majesty's Canadian subjects by a policy of non-intercourse.

The Committee of the Privy Council trust that Her Majesty's Government will not be influenced in the slightest degree by the threats of the President. They feel assured that Her Majesty's Government will believe that it is the earnest desire of the Government and people of Canada to maintain the most friendly relations with the citizens of the United States. They venture to hope that in the various discussions which have taken place between the Imperial and Canadian Governments, on the points in controversy between Great Britain and the United States, your Excellency's advisers have shown themselves ready and willing to regulate their policy by that of the Imperial Government.

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Under present circumstances, it is more than ever important that there should be an entire concurrence of action, and, if possible, of opinion, between the two Governments, and the Committee of the Privy Council are convinced that this will best be secured by a full and frank expression of their views.

The recent Message of the President of the United States affords, in the opinion of the Committee of the Privy Council, conclusive proof that the conciliatory policy regarding the fisheries which has prevailed since the abrogation of the Reciprocity Treaty has not been appreciated by the United States. Had the vigorous policy, announced in Secretary Sir John Pakington's Despatch of 27th May, 1852—and which, though it caused great irritation, and led to many threats, secured, nevertheless, the ratification of the Reciprocity Treaty—been resumed immediately on the abrogation of that treaty, the irritation which will never cease to exist so long as a single privilege is withheld from the American fishermen, would have been directed against the Government which had abrogated the treaty, and not against that of Canada. In the hope that conciliation would lead to important concessions to Canada, a temporizing policy has been pursued for years, and the result is that when very moderate restrictions are enforced the Chief Magistrate of the United States charges Canada with having acted in an unfriendly spirit.

The Committee of the Privy Council think it far from improbable that if the regulations, which were in existence prior to 1854, for protecting the British fisheries, had been enforced with equal vigour after the abrogation of the Reciprocity Treaty, that treaty would long ere this have been renewed in a form that would have been acceptable to Canada.

The recent message of the President is, in their opinion, far from discouraging. It proves how severely the American fishermen have felt the very moderate restrictions imposed on them last season, and how strong will be the pressure which they will bring to bear on their own Government to secure for them in some way the privilege of fishing in British waters. The President, no doubt, hopes that he will accomplish that object by threats, but should these prove unavailing he will probably resort to negotiation.

The Committee of the Privy Council are persuaded that concessions to the United States will invariably be followed by fresh demands.

So soon as Great Britain evinced a disposition to take a liberal view of the Headland question, a claim was set up that had never been previously thought of, that fishing vessels should be permitted to trade in Canadian ports, although the practical effect of such a concession would be to facilitate very greatly the illegal traffic of the American fishermen. But were this further concession made, the trespasses within the three-mile limit would be stimulated, and if all other Canadian fishing rights were abandoned, the next demand would probably be for considerable cessions of territory. In the opinion of the Committee of the Privy Council it is advisable to adhere to the provisions of the Treaty of 1818. If the interpretation of that treaty by the law officers of the Crown in England be disputed, a reference should be made to a friendly power, or to learned jurists impartially selected, to settle its true interpretation according to the principles of general and international law; but should such a proposition not be entertained by the United States, then the Committee of the Privy Council maintain that the opinion of the law officers of the Crown should be acted on, and that the regulations which were in existence prior to 1854 should be enforced as promised by the Earl of Clarendon, in his Despatch to Sir F. Bruce, of 11th May, 1867.

The Committee of the Privy Council do not doubt that they will receive the support of Her Majesty's Government in enforcing the old regulations, and they were gratified to find that the Earl of Kimberley admitted, during Mr. Campbell's interview with his Lordship in July last, that the Canadians might reasonably expect that the state of things anterior to the Reciprocity Treaty should be reverted to.

Although your Excellency's advisers have been hitherto unwilling to object to refer the question relating to headlands, which has been so long in controversy between Great Britain and the United States, to a mixed Commission, in accordance with the proposal made by Mr. Adams, the United States' Minister at the Court of St. James', and conditionally assented to by the late Earl of Clarendon, they feel it their duty to point out that unless there should be some provision for umpirage, such a reference would be of no practical utility, and would be less likely to lead to a successful result than the mode already suggested.

The result of the proceedings of the St. Juan Boundary Commission does not afford much ground for anticipating a satisfactory solution of the question in controversy by a mixed Commission.

The Committee of the Privy Council must further observe that unless there is a full concurrence of opinion between the Imperial and Canadian Governments, a joint commission on which both would be represented might lead to misunderstanding.

The Committee of the Privy Council have no fear that the Imperial Government will abandon any of the rights of Canada without her consent; but they admit that Great Britain must decide on its own responsibility as to the extent of the support which it will give to Canada in enforcing its rights under the Treaty of 1818. Whatever may be the extent of that support, it seems highly desirable that before making any proposition to the United States, with a view to the constitution of a mixed Commission, there should be a clear understanding between the two Governments as to the subject of reference. It has never been imagined by the Canadian Government that any question was to be referred to the mixed Commission, except the definition of the waters in which American vessels could fish in accordance with the Treaty of 1818.

Since the correspondence between the Earl of Clarendon and Mr. Adams took place, an entirely new question has been raised by the United States which cannot properly be made a subject of reference to a mixed Commission. In direct contravention to the text of the Treaty of 1818, and to the uniform practice prior to 1854, the American Government has made pretensions to the right of entering British harbours to procure bait and other supplies, and to transship their fish.

Most conclusive proof of the correctness of the practice which was in force prior to 1854 will be found in the fact that it appears by the protocols which were interchanged between the negotiators of the Treaty of 1818, that the United States proposed that trade in "bait" should be permitted, that this was objected to by Great Britain, and abandoned by the United States. And yet Canada is now pressed to concede permission to the American fishermen to trade in bait, although it must be apparent, to all conversant with the subject, that such a concession would afford great facilities for illicit traffic and the evasion of the

treaty. It appears to the Committee of the Privy Council that the menacing tone adopted by the President of the United States, and the new demands which have been made, render it very undesirable to make any proposition at present for the settlement of the Headland question by a mixed Commission.

Far better will it be to adhere to the British construction of the treaty, subject to a reference to a friendly power, as already suggested, and to act guardedly in enforcing the rights claimed by Great Britain.

The course recently adopted by the President affords, in the opinion of the Privy Council, a good opportunity for making a communication to the United States' Government. It would obviously be most desirable that Her Majesty's Government should acquaint the Government of the United States that there was entire concurrence between the two Governments in the measures adopted during last season for the protection of the fisheries, and that far from straining the interpretation of the Treaty of 1818, they had not enforced the rights secured by that treaty, as interpreted by the Crown law officers of Great Britain.

The President might be informed that the liberal course followed since the termination of the Reciprocity Treaty, was adopted avowedly in the hope that it would lead to a free commercial intercourse between the two countries, and that it was when all hope of obtaining from the United States concessions that would justify Canada in parting with her fisheries had been abandoned that it was resolved to take effectual measures to protect Her Majesty's subjects in the Dominion in their rights, as acknowledged prior to 1854.

Her Majesty's Government can safely assure the President that the treaty has not in any case been enforced with greater rigour than it was prior to 1854; but that on the contrary, several temporary relaxations have been admitted, from an unwillingness to deprive the American fishermen hastily of privileges which they have lost owing to the action of their own Government.

The Committee of the Privy Council have read the President's observations on the navigation of the River St. Lawrence with even greater surprise than those regarding the fisheries. The President refers to correspondence on the subject during the administration of the late Mr. John Quincy Adams, between forty and fifty years ago, and closes his remarks on the subject in the following words: "It is hoped that the Government of Great Britain will see the justice of abandoning the narrow and inconsistent claim to which her Canadian Provinces have urged her adherence."

The Committee of the Privy Council are not aware that any claim to the right to navigate the River St. Lawrence has been proposed by the United States since the negotiations of 1824 and 1826, on both which occasions the British Plenipotentiaries refused to enter into any negotiation, so long as the claim of right was preferred. They said, in 1824, "The American Plenipotentiary must be aware that a demand rested upon this principle necessarily precludes those considerations of good neighbourhood and mutual accommodation, with which the Government of Great Britain would otherwise have been anxious to enter upon the adjustment of this part of the negotiation. A right claimed without qualification, on the one side, affords no room for friendly concession on the other; total admission, or total rejection, is the only alternative which it presents." When Mr. Clay renewed the claim of right, in 1826-7, he was answered in precisely the same way, as appears from a letter addressed to him on the 21st of September, 1827, by Mr. Albert Gallatin: "The British Plenipotentiaries will not entertain any proposition respecting the navigation of the St. Lawrence, founded on the right claimed by the United States to navigate that river to the sea." In the case of the fisheries, as well as in that of the River St. Lawrence, the United States have rendered negotiations impracticable, by advancing claims of right which cannot be recognized.

Under the Reciprocity Treaty, which the United States saw fit to abrogate, the right to use, not only the River St. Lawrence, but the Canadian ship canals, was conceded to their citizens; and since the abrogation of that treaty, all applications by the United States Government, or by American citizens, for permission to use either the river or canals, have been granted, in return for which courtesy the American authorities have recently refused to permit a British vessel to navigate the Sault St. Marie Canal, without any justifiable reason.

It is quite unnecessary to discuss the ground of the American claim to the free navigation of the River St. Lawrence, as for all practical purposes the concession of the right would be valueless unless accompanied by a permission to use the Canadian ship canals.

The Committee of the Privy Council have agreed upon a Minute which may afford Her Majesty's Government sufficient ground for making to the United States such a communication on the subject of the fisheries as they have suggested in this Report, and they respectfully submit it for your Excellency's approval.

(Certified) W. H. LEE,
Clerk Privy Council, Canada.

Enclosure 2 in No. 3.

(Confidential.)

Enclosure 2
in No. 3.

Privy Council Chamber, Ottawa, December 27, 1870.

The Committee of the Privy Council of the Dominion of Canada have had under their consideration the Message recently delivered by the President of the United States to the Senate and House of Representatives, and they have observed with deep regret the animadversions therein on the Government of the Dominion. Animated by an anxious desire to maintain the most friendly relations with the citizens of the United States, the Committee of the Privy Council are grieved to find that the policy of the Canadian Government, since the abrogation of the Reciprocity Treaty, has been completely misunderstood, and that Canada has been charged by the President with acting in an unfriendly spirit, both with reference to the fisheries and to the navigation of the River St. Lawrence.

The Committee of the Privy Council feel it their duty under the circumstances to bring that part of the President's Message which animadverts on Canada, under the consideration of Her Majesty's

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Government, in the hope that through their intervention the unfavourable impressions which have been made on the mind of the President may be removed, and that their fellow-subjects in other parts of Her Majesty's dominions may acquit them of either harbouring or manifesting unfriendly feelings towards a people with whom it is specially their interest and desire to live on terms of amity.

Before offering any remarks on the text of the President's message, the Committee of the Privy Council propose to advert to the circumstances under which the Treaty of 1818 was concluded.

By the Treaty of 1783 the citizens of the United States were acknowledged to possess certain *rights* of fishing, and were likewise admitted to certain *liberties* of fishing in British waters. At the termination of the war of 1812, and during the negotiation of the Treaty of Ghent, it was found impossible to reconcile the conflicting views of Great Britain and the United States regarding the fishery question, and the consequence was that the treaty was silent on the subject. Great Britain maintained that the war had abrogated all the *liberties* conceded by the Treaty of 1783, while the United States contended that they were entitled to a restoration of all the fishing privileges which they had enjoyed under that treaty. During the years 1815, 1816, and 1817, Great Britain made several seizures of American fishing vessels, while Mr. Adams, then Minister at the Court of St. James, urgently pressed the American claim on the attention of the Foreign Secretary. At length a compromise was proposed, the basis of which was the concession by Great Britain of the liberty to fish in certain defined waters, and the right to frequent certain specified coasts for drying and curing fish, and the absolute exclusion of the American fishermen from all other waters but those to be specially conceded.

Considerable time was occupied in the negotiations which preceded the treaty. The late Sir Charles Bagot was Minister at Washington in 1817, and it will appear on reference to his correspondence with Mr. Monroe, then Secretary of State of the United States, that he was only permitted to offer to the Government of the United States, a very small extent of fishing limits, compared to what was subsequently granted by the Treaty of 1818. It will be found by reference to the State papers that the instructions transmitted on 28th July, 1818, by Mr. John Quincy Adams, who had succeeded Mr. Monroe as Secretary of State, to Messrs. Gallatin and Rush as the Commissioners for the negotiation of the treaty, contained the following authority regarding the settlement of the fishery question:—

"The President authorizes you to agree to an article whereby the United States *will desist from the liberty of fishing and curing and drying fish within the British jurisdiction generally*, upon condition that it shall be secured as a permanent right not liable to be impaired by any future war, from Cape Ray to the Ramao Islands, and from Mount Joli on the Labrador Coast through the Straits of Belleisle indefinitely, north along the coast, the right to extend as well to curing and drying the fish as to fishing."

The text of the concluding part of the 1st clause of the Treaty of 1818, is as follows:—

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

It may be observed that the American Plenipotentiaries obtained a much greater extent of fishing limits than they were empowered by their instructions to accept, and it would be impossible to find language more clear than that used in the treaty to exclude American fishermen from the waters reserved for the sole use of British subjects. Unfortunately, the liberal concessions made by Great Britain had little effect in preventing the systematic trespasses by American fishermen on the British fishing limits. During the period which elapsed between the ratification of the Treaty of 1818, and that of the Reciprocity Treaty of 1854, frequent seizures were made of American fishing vessels for violation of the former treaty, while the United States complained from time to time that the language of the treaty was unduly strained by the officers engaged in the protection of the fisheries. A complaint from Mr. Stevenson, the American Minister to the Court of St. James, in 1841, led to a full consideration of the disputed points in interpretation of the treaty, and on reference to the Crown law officers, an opinion was given defining the legal rights of British subjects under the Treaty of 1818. No pretension has even been made by any of the Colonial Governments that was not authorized by the recorded opinion of the Crown law officers. It will be necessary to advert elsewhere to the points on which conflicting opinions were given in the course of the correspondence which took place from time to time between the Ministers from the United States and the British Secretary of State for Foreign Affairs. It is sufficient to state here that after a protracted discussion Great Britain yielded to the American fishermen the liberty to fish in the Bay of Fundy, although the opinion of the Crown law officers was, that according to the strict terms of the treaty, that bay was not included within the American fishing limits. No other concession was made, and up to the time when the Reciprocity Treaty was ratified, Great Britain enforced without dispute the regulations which were made in accordance with the Imperial Act of 1819, 59 Geo. III., cap. 38, and with Acts passed by the Legislatures of the Colonies interested in protecting the fisheries. Under the provisions of the Reciprocity Treaty, the fishermen of the United States were admitted to the same privileges as British subjects, but that treaty was abrogated by the United States, and Great Britain had of course a perfect right to revive the regulations regarding the fisheries, which had been in force prior to its ratification. If either Great Britain or Canada had evinced any desire to place a more stringent interpretation on the language of the Treaty of 1818, since the abrogation of the Reciprocity Treaty, the United States might have a just cause for complaint; but the fact is, that the Imperial and Dominion Governments acting in concert, have been most careful to avoid raising any of the questions which are still in controversy, regarding the interpretation of the Treaty of 1818. It may be proper to observe here, that from the time of the abrogation of the Reciprocity Treaty in 1866, up to the commencement of the present year, there has been reason to hope that some arrangement would be effected for free commercial intercourse between the United States and Canada that would justify the latter in conceding the use of the British fisheries to

the citizens of the United States. It is unnecessary to particularize all the grounds on which these expectations were based, but special reference may be made to the negotiations which took place in 1866, when Delegates from Canada, Nova Scotia, and New Brunswick visited Washington, and had several interviews with the Committee of Ways and Means of the House of Representatives, with which they were placed in communication by the Secretary of State of the United States. On that occasion Mr. Morrill, Chairman of the Committee of Ways and Means, used the following language:—

“We will, at the very earliest moment, give you a schedule of the rates which we shall ask the House to adopt; we will make it up as soon as our Committee can act upon it. If satisfactory, we can pass a law embodying the schedule very soon indeed, trusting that you will act upon the same in due season, and that you will allow some of the regulations respecting the fisheries and the navigation which now exist to remain in force until you can pass the proper Acts.”

On this, Mr. Galt, of Canada, observed, “There can be no difficulty about that,” and Mr. Smith, of New Brunswick, “None at all.” These negotiations broke off, owing to the prohibitory character of the schedule adopted by the Committee of Ways and Means; but Canada, nevertheless, was reluctant to enforce the former regulations regarding the fisheries. Again, during the Session of 1868–69, the following resolution was unanimously adopted by the House of Representatives:—

“Resolved, that while this House does not admit any right in the Executive or treaty-making power to conclude treaties or conventions with any foreign Government, by which import duties are mutually regulated, it is however of the opinion, and recommends to the President, that negotiations with the Government of Great Britain shall be renewed, and pressed, if possible, to a definite conclusion, regarding commercial intercourse and securing to American citizens the rights claimed by them in the fisheries on the coasts of the British Provinces in America, and for the navigation of the St. Lawrence from its source to the sea.”

In consequence of the foregoing resolution Mr. Secretary Fish opened negotiations with Mr. Thornton, Her Majesty's Minister at Washington, who requested that a member of the Canadian Government might be sent to Washington to confer with Mr. Fish on the subject. In accordance with the request then made, Mr. Rose, the Finance Minister of Canada, visited Washington in 1869, and after conferring with Mr. Fish, furnished him with a written statement of the terms on which, in his opinion, an arrangement could be effected. Mr. Fish promised to consider the subject, and after the lapse of many months, Mr. Thornton, in a Despatch, dated 10th February, 1870, acquainted the Governor-General of Canada, that Mr. Fish had that day stated to him, that he regretted that the conviction was forced upon him that Mr. Rose's project would meet with the decided opposition of the Committee of Ways and Means. Mr. Thornton further stated that Mr. Fish had requested him to ascertain confidentially whether Canada would consent to abandon the right of fishing secured by the Treaty of 1818, and to concede the use of the St. Lawrence and the Canadian canals, provided the United States would make certain ameliorations in their commercial policy, which were rather hinted at than distinctly specified. Although the Government of Canada was not in possession of any specific proposal, it nevertheless expressed its readiness to concur in any reasonable proposition for free commercial intercourse, which it believed, then as now, would conduce to the advantage of the people of both countries. No result followed from the last negotiations, and the Canadian Government having, during four years, exhausted every effort to effect an arrangement that would be just and advantageous both to the United States and Canada, was most reluctantly compelled to abandon the hopes which they had entertained of obtaining equivalents for the very great privileges which the Americans professed themselves anxious to obtain, but for which they would make no adequate return. In determining on the adoption of measures for the protection of the British fisheries, the Imperial and Dominion Governments were most careful not to strain the interpretation of the Treaty of 1818. It cannot be denied that the instructions of 1870, for the protection of the fisheries, were far less rigid than those which were acted on prior to 1854. It is the anxious desire of the Canadian Government that the questions in controversy regarding the interpretation of the Treaty of 1818 should be solved as speedily as possible, in order to avoid disputes with a neighbouring people with whom they desire to live in friendship; and they earnestly hope that the Government of the United States may concur in some plan for effecting such a desirable object.

Although the foregoing statement of facts must exonerate the Canadian Government from the grave charges preferred against it by the President of the United States, the Committee of the Privy Council are of opinion that they ought to submit to Her Majesty's Government a distinct refutation of those charges. In order to do this satisfactorily they will state the specific grounds of complaint on the part of the United States against Canada in the President's own language, subjoining, in each case, their refutation of the charge. The first complaint is, that fishing vessels were seized last season “without notice or warning,” and that the Imperial authorities had delegated the whole or a share of its jurisdiction to Canada, which had acted in the unfriendly manner complained of. The President states:—

“The course pursued by the Canadian authorities towards the fishermen of the United States during the last season has not been marked by a friendly feeling. By the first article of the Convention of 1818, between Great Britain and the United States, it was agreed that the inhabitants of the United States should have for ever, in common with British subjects, the right of taking fish in certain waters therein defined. In the waters not included in the limits named in the convention, within three miles of parts of the British coast, it has been the custom for 20 years to give to intruding fishermen of the United States a reasonable warning of their violation of the technical rights of Great Britain. The Imperial Government is understood to have delegated the whole or a share of its jurisdiction or control of these inshore fishery grounds to the colonial authority, known as the Dominion of Canada, and this semi-independent but irresponsible agent has exercised its delegated powers in an unfriendly way—vessels have been seized without notice or warning, in violation of the custom previously prevailing, and have been taken into the colonial ports, their voyages broken up, and the vessels condemned. There is reason to believe that this unfriendly and vexatious treatment was designed to bear harshly upon the hardy fishermen of the United States, with a view to political effect upon this Government.”

It is to be observed that there is no provision for giving warnings to the trespassers on the British

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fisheries in the Imperial Act of 1819, which has always been the authority for the Imperial officers engaged in the protection of the fisheries. The system of giving time warnings was adopted by the Colonial Government, but since the abrogation of the Reciprocity Treaty, it has been found, by experience, to afford such facilities to the intruding fishermen, that it was determined to abandon it. Due notice of the change was given to the United States' Government, and by it to those of its citizens engaged in fishing, and no complaint or remonstrance against the new regulations was made. In the opinion of the Committee of the Privy Council it would have been more just for the President to have acknowledged the great forbearance of the British authorities during the last four years, in giving even three warnings, than to charge them with unfriendliness for having abandoned them. The language used by the President with reference to the delegation by the Imperial Government to that of the Dominion, of a certain share of its jurisdiction or control over the inshore fisheries, is calculated to convey the impression that Canada has been acting independently in regard to the protection of the fisheries. The fact is that the Imperial and Dominion officers have acted in perfect concert and under the same regulations, Canada having merely increased the number of vessels engaged in enforcing the observance of the treaty. The Committee of the Privy Council must draw attention to the language of the President, when referring to the steps taken by a friendly Government to put an end to an illicit traffic which he had himself warned the citizens of the United States not to engage in. The hardy fishermen of the United States are informed by their chief magistrate, that it is "unfriendly and vexatious treatment" to interfere with their illegal proceedings. It may be feared that with such encouragement the intruders on the British fishing limits will be more numerous than ever during the next season. The President's second complaint is against a statute of Canada, and is contained in the following terms:—

"The statutes of the Dominion of Canada assume a still broader and more untenable jurisdiction over the vessels of the United States; they authorize officers or persons to bring vessels hovering within three marine miles of any of the coasts, bays, creeks, or harbours of Canada into port, to search the cargo, to examine the master on oath touching the cargo and voyage, and to inflict upon him a heavy pecuniary penalty if true answers are not given, and if such a vessel is found preparing to fish within three marine miles of any such coasts, bays, creeks, or harbours, without a license, or after the expiration of the period named in the last license granted to it, they provide that the vessel with her tackle, &c., shall be forfeited. It is not known that any condemnations have been made under this statute. Should the authorities of Canada attempt to enforce it, it will become my duty to take such steps as may be necessary to protect the rights of the citizens of the United States."

The answer to this charge is a very simple one. The provisions in the statute of Canada of which the President complains are in strict accordance with those in the Imperial Act, 59 Geo. 3, cap. 38, and of various colonial Acts, which had been in force for a great many years prior to the abrogation of the Reciprocity Treaty; and it will be found that in March, 1841, Mr. Stevenson, then Minister for the United States at the Court of St. James, complained in almost the very same language as that employed by President Grant in 1870, of those special provisions which are objected to in the preceding extracts. Mr. Stevenson's complaints were shown by the Government of Nova Scotia at the time to be wholly without foundation. The Committee of the Privy Council have not failed to notice the President's threat, that in case the laws of the Dominion should be enforced, he will take steps to protect the rights of the citizens of the United States. If the citizens of the United States choose to violate the laws of the Dominion within the jurisdiction of its legal tribunals, they will most assuredly have to abide the consequences of their own illegal acts. The third complaint made by the President is one of an entirely novel character, and which, having been made for the first time after the lapse of half a century, has excited much surprise. It is in the following terms:—

"It has been claimed by Her Majesty's officials that the fishing vessels of the United States have no right to enter the open ports of the British possessions in North America, except for the purpose of shelter and repairing damages, of purchasing wood and obtaining water; that they have no right to enter at the British Custom Houses, or to trade there, except on the purchase of wood or water, and that they must depart within 24 hours after notice to leave. It is not known that any seizure of a fishing vessel carrying the flag of the United States has been made under this claim. So far as the claim is founded on an alleged construction of the Convention of 1818, it cannot be acquiesced in by the United States. It is hoped that it will not be insisted on by Her Majesty's Government. During the conference which preceded the negotiation of the Convention of 1818, the British Commissioners proposed to expressly exclude the fishermen of the United States from the privilege of carrying on trade with any of Her Britannic Majesty's subjects residing within the limits assigned for their use, and also that it should not be lawful for the vessels of the United States engaged in such fisheries to have on board any goods, wares, or merchandize whatever, except such as may be necessary for the prosecution of their voyages to and from the said fishing grounds, and any vessel of the United States which may contravene this regulation, may be seized, condemned, and confiscated with her cargo. This proposition, which is identical with the construction now put upon the language of the convention, was emphatically rejected by the American Commissioners, and thereupon was abandoned by the British Plenipotentiaries, and Article 1, as it was stated in the convention, was substituted. If, however, it be said that this claim is founded on provincial or colonial statutes, and not upon the convention, this Government cannot but regard them as unfriendly, and in contravention of the spirit, if not of the letter of the treaty, for the faithful execution of which the Imperial Government is alone responsible. Anticipating that an attempt may possibly be made by the Canadian authorities in the coming season to repeat their unneighbourly acts towards our fishermen, I recommend you to confer upon the Executive the power to suspend by proclamation the operation of the laws authorizing the transit of goods, wares, and merchandize in bond across the territory of the United States to Canada; and further, should such an extreme measure become necessary, to suspend the operation of any laws whereby the vessels of the Dominion of Canada are permitted to enter the waters of the United States."

The Committee of the Privy Council beg reference to the text of the Treaty of 1818, where it is expressly provided that American fishing vessels are only permitted to enter British bays, creeks or

harbours for the purpose of shelter, and of repairing damage therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. The Committee of the Privy Council would call attention to the important fact, that the American Plenipotentiaries proposed to add "bait" to the articles which American fishermen were to be permitted to procure, but this was objected to by the British Plenipotentiaries for obvious reasons, and was not insisted on. According to the President's recent pretension, the language of the treaty has no meaning whatever, and moreover the Americans have for half a century quietly submitted, without even a remonstrance, to an exclusion contrary, as they now allege, to the terms of the treaty. The President bases his present claim solely on the fact that a certain clause was proposed by the British Plenipotentiaries during the negotiations which preceded the treaty, the object of which was to exclude American fishermen from trading in British ports, and that this clause was struck out at the desire of the American Plenipotentiaries. The President is labouring under a complete misconception on this subject. The clause to which he refers as proposed by the British Plenipotentiaries was intended to apply solely to the fishing limits, which were expressly assigned for the use of the American fishermen, and not to the limits from which they were to be excluded. With regard to the latter there was no dispute whatever. The principle of the treaty was that the Americans were to be admitted to fish in certain defined British waters, and to be excluded from others, and with regard to the latter the American Commissioners themselves offered in their original *projet* all that Great Britain could ask. Having always pretended to have rights of fishing in all the British waters, they themselves, for reasons given by Mr. Rush, "renounced" their rights in the most unequivocal language that they could find. The pretension to a right on the part of American fishermen to enter British ports to trade was never made until very recently, and it is certainly one which Canada cannot recognize. It is hardly probable that the President himself is satisfied that his pretension can be sustained by the language of the treaty, for he has deemed it necessary to resort to other means of pressure in order to attain his object. He has recommended that the Executive should be armed with power to prohibit the passage of goods in bond through the United States to Canada, and to exclude Canadian vessels from the American waters. The Committee of the Privy Council readily acknowledge that such measures as the President has indicated would inflict very serious inconvenience and loss both on Her Majesty's Canadian subjects and on citizens of the United States, as they would seriously obstruct a commerce which would not be carried on unless it were mutually advantageous to those engaged in it. The Committee of the Privy Council entertain the opinion that the citizens of the Western States derive quite as much advantage from the use of the Welland Canal, through which 2,884 American vessels, measuring 765,543 tons passed last season, as the Canadians do from the bonding system. The Committee of the Privy Council must however remonstrate against the unfriendly threat of the President of the United States to withdraw the bonding system in order to compel Canada to abandon a right which is secured to her by a solemn treaty. The President, without entering into any friendly discussion as to the proper interpretation to be placed on the language of the treaty, has resorted to a threat that unless his interpretation be adopted by Canada he will deprive Her Majesty's Canadian subjects of certain privileges which they at present enjoy. The Committee of the Privy Council are of opinion that when no infringement of the provisions of the Treaty of 1818 on the part of Great Britain or Canada can be shown, the threatened action of the President is unfriendly, if not menacing, to Great Britain. It must be apparent that the President is of opinion that the inconvenience and loss consequent on the abolition of the bonding system, and the exclusion of Canadian vessels from American waters, will be so severe, that Canada, in order to avert such measures, will consent to the abrogation in whole or in part of the Treaty of 1818. The Committee of the Privy Council feel assured that the Canadian people will bear with fortitude whatever inconvenience they may be put to, should the President be enabled to put his threats into execution, and that they will not consent to abandon the rights secured to them by the Treaty of 1818, under a pressure which, if once found efficacious, might be resorted to on future occasions, and the effect of which would be to reduce the Dominion of Canada to the position of a dependency of the United States, instead of Great Britain.

What the Committee of the Privy Council venture to urge on Her Majesty's Government is either to act in strict accordance with the opinions given by the Imperial Crown law officers, as to the interpretation of the Treaty of 1818—save and except as to the exclusion of the Americans from the Bay of Fundy—or to endeavour by negotiation, in concert with the Government of the Dominion, to effect an amicable solution of any question that may be in controversy between the two Governments on the subject of that interpretation. It must be obvious that the President of the United States has rendered it difficult for Great Britain to consent any longer to abate any of the rights secured to her by treaty, and it is needless for the Committee of the Privy Council to assure Her Majesty's Government that Canada does not desire to strain the treaty beyond its plain and obvious meaning. The question which, prior to 1854, was the only one in controversy, is that generally known as the Headland question, and nothing can show more conclusively the very great moderation exercised by the British officers during the last season than the fact that the President has not adverted in his message to this really difficult question, though he has brought forward several complaints of a novel character.

The Headland question is the only one regarding which any difficulty has heretofore arisen between Great Britain and the United States, and it certainly ought not to be suffered to remain any longer unsettled. The Committee of the Privy Council have observed with deep regret that every concession made to the United States has been followed by fresh demands. The original complaint made in 1841 by Mr. Stephenson, was that the American fishermen were excluded from the Bay of Fundy. This led to a full discussion of the language of the treaty, which there can be no doubt, under a rigid interpretation, must be construed to exclude American fishermen not only from harbours and creeks—regarding which there has never been a doubt raised until very recently—but likewise from bays. The Americans, it is admitted, have always remonstrated against the rigid interpretation placed on the term "bays" by the Crown law officers, and they finally succeeded in obtaining the consent of the Secretary of State for Foreign Affairs to their admission to the Bay of Fundy. The Committee of the Privy Council will refer to the opinions of eminent American statesmen in support of their assertion, that until very recently the Americans never pretended to claim a right to fish in any but the outer bays or arms of the sea, but

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before doing so they would call attention to the language employed both by the President in his recent message, and by Mr. Secretary Boutwell in his circular letters, warning American fishermen against intruding on the British fishing limits. Instead of using the words of the Treaty of 1818, the President and Mr. Boutwell describe the fishing limits to be within three miles of the coasts, whereas the text of the treaty is "within three marine miles of any of the coasts, bays, creeks, or harbours." There may have been some ground for a plausible argument that the term "bay" in the treaty should not be construed to mean a gulf or arm of the sea, but should rather be interpreted to mean a harbour or bay where vessels could anchor. The object of admitting American fishing vessels into the bays or harbours on the coasts from which they were expressly prohibited from fishing having been to enable them to obtain shelter, to repair damages, and to obtain wood and water, Mr. Everett plausibly contended that the Bay of Fundy was not such a bay as was contemplated by the treaty. The recent pretension of the United States is that they have a right to enter harbours, and the Committee of the Privy Council will now refer to the language of American statesmen to prove that the present claim was never advanced until after the abrogation of the Reciprocity Treaty. When remonstrating on 25th May, 1844, against the practice of seizing vessels in the Bay of Fundy, Mr. Everett wrote as follows to the Secretary of State:—

"The existing doubt as to the construction of the treaty arises from the fact that a broad arm of the sea runs up to the north-east between the provinces of New Brunswick and Nova Scotia—this arm of the sea being commonly called the Bay of Fundy, *though not in reality possessing all the characters usually implied by the term 'bay,'* has of late years been claimed by the provincial authorities of Nova Scotia to be included among the 'coasts, bays, creeks, and harbours' *forbidden to American fishermen.* . . . It is obvious that (by the terms of the treaty) the farthest distance to which fishing vessels of the United States are obliged to hold themselves from the colonial coasts and bays is three miles. But owing to the peculiar configuration of these coasts there is a succession of bays indenting the shores both of New Brunswick and Nova Scotia within the Bay of Fundy. The vessels of the United States have a general right to *approach all the bays in Her Majesty's colonial dominions, within any distance not less than three miles,* a privilege from which they will be wholly excluded in this part of the coast if *the broad arm of the sea which flows up between New Brunswick and Nova Scotia is itself to be considered one of the forbidden bays.*" . . .

Again, in a letter dated 6th July, 1852, Mr. Webster, whose authority ought to carry great weight with it, thus expressed himself:—

"It would appear by a strict and rigid construction of this article, fishing vessels of the United States are precluded from entering into the bays and harbours of the British Provinces except for the purposes of shelter, repairing damages, and obtaining wood and water. . . . It was undoubtedly an oversight in the Convention of 1818 to make so large a concession to England."

In consequence of these letters Mr. Rush, who had negotiated the Treaty of 1818, was requested by Mr. Marcy, then Secretary of State, to give his interpretation of the language of the treaty. Mr. Rush felt very keenly Mr. Webster's implied censure on the American Commissioners who negotiated the treaty, and he endeavoured to support the American view of the question to the utmost of his power. It is, however, clear, from Mr. Rush's own language, that the point then in dispute was whether the term "bay" was to be interpreted as meaning an "arm of the sea," as claimed by Great Britain, and admitted by Mr. Webster, or as a harbour or place where vessels could obtain anchorage, as contended for by the Americans. The following passages occur in Mr. Rush's letter to Secretary Marcy, dated 18th July, 1853:—

"These are the decisive words in our favour, they meant no more than that our fishermen, whilst fishing in the waters of the Bay of Fundy, should not go nearer than three miles to any of those small *inner bays, creeks, or harbours* which are known to indent the coasts of Nova Scotia and New Brunswick. To suppose they were bound to keep three miles off from a line drawn from headland to headland *on the extreme outside limits of that bay,* a line which might measure fifty miles or more, according to the manner of drawing or imagining it, would be a most unnatural supposition. . . . Similar reasoning applies to all the other *large bays and gulfs.* . . . In signing it (the treaty) we believed that we retained the right of fishing *in the sea, whether called a bay, gulf, or by whatever term designated.* . . . Our fishermen were waiting for the word, not of exclusion but of admission, *to those large outer bays.* . . . It ought not to be lightly supposed that the negotiators of the convention would sign away the right of entering the fishing grounds *in any of the large outer bays or gulfs.*"

The Committee of the Privy Council must enter their protest against the attempt which has been recently made by the President to obtain for the citizens of the United States the right to fish, not only in the larger bodies of water where there is no anchorage, but even in the British harbours, from which they had been constantly excluded prior to the Treaty of 1854. They are willing to admit that the interpretation of the term "bay" may be a fair subject for amicable negotiation or for the arbitration of a friendly power, but they cannot consent to the admission of American fishermen to the harbours from which they had always been excluded prior to 1854, without any remonstrance on the part of the Government of the United States. The Committee of the Privy Council are of opinion that they have great reason to complain of the language of the President, animadverting on their conduct with regard to the navigation of the River St. Lawrence. The President concludes his remarks on this subject in the following words:—

"It is hoped that the Government of Great Britain will see the justice of abandoning the narrow and inconsistent claim to which her Canadian provinces have urged her adherence."

The Committee of the Privy Council are not aware that any claim to the navigation of the River St. Lawrence has been advanced by the United States since the year 1826, when the subject underwent a full discussion between the two Governments; and when Great Britain maintained that she could not concede to the United States any right to the free navigation of the St. Lawrence. The President cannot be unaware that the Falls of Niagara present a natural obstruction to the outlet to the ocean of most of the States to which he has referred in his message. Canada has expended a very large sum of money in constructing an artificial communication on Canadian soil between Lakes Erie and Ontario, which citizens of the United States have hitherto been permitted to use precisely on the same terms as Her Majesty's

Canadian subjects. The Committee of the Privy Council can state with confidence that in no single instance, during a long period of years, has a vessel, belonging either to the United States Government or to a private citizen, been refused the use either of the River St. Lawrence or of the Canadian canals. The Committee of the Privy Council have been reluctantly compelled to bring to the notice of Her Majesty's Government the language used by the President of the United States in his annual message to Congress, which is obviously calculated to diminish the friendly feelings which have long existed between Her Majesty's Canadian subjects and the citizens of the United States, whose common interest it is to live on terms of amity. The Committee of the Privy Council rely with confidence that on an impartial consideration of all that has occurred since the abrogation of the Reciprocity Treaty, Canada must be acquitted of the charge of acting in an unfriendly spirit to the citizens of the United States.

(Certified) Wm. H. LEE,
Clerk, Privy Council, Canada.

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No. 4.

The LORD LISGAR to The EARL OF KIMBERLEY.

(Confidential.)

Government House, Ottawa, December 28, 1870.

(Registered January 12, 1871.)

MY LORD,

(Answered, Confidential, January 26, 1871, page 93.)

IN accordance with the advice tendered by the Privy Council of the Dominion, I have the honour to transmit herewith to your Lordship a Report drawn up by the Honourable the Minister of Marine and Fisheries.

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

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 4.

COPY of a REPORT of a COMMITTEE of THE HONOURABLE THE PRIVY COUNCIL, approved by HIS EXCELLENCY THE GOVERNOR-GENERAL on the 28th December, 1870.

The Committee of Council have had under consideration the annexed Report, dated 1st November, 1870, from the Honourable the Minister of Marine and Fisheries, on the several Despatches therein referred to, concerning the protection of the inshore fisheries of Canada, and they respectfully submit their concurrence in that Report, and advise that a copy thereof be transmitted by your Excellency to the Right Hon. Her Majesty's Secretary of State for the Colonies, as containing the views of the Canadian Government on the important matter therein referred to.

(Certified) Wm. H. LEE,
Clerk, Privy Council, Canada.

No. 4.

(Confidential.)

REPORT ON IMPERIAL DESPATCHES CONCERNING THE PROTECTION OF THE INSHORE FISHERIES OF CANADA.

Department of Marine and Fisheries, Ottawa, November 1, 1870.

The undersigned has the honour, in obedience to your Excellency's command, to report on the several Despatches and papers described as follows:—

1. The Earl of Kimberley's Despatch of the 4th of August last,* desiring explanations on certain provisions of an Act passed at the last Session of the Parliament of Canada, amending the Canadian Statute, 31 Vict., cap. 60, relating to fishing by foreign vessels, to which the United States' Secretary of State take, exception.

2. Despatch from Lord Kimberley, dated 11th August last,* remarking on discrepancies between the action prescribed by Mr. Cardwell's letter of 12th April, 1866—the Imperial instructions to Her Majesty's naval officers engaged in protecting the fisheries—and the special directions to marine police officers employed in the same service, issued in the first instance (and as since amended) by the Canadian Government.

3. The Colonial Secretary's Despatch of 25th August last, respecting the treatment of foreign fishing vessels found (not fishing) within the three miles limit.

4. Lord Kimberley's Despatch of 12th October ultimo,* reviewing certain correspondence, &c., from the Governments of Canada and Prince Edward Island relative to the exclusion of American vessels from British ports and harbours, resorting thereto for other than the specific purposes defined by Treaty and the Statutes; re-asserting the Imperial fishery policy as laid down in Mr. Cardwell's instructions of 12th April, 1866; and referring to Sir Edward Thornton's letter of 12th September last, communicating the views and dissent of the United States' Government on preventing United States' fishing vessels from entering and remaining in ports and harbours of Canada to obtain supplies; and conveying the intimation that hostile restrictions may be resorted to as means of pressure by the American Executive, affecting commercial intercourse between the two countries.

5. The Earl of Kimberley's Despatch of 10th October ultimo,* proposing to invite the United States'

Enclosure in
No. 4.

* These Despatches will be found printed in Confidential Paper of January, 1871, pages 87 and 91.

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Government to enter into a mixed Commission on the fishery question, with a Memorandum respecting the subject of inquiry.

Sir Edward Thornton's proposal of 20th October ultimo, to receive suggestions on carrying out Lord Granville's instructions on the above project.

And Lord Granville's Despatches of 30th June and 9th July last, respecting the limitation of exclusive bounds pending the proceedings on such reference, and saving the full rights of Canada, continued in abeyance under said Commission.

Together with Extract from Lord Kimberley's Despatch of 27th July last,* suggesting agreement on regulations for the fishing season of 1871, with respect to the progress of inquiries by proposed Commission.

The undersigned has the honour to state :

First.—Lord Kimberley remarks that the Act objected to by Mr. Secretary Fish had not reached the Colonial Department in an authenticated shape. It was printed in pamphlet form at this office, for convenient reference, and supplied to the fishery and marine police officers. Copies were also furnished to the Governor-General.

The substantial amendment effected by the Act in question consists in the omission of the 24 hours' notice to foreign fishing vessels, which was allowed under the third section of the former statute of the Dominion, and which brought the Act itself into conformity with Imperial legislation.

Mr. Fish thinks that United States' fishermen would be excluded by it from part of the Labrador coast, along which they are secured in certain privileges connected with their fishing operations, under the Convention of 1818. Previous reports by the undersigned, dated 14th, 27th, and 28th of June last, explain that such apprehension of interference with treaty rights is altogether groundless. The Act excepts, in express terms, the limits described in the first clause of the original statute, and is in complete accordance with the fishery article of the said Convention.

Mr. Fish also objects to the masters of United States' fishing vessels being required to answer questions which might criminate themselves, as being contrary to the spirit of general law.

The existing laws of Canada, relating to foreign fishermen and fishing vessels, are founded on (and indeed are almost literal copies of) Imperial and Colonial Statutes of long standing, framed to give effect to the stipulations of the Treaty of 1818, and to prevent illicit trade on the coasts of the British North American Provinces, in connection with, and under the guise of, fishing pursuits. Provisions similar in spirit to those objected to by Mr. Fish are, it is believed, to be found in the revenue laws of all countries.

Another exception taken by Mr. Fish relates to an apparent discrepancy between this Canadian law and Imperial instructions. The difference appears to exist in American fishing vessels being, by the former, rendered liable to seizure when fishing "within three miles of the bays of Canada," while the latter contemplate seizure for trespass "within three miles of land." As the directions under which the Canadian fishery officers act virtually correspond with those governing the duties of officers in command of Imperial cruisers, there exists no practical cause of objection.

Second.—The Earl of Kimberley remarks on the steadily "increasing effectiveness" of our regulations, as being calculated to increase the probability of collision and international disputes. This is the reason given for still further contracting the policy of 1866, by substituting (without previous consultation with us) an arbitrary limit of three miles all around the coast, instead of the conventional basis applicable to bays exceeding 10 miles in width, mentioned in Mr. Cardwell's Circular as an arrangement agreed upon with France.

It will be remembered that the growing stringency of our regulations under the laws relating to foreign fishing vessels was quite in accordance with suggestions from the British Admiral and the officers in command of Her Majesty's cruisers, and our own experience of what was required under the circumstances. The few emendations made were necessary to the effective working of the licence system. While the Government were constantly dissenting from the annual continuance of that temporary system, they felt the necessity of relieving it as much as possible from public reproach. Its ineffective operation, under the annotated instructions to naval officers, exposed those concerned in the service to the derision of American fishermen. So long as the regulations were inoperative, they were continued in existence without objection; but when they seemed likely to afford us efficient protection, the limits of their application were reduced to the smallest possible compass. They were then to be enforced only in bays of six miles wide. This newly reduced line of demarcation, the Despatch explains, "while effecting a substantial exclusion from Canadian fisheries, should raise no disputed questions of right." It is precisely because such concessions do not in fact effect a substantial exclusion from Canadian fisheries that Canada objects to them. In conceding every minor point on the assumption that there is no "substantial invasion of British rights," the entire policy of exclusion becomes practically ineffective. The undersigned has had the honour to discuss at length the injurious tendency of such concessions, in the report and memorandum submitted to your Excellency on the 4th of July last, to which he begs leave to advert.

Lord Kimberley further observes that "Her Majesty's Government also had reason to believe that a temporary concession on this point, advisable in itself as a matter of caution, would mitigate the irritation likely to arise in the United States at the more effectual enforcement of the prohibitions: a consideration which no person who really considers the public interest both here and in Canada will deem unimportant." Our experience, unfortunately, goes to show that every concession of our rights only encourages fresh demands and further encroachments.

Third.—Vice-Admiral Wellesley is instructed by this Despatch, that the statute of the last session of the Canadian Parliament, amending the law relative to fishing by foreign vessels, must be enforced in complete subordination to Mr. Cardwell's instructions of 1866. Vessels found within proscribed limits, but not either fishing, preparing to fish, or having fished therein, are not to be detained or taken into port, unless there is reasonable expectation that by doing so some evidence would be obtained of fishing or preparing to fish within three miles of land. If not so taken under the "circumstances of suspicion" allowed in Mr. Cardwell's Circular, they are to be simply warned against fishing.

Vide Sec. 1 of the Act of May 22, 1868: and Sec. 3 of the Stat. of May 12, 1870.

Vide 59 G. 3. c. 38.

Vide c. 94, Revised Stat. N.S.

Vide 29 Vic. c. 35, N.S.

Vide 16 Vic. c. 69, N.B.

Vide 6 Vic. c. 14, P.E.I.

Vide Imperial Minutes of Council, dated June 15, 1836,

and Sept. 3, 1841.

Vide Admiral's Reports for 1866, '67, and '68.

Vide Captain Hamilton's Report of Oct. 31, 1867.

* This Despatch will be found printed in Confidential Paper of January, 1871, page 86.

Fourth.—Lord Kimberley states that Her Majesty's Government consider all action to prevent United States' fishing vessels from trading and transshipping their cargoes in British ports and harbours highly objectionable. The Canadian Government is therefore informed that Admiral Fanshawe will, in future, refrain from interference with American fishermen resorting to British bays for such purposes.

It is not contended that these purposes are not precisely such as are embraced in the treaty and statutory prohibitions. The objection is founded on the fact of this application of the fishery laws being at variance with the Imperial Instructions of 12th April, 1866, which directions Her Majesty's Government "has always understood to be accepted by that of Canada as guiding the operations in which they receive the assistance of Her Majesty's vessels of war."

There evidently exists some misunderstanding on the subject of these instructions. The Government of Canada very clearly understood them to be connected with the temporary arrangements of that year. They have acted upon them in such connection from year to year. When finally the licensing system was abolished, the whole conditions upon which it was based were abandoned. The facts and arguments on which its abolition was recommended to the Council, as set forth more particularly in reports by the undersigned of the 27th of February, 1868, and the 15th and 20th December, 1869, adopted by the Government, point to this conclusion. The withdrawal of "all privileges of a concessory nature affecting our inshore fisheries"—the adoption of "a decisive policy"—the absolute discontinuance of mere provisional arrangements, "giving place to a definite policy of exclusion, agreeable to colonial interests, and consistent with national dignity and rights"—that "a policy of entire exclusion from our fishing limits be adopted and enforced,"—such were the recommendations confirmed by the Government of Canada. They were not adopted in any retaliatory or unfriendly spirit, but "in the true interests of peace, no less than in justice to the present wants and future prospects of this country." After the lapse of several months, Earl Granville signified the intention of Her Majesty's Government to send to Canadian waters a sufficient force, in compliance with our request, to support the marine police which Canada had organized to carry out the exclusive policy recommended in the above reports, without taking any exception to the suggestions on which they were based. The Canadian Government were justified, therefore, in concluding that effectual measures would be enforced. And they justly considered that the repeal of the Reciprocity Treaty which had extended the privileges given to American fishermen by the Treaty of 1818, again limited them to the rights or privileges specially described in the last-named treaty. They have again asserted this position by the Minutes of Council of the 9th of June, and in a subsequent report by the undersigned dated 4th of July last, and the Minute of Council thereon. Lord Clarendon's Despatch of the 11th of May, 1866, fully maintains their position in this respect. Hence the renewal of such minor regulations as were found to have been actually in force in the fisheries protection service prior to 1854.

Mr. Fish believes that the restrictions to which Lord Kimberley now so strongly objects, "had never been asserted or carried out, even before the signing of the Reciprocity Treaty." This is an error. Previous to 1854, numerous seizures and detentions of foreign fishing vessels took place, chiefly by Her Majesty's cruisers, for the offence of frequenting provincial ports and harbours for other purposes than those expressly permitted under the fishery article of the Convention of 1818. The undersigned would refer to some of the official directions under which Imperial and Colonial officers acted in these instances:—Admiral Milne's Instructions of 12th May, 1817; Vice Admiral Seymour's letter of 12th July, 1852, to the Administrator of the Government of Nova Scotia; also his Memorandum of 8th July, 1852, and the opinion thereon of the law officers of the Crown, dated 25th September, 1852; instructions by the Honourable Joseph Howe, Provincial Secretary of Nova Scotia, dated 28th August, 1852.

The Earl of Kimberley is in error in stating "that no attempt has been made to enforce this restriction in any previous season since the termination of the Reciprocity Treaty." It has generally been enforced by the Canadian Customs officials and fishery officers, although great complaint has been made by the Canadian traders, owing to the practice which has been tolerated in Prince Edward Island of permitting American fishermen to trade in bait, and to transship fish, in direct violation of the treaty. The laxity with which the Imperial and Provincial Statutes, and the treaty prohibitions, were carried out by Her Majesty's cruisers and the Prince Edward Island authorities within their jurisdiction, while it thwarted the licensing system, caused great discontent in the maritime districts. It was represented to the Government of Canada as a positive grievance, and in 1868 they employed a Special Commissioner to investigate the facts. The subject was prominently noticed in the report of the undersigned, dated 15th September, 1868, which, after recounting the fact of United States' fishing vessels having been "prevented by the Customs officers (in Canada) from landing, refitting, and storing cargoes and supplies, from purchasing barrels, salt and outfits," while a "different system" prevails in Prince Edward Island, represented: "That the rights which the citizens of the United States are entitled to enjoy in relation to the fisheries on the coasts of these provinces, are those only which are granted them by the Convention of 1818, which provides that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever; but they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

The report continued:—

"It may be suggested, however, that though precluded from entering for purposes of fishing, that they may be permitted to exercise the right of entering for purposes of trade. Whether such a claim might be fairly maintained were the vessel purely a trading vessel would depend upon the treaties between Great Britain and the United States, and the usages of nations in such cases: but it is presumed that no such question could arise here—the vessels in question are alleged to be purely fishing vessels—fitted out as such, and calling into the ports referred to for the purposes of supplying themselves with salt, barrels, stores and provisions for the prosecution of a fishery business, and for landing and storing their catch from time to time, and alleging that they do not want a licence to fish as they do not intend to fish within the three miles limit, avowing themselves fishermen; but at the same time declaring that they do not contemplate fishing

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within the limits. This class of vessels have no right to enter our ports for other purposes than those of *shelter, repairing damages, purchasing wood, and obtaining water.*"

Also, in a report of the 9th November, 1868, these objectionable practices were adverted to as follows:—

"Although these vessels are prohibited by the Imperial and Provincial Statutes, and by the Convention of 1818, from entering British harbours for any other purposes than shelter, or to repair damages and to purchase wood and water, the masters are there (i. e. Prince Edward Island) allowed to procure supplies, to store fish, and bait, buy salt, barrels, and other materials necessary for fishing operations, without any interference on the part of the Island officials; all of which is in violation of the Customs laws, and at variance with the letter and spirit of the treaty by which they are equally bound with the officers and inhabitants of the other Provinces. In addition to which evasive privileges United States' vessels (unlicensed) are also permitted to transfer their cargoes at Prince Edward Island to foreign steamers, and to include quantities of fish captured by and purchased from Island fishermen—thus exempting them from duties levied on fish caught and marketed by the other colonists. The actual gain from this mode of dealing with the crews and owners of United States fishing vessels, and the requisite establishment of business firms and agencies at the Island, together with minor benefits of local trade, doubtless prove more than an equivalent to the aggregate amount of small tonnage fees which might be derived through strict enforcement of the laws and the system in force under the treaty."

On the 29th of April, 1869, further reference was made to the subject, and it was again recommended that the attention of the Prince Edward Island authorities should be called to it.

These reports were duly transmitted by your Excellency to Her Majesty's Government, who were thus placed in full possession of the facts, and of the remedial measures suggested. When, subsequently, an improved system received the support of Her Majesty's vessels of war, it was reasonable to conclude that the officers in command would have been instructed accordingly. The Government of Canada adapted their regulations for the season of 1870 to the more effective policy which they understood Her Majesty's Government to have adopted, in order to enforce the treaty and statutes effectually. They had reason to suppose that Her Majesty's Ministers would do likewise. The regulation in question was just one of the "restrictions necessary to prevent" such abuses of the privileges conceded by the convention to United States' citizens, as the colonial authorities are expressly empowered by the Imperial and Provincial Statutes to enact. They had no doubt, whatever, of the necessity and legality of this restriction, nor that a uniform rule would be applied in other colonial waters. American fishermen were therefore notified that they would not be permitted to frequent the bays and harbours of Canada for any other than the purposes specified in the Treaty. Whatever directions may have been given to Imperial officers, regarding the objectionable practices which prevailed in Prince Edward Island, it is a matter of fact, that they acted in accordance with the Canadian regulations. It appears from Vice-Admiral Wellesley's Despatches, referred to in the present correspondence, that the warning given by the commanders of Her Majesty's cruisers, was the occasion of the "protest" of the Government of Prince Edward Island to which the Earl of Kimberley alludes. The Island Government having declared that United States' fishing vessels have no lawful claim to enter any of the harbours of the Island to land and transship cargoes of fish, it ought not to be surprising that, witnessing such practices as prevailed there, any active and conscientious British officer should interpret his instructions conformably with the plain language of the statutes and the obvious meaning of the treaty. But Admiral Fanshawe has been since instructed that this is wrong; and the Government of Canada is advised that it does not accord with Mr. Cardwell's Circular of 12th April, 1866. These instructions direct, that "Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend *some substantial invasion of British rights.*" The undersigned submits that the aid given to foreign fishermen by allowing them to use British American ports for the transshipment of fish and the purchase of bait and other fishing stores, is in contravention of the express stipulations of the treaty, and is a "substantial invasion of British rights."

The privilege of resorting to our bays, ports, and harbours for trading purposes could not be allowed to foreign fishing vessels without causing serious losses to our revenue, and injury to the interests of our fishermen, besides imposing on the public service additional expense and serious inconvenience. The principal parts are in close proximity to the fishing grounds. Apart from the cost and trouble it would entail, we cannot, without some equivalent, afford facilities to foreigners which enable them to compete with our own fishermen. If they wish to secure any such accommodation, it must be on reciprocal terms. The Americans seem disinclined to seek it on such conditions. It is not contended that exclusion should be effected by any commercial regulation, but it is a necessary consequence of the reservation of our fishing grounds, with their adjacent ports and harbours the use and advantages of our own fishermen. This restriction applies solely to purposes connected with fishing,—purchasing supplies, engaging sailors, transshipping fish cargoes, procuring bait, buying salt, ice, ships' stores, and fresh provisions,—which form so plain a portion of the fishing voyage, that it is difficult to conceive how any reasonable interpretation of treaty rights can disconnect them from fishing pursuits, or rank them with transactions of ordinary trade.

A very extensive and organized system of smuggling has been successfully carried on along our coasts, inflicting great loss on our revenue, and severely damaging legitimate trade. It is believed that this illicit traffic has been increased by the numerous foreign fishermen and fishing vessels having access to our inshores, and to the bays, creeks, and harbours around the coast. Their detection by revenue officers has been a matter of extreme difficulty, and the services of the marine police vessels employed in protecting the fisheries have been rendered available. These vessels have discovered many fraudulent evasions of the revenue and navigation laws, and the treaty provisions regarding the fisheries. The undersigned here alludes to these occurrences in order to show how necessary are restrictions of the kind, which Her Majesty's Government seem to consider objectionable.

Mr. Fish intimates that the United States' Government cannot admit that the Treaty of 1818 was intended to prohibit trading by American fishing vessels, and threatens retaliatory measures unless the restriction in question be relaxed. A reference to an exhaustive remonstrance from the American Minister at London

in 1841 will show that no such right was at that time attempted to be set up, nor is it likely that it would now be demanded with a menace but for the disposition evinced by the Imperial Government to make concessions.

Although Lord Kimberley confines the expression of his regret to this particular, the Despatch above noticed, viewed in relation to preceding Despatches, implies a general feeling of uneasiness at the course pursued by Canada. The main cause of such dissatisfaction appears to be that Canada has not literally adhered to the temporizing and fruitless policy adopted on the termination of the Reciprocity Treaty, *for that season only*, as laid down in Mr. Cardwell's Circular of 12th April, 1866. In thus recalling attention to that document, and in confining anew the Admiralty instructions to its temporary reservations on several other points besides those in actual controversy between Great Britain and the United States, it may be inferred that Lord Kimberley desires that Colonial as well as Imperial action, for the future as in the past, should be fettered and controlled by perpetual adherence to the terms of that Circular. If this be the determination of Her Majesty's Ministers, the Canadian Government will no doubt receive it with extreme disappointment and concern. Against that policy, when it was at first proposed, the Provincial Governments respectfully, but most earnestly, remonstrated. Imperial considerations alone reconciled them to its acceptance as an expedient limited in express terms to one year. The evident desire of the Imperial authorities to continue it year after year, notwithstanding its barren results and real dangers, has obliged the Government of Canada, on repeated occasions, to renew their respectful remonstrances and to protest against its principles and practice. And yet, during four years of utterly unrequited concession to the political temper and the pecuniary interests of United States' citizens concerned in the fisheries, every practicable endeavour has been made to avoid causes of irritation. It has been the constant and anxious study of the Colonial Administration to comply with the obvious wishes of the Imperial Government, whilst fulfilling, as best they might under such adverse conditions, the very difficult duty of preserving the rights and protecting the interests of Canadians. It was feared from the first that the partial enforcement of our admitted rights would not attract the serious attention of our neighbours, and that our moderation would not receive any fitting acknowledgment. The facts prove that neither Imperial conciliation nor Colonial forbearance can satisfy the United States' Government. Instead of a forbearing and conciliatory policy having conduced to any corresponding liberality, the very reverse has resulted. The anticipation so often expressed in official correspondence from Her Majesty's Government, that conciliatory measures would lead to an early relaxation of commercial restrictions, is certainly not confirmed by Mr. Fish's recent intimation to the British Minister, that trade with Canada may be still further restricted.

The American people affect to believe that Great Britain is desirous to concede their principal claims upon the British North American fisheries; and that illiberal efforts on the part of Canada have hindered the exercise of such a liberal disposition. They also entertain the belief that Canadians are restrained from more strenuously urging the enforcement of their just rights through Imperial influence. The fact of Canada having desired a more permanent and effective fishery policy than that favoured by Great Britain, is regarded as evidence of an unfriendly spirit. The merits of the case, and the justice of the situation, are not recognized; but the existence of motives of retaliation or coercion, so very unjustly ascribed to us, is inferred from our persistence in maintaining rights and privileges accruing to us as British subjects. These rights and privileges have not been thus valued and maintained on mere abstract grounds. We consider them essential to the prosperity of the Dominion. All that we ask for is an adequate equivalent. If this cannot be obtained, we simply desire to be left alone in the peaceable enjoyment of such rights and privileges, in order that our fishermen may profit by the advantages of their position. The correspondence which has taken place during five years past, may be plausibly referred to by Americans to warrant the inference which it suits their purpose to draw from our proceedings. The Canadian Government have clearly foreseen the weakness and danger of such a position. They stated this as forcibly as possible at the inception of that policy, and they have never since lost an opportunity to impress the difficulty which they apprehended on the minds of Her Majesty's Ministers. The Minutes of the Governments of Canada and Nova Scotia, dated respectively 23rd March, 25th April, 9th May, and 21st June, in 1866, refer to this important point. It has also been adverted to in various connections during three following years. Especial reference to it occurs in reports of the 15th and 20th of December, 1869, and the 4th of July, 1870.

¶ The undersigned cannot avoid repeating his conviction, that, had a just and vigorous policy been adopted and carried out, it would have been much less liable to such objections as are at present advanced; and he firmly believes that long before this the United States' Government would have been disposed to deal with the whole fishery question in an amicable spirit, and as becomes an independent and enlightened nation. A policy altogether conciliatory has completely failed. The hope of merging the fishery question in some general trade arrangements, so patiently cherished and so persistently expressed by Her Majesty's Secretaries of State to justify postponing a decisive and national policy respecting the fisheries, has not been realized. The Canadian Government have anxiously desired to avoid renewed controversy and exclusion by a treaty of commerce, but in this they have been disappointed.

And yet, in view of all that has passed—notwithstanding that the policy of one-sided concession has produced nothing better than a threat of “retaliation”—Lord Kimberley regrets that the success of the proposal for a mixed Commission is jeopardized by the exclusion of American fishermen from trading in our ports and harbours—and informs us that Her Majesty's Government revert imperatively to the abortive policy of 1866, which was accepted on the assurance that it should continue for one year only.

Fifth.—Special attention is requested to the memorandum which accompanies Lord Kimberley's Despatch of the 10th ultimo. This memorandum describes the object of inquiry by the proposed Commission as “*what ought to be the geographical limits of the exclusive fisheries of the British North American Colonies.*” It also embodies a direction for the Commissioners “*to report to the British and American Governments, their opinion either as to the exact geographical limits to which the renunciation above quoted (from the Convention of 20th October, 1818) applies, or if this is found impracticable, to suggest some line of delineation along the whole coast, which, though not in exact conformity with the words*”

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"of the convention, may appear to them consistent with the just rights of the two nations, and calculated to remove occasion for further controversy." The memorandum concludes:—

"It is not intended that the results of the Commission should necessarily be embodied in a new convention between the two countries; but, if an agreement can be arrived at, it may be sufficient that it should be in the form of an understanding between the two Governments as to the practical interpretation which shall be given to the Convention of 1818."

The effect of such direction would be to refer to the Commission questions of compromise instead of questions of fact. It would thus enlarge the powers and duties of the Commission in a sense quite the opposite of Lord Clarendon's acceptance of the original proposition of Mr. Adams in 1866. The subject for inquiry is not what "ought to be," but what *are* the true geographical limits of Canadian fishing grounds under the treaty.

It will be perceived, on referring to the documents, that there is an essential difference between the purposes and conditions of inquiry described by Lord Clarendon, and the "Memorandum" of Lord Kimberley.

The object of Mr. Adams is said, by Lord Clarendon, to have been "to provide by mutual agreement between the two Governments for ascertaining the extent of the restrictions imposed under the first Article of the Convention of 1818, upon the fishermen of the United States, while carrying on fishing operations on the coasts of Her Majesty's possessions in North America." The Despatch proceeds:— "The object of the proposed Commission is to inquire into and define the several questions relating to rights of exclusive fishery possessed by Great Britain, within bays and between headlands, which have in former times been a fruitful source of discussion between the two Governments." After excepting from inquiry the privileges recited in the first part of the above-named article, Lord Clarendon limits the operations of the Commission as follows:—"Whose duty will therefore be confined to ascertaining what is the real extent and meaning of the renunciation on the part of the United States '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,' and having ascertained those points, then to lay down regulations under which United States' fishermen may be permitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood and obtaining water, and to agree upon a system of police for enforcing the conclusions at which the Commission may arrive." . . . "And Her Majesty's Government would hold themselves entitled to maintain, pending the determination of the questions to be discussed, the principles for which they have heretofore contended, and to enforce all regulations and assert all rights which previously to the conclusion of the Reciprocity Treaty the British Government asserted and enforced."

The Minute of Council, dated 1st July 1870, embodying instructions to the Honourable Mr. Campbell, to arrange with Her Majesty's Government respecting a mixed Commission, describes "the definition of certain limits of exclusion by headland lines," in accordance with international law, as the principal point to be referred, and provides for "some independent reference in case of need, the principle on which such Commission shall be chosen and act to be as provided in the Earl of Clarendon's Despatch of 11th May, 1866."

Neither the objects of the inquiry as proposed by Lord Clarendon, nor the terms to which Canada assented, were meant to confer upon the Commission any power to settle the respective rights of fishery of Canada or the United States by way of compromise. The line of demarcation recommended by the Commissioners for final adoption by both Governments should be in strict conformity with international law, except so far as it may have been modified by the true intent and meaning of the Treaty of 1818.

The undersigned, warned by the past, feels it to be of the highest importance that no ambiguity should attend the appointment of the proposed Commission. Its purposes should be strictly defined. It is likewise important to decide what shall be our position pending its operation. Lord Kimberley intimates that the status quo must be preserved under Mr. Cardwell's instructions of 12th April, 1866. To this proposition the Canadian Government ought not, in the opinion of the undersigned, to assent, but should maintain, as insisted on by Lord Clarendon, that all "rights" and "regulations" should be asserted and enforced, "which previously to the conclusion of the Reciprocity Treaty the British Government asserted and enforced."

The undersigned is of opinion that the threatening attitude assumed by the American Government since the proposal for a mixed Commission was entertained by Great Britain, renders it inexpedient that such a mode of adjusting the differences should be resorted to.

The Earl of Kimberley desires to know what regulations for the fishing season of 1871 the Canadian Government proposes to submit for consideration by the two Governments, in order that arrangements may be made in good time before the season commences. The undersigned respectfully recommends that Her Majesty's Government be requested to give the Naval Commander-in-Chief on the North American Station, instructions similar in spirit to those which obtained at the time when the Reciprocity Treaty came into effect.

The whole, nevertheless, respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

Lord Clarendon's Despatch to Sir F. Bruce, May 11, 1866.

No. 5.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 17.)

Government House, Ottawa, January 18, 1871.

(Received February 3, 1871.)

MY LORD,

I HAVE the honour to transmit, herewith, a copy of a telegraphic message received by the Hon. the Minister of Marine and Fisheries, reporting the capture by the Canadian police vessel 'Water Lily,' of the United States' fishing vessel 'Perseverance.'

Jan. 14, 1871.

I have forwarded to Her Majesty's Minister at Washington, a copy of this telegram.

I have, &c.,

(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 5.

Enclosure in
No. 5.

(Copy.)

TELEGRAM.

St. John, N. B., January 14, 1871.

On our arrival at Bliss Harbour, Captain Pring, of the schooner 'Flying Mist,' came on board the 'Water Lily' and complained that his nets had been robbed of fish a few nights before our arrival, and that he believed the crew of the schooner 'Perseverance' were the parties, and that the schooner was owned in Eastport, U. S., to which place she had gone with the herrings she had caught while fishing close by them in the harbour. On the 'Perseverance' arriving in Bliss Harbour, I boarded her and informed the captain of the complaint against him, which he denied. About three hours after, I sent for him to come on board the 'Water Lily,' where he swore to the following statement:—"I, Stephen Thorpe, am master of the schooner 'Perseverance.' I left Eastport yesterday the 11th day of January, 1871. I had been fishing last week, and left Bliss Island the 7th day of January, 1871, and arrived at Eastport the same day, and there discharged my fish, which were all caught in British waters about Bliss Island. The vessel belongs half to myself and half to Paine and Co., of Eastport, from whom I bought my half. I gave them 350 dollars for my half. I live in Eastport myself, and own two houses there. I only own two nets in the schooner, the rest belong to the crew, John and Peter Hill, and Frank Hill, and James Thorpe. These, with myself, compose the crew, who fish on shares." This was sworn to in presence of Alfred Vail and Robert Burns.

I believe the 'Perseverance' is owned by the before-named citizens of the United States, and was fishing, had fished, and was preparing to fish in British waters, within three marine miles of the shore, for the benefit and profit of American citizens. At the time of her seizure she was at anchor in five fathoms, about 200 fathoms from the fishing establishment of Henry Fry, M.P.P. Fry's Island and Bliss Island are at the mouth of L'Étang River, and in the county of Charlotte, in the Dominion of Canada. This vessel had caught 120,000 herrings. Part were sold in the harbour, and part taken to Eastport. She had on board a certificate of British registry naming one Joseph Patch as owner.

I have, &c.,

(Signed) ALBERT BETTS, Commander, 'Water Lily.'

The Hon. P. Mitchell,
&c. &c. &c.

No. 6.

No. 6.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 18.)

Government House, Ottawa, January 19, 1871.

(Received February 3, 1871.)

MY LORD,

WITH reference to my Despatch, No. 293,* of December 20th, 1870, on the seizure of the 'Granada,' I have the honour to forward, herewith, an extract from the diary of Captain Tory, the officer in command of the Dominion schooner 'Ida E,' who made the seizure, with a memorandum thereon by the Department of Marine and Fisheries on the state of the weather when the 'Granada' came into port.

* Page 3.

Jan. 16, 1871.

2. I also enclose an extract from the 'New York Tribune' (Republican), giving its version of this seizure, which it commented on in a leading article, which I also enclose. In the extract from the 'Ottawa Times,' your Lordship will find the Canadian version of the seizure and the statement of the facts as known here.

Jan. 11, 1871.

Jan. 12, 1871.

Jan. 17, 1871.

3. I have not yet received Mr. Blanchard's Report (promised at the end of the Memorandum from the Customs Department of December 15th, 1870, forwarded under cover of my Despatch, No. 293), but so soon as it reaches me I will forward a copy for your Lordship's information.

I have, &c.,

(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

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Enclosures in No. 6.

EXTRACT FROM CAPTAIN TORRY'S DIARY relating to the SEIZURE of the Schooner 'GRANADA.'

At Port Hood.

Dominion of Canada, Ottawa,

Department of Marine and Fisheries, January 16, 1871.

The 'Granada,' of Provincetown, Mass., Reynolds, master, from Strait of Canso, said he was on a fishing voyage. Had on board the following goods, viz.:—1 puncheon of molasses; 3 casks parafine oil; 8 qr. boxes tobacco; 1 case rubber boots; 1 30-gallon cask of gin; 1 bundle of oil clothes; 2 chests tea; 12 fishing nets; 10 coils cordage; 4 bundles and 2 coils lines; lot corkwood and hooks; 20 barrels flour; salt; and sundry other articles.

Had purchased butter, beef, potatoes, empty barrels.

Had no papers to show his port of destination.

There was every appearance that she was on a smuggling voyage. I seized the vessel and cargo for an infringement of the Customs laws.

Enclosures in
No. 6.

MEMORANDUM.

It is pretended that the 'Granada' had sought shelter in the port where she was seized. The journals of the marine police officers concur in describing the weather at the time as rather favourable than otherwise to proceeding on a voyage to the Bay of Islands, where the master of the 'Granada' pretends he was bound. Their statements are corroborated by the fact that, lying alongside the 'Granada,' at the time of seizure, were several other United States' fishing vessels which were bound in an opposite direction, homewards. These alleged as a reason for being in port that they sought shelter from a headwind, which excuse, if true on their part, directly contradicts the pretence of the master of the 'Granada,' for whom the wind was fair.

Tuesday,
Oct. 25, on
board the
'Ida E.'

THE LAST FISHERY OUTRAGE.

PARTICULARS of the SEIZURE of the AMERICAN FISHING SCHOONER 'GRANADA' by the DOMINION AUTHORITIES.—The vessel merely puts into Port Hood from stress of weather.—Records of the case in the State Department in Washington.

[By Telegraph to the 'Tribune.']

Washington, January 10.

One of the most flagrant cases of the violation of the rights and privileges of American fishermen in Canadian waters is that of the seizure, by the Dominion authorities, and forcible detention for fifteen days, of the schooner 'Granada,' of Provincetown, Mass., while she was seeking shelter from a storm in Port Hood Harbour, Nova Scotia. The records of the State Department concerning it embrace the affidavits of Lysander N. Paine, owner of the schooner; John Daley, one of the fishing crew; and the correspondence of our Consul at Pictou, N.S., from which the following details are obtained:

The schooner sailed from Boston on the 13th of October last, to go on a cod and herring fishing voyage in the waters near Bay Island. It appears, by the records of the Custom House at Barustable, Mass., as stated in a letter from Collector Swift to Secretary Fish, that she was duly and regularly enrolled and licensed as a fishing vessel, and Mr. Swift adds: "From all the information which I can obtain, there appears to be nothing in her outfit, or movements in the ports which she resorted to, to cause her to be molested." After sailing to the Gut of Canso, where she anchored and shipped two fishermen, she started on the voyage; but as the weather threatened a storm and it was blowing heavily, with the wind south-east, the vessel went into Port Hood on the 25th of October, and anchored about two o'clock in the afternoon, near the cutter 'Ida F.' (she being less than a quarter of a mile distant), where she remained from two to three hours, but did not even attempt a communication with the shore. At the end of that time a boat from the cutter, with Capt. Torry, of the Dominion service, and five of his men, boarded the schooner. Capt. Torry asked the master to show him the 'Granada's' papers. The master did so, and then Capt. Torry asked him where he was bound. The master replied that he was bound on a cod or herring voyage to the Bay of Islands, whereupon Capt. Torry said, "Your papers are not good; you have no clearance to the Bay of Islands." He then ordered the hatches to be taken off, went down into the hold and searched the vessel; he then came on deck and took Reynolds, the master of the 'Granada,' with him on board the cutter; was absent an hour and a half, and then, returning with an armed crew, took possession of the schooner by force, ordered the crew on board his cutter, and took the schooner to Halifax.

Mr. Paine, the owner of the schooner, arrived at Halifax on November 3, and found the papers of his schooner still in possession of Capt. Torry, who, in reply to the question why he had made the seizure, said, "for having dutiable goods on board, and no papers of clearance." The agent of the Dominion authorities demanded of Mr. Paine a deposit, which he made of \$800 in gold as security for the payment of whatever fine might be imposed, and the schooner was released. Mr. Paine swears that owing to this unwarrantable detention, he regarded the enterprise at best as a broken voyage, in consequence of the lateness of the season, and could see little hope of making a saving out of it, and adds that the vessel had a complete set of American fishing papers.

Mr. Malmros, United States' Consul at Pictou, N.S., in his report of the circumstances attending the seizure, confirms the foregoing statements, and adds that "on November 21, telegrams were received by the Collector of Customs at Guysborough, from Halifax and Ottawa, ordering him not to give up the vessel, which orders, of course, came too late." The case is now pending trial before the Court of Vice-Admiralty at Halifax, and the State Department will await the result before further action is taken.

Included in the correspondence is a characteristic letter from Gen. Butler to Secretary Fish, which concludes with the following paragraph: "The 'Granada' had only run into Port Hood Harbour and anchored for shelter. 'How long, O Lord! how long!'—B. F. BUTLER."

The threat of the Canadians to close the Welland Canal against our shipping, in case the United States retaliates for the exclusion of fishing vessels from the ports of the New Dominion, is looked upon at the State Department as absurd. A considerable portion of the revenue of the Dominion is derived from tolls levied on vessels passing through this canal, and more than three-fourths of these tolls are paid by American vessels. Such a proceeding would therefore cut both ways.

[From 'The New York Daily Tribune,' January 12, 1871.]

The seizure of the American schooner 'Granada' by fishery officers of the Dominion, reported in 'The Tribune' yesterday, was such a gross outrage against the comity which ought to prevail between two neighbouring friendly nations, that many of our readers were perhaps inclined to believe the story exaggerated. In truth, however, the seizure seems to have been in strict accordance with the declared policy of the Canadian authorities, and we may expect many occurrences of the same kind, unless we can find some way of bringing the "semi-independent but irresponsible" Government across our northern frontier to reason. The purpose of the new regulations is not to protect the Canadian fishermen, or prevent infractions of local laws; but simply to harass and destroy one of our important industries, and so force us to the adoption of a revenue policy which we have found inconsistent with our national interests. Of course, when the deliberate purpose of the Canadians is to annoy us, no opportunity of making the law as hateful as possible will be neglected. When the new regulations were put in force there was not, and for a long time had not been, any controversy about fishing limits, or the rights of American fishermen in British waters. The old dispute whether the British had exclusive jurisdiction over the waters of their bays and gulfs was in abeyance, and the Treaty of 1818 was supposed to be perfectly well understood by both parties. Under that treaty Americans could not fish within a marine league of the British shore, except at a certain part of the Newfoundland banks, or except under a licence from the Dominion authorities. American fishing vessels entering British ports were subjected to certain restrictions, designed to prevent their taking or curing fish within the prohibited limits; but they might always enter for the purpose of obtaining shelter, repairing damages, purchasing wood, or obtaining water. These privileges were guaranteed by the treaty; others were sanctioned by custom, by local enactments, and by commercial regulations not founded upon any specific law. For instance, American fishermen were allowed to land fish in bond, to be transported by rail to market. They were allowed to purchase bait, food, and ice. The colonists, as well as the fishermen, derived great advantage from this interpretation of the treaty, and an active trade was created at the principal ports to which the Americans used to resort for supplies. Four Acts were passed from time to time by the Imperial and Dominion Parliaments for the purpose of giving effect to the Treaty of 1818 and defining its provisions, and in none of them was there any prohibition of the furnishing of supplies to American fishermen.

When the Dominion Government determined this year to break up the American fisheries in order to compel us to renew the Treaty of Reciprocity, their first measure was to refuse the customary licences for foreign vessels to fish in certain of the British waters. This they had an undoubted right to do; although the suddenness of their action, involving serious loss to fishermen who had made their contracts without suspicion of the impending change, was ungracious—not to say malicious—in the last degree. The next step was to enforce an entirely new construction of the Treaty of 1818. The landing of fish in bond was prohibited, and the strictest possible interpretation was placed upon the words of the treaty permitting our vessels to enter the Dominion ports for wood, water, shelter, or repairs. Food was never to be sold. Bait and all other fishing supplies were refused, and so was ice, without which fresh fish could not be carried to market. A fishing vessel entering a British port was forced to put to sea again in 24 hours, even under circumstances of cruel hardship. These rules also were enforced in the most sudden and inopportune manner, to the ruin of many unsuspecting fishermen. For most of them the *letter* of the treaty indeed, unmodified by the interpretation of half a century's usage, affords a colourable pretext. For others there is hardly the least sanction of apparent legality. American vessels may be seized on the mere suspicion of a British official that they have been fishing or "intending" or "preparing" to fish in British waters, and if the legality of the seizure is questioned, the burden of proving illegality is thrown upon the owner or claimant. This involves, of course, the grossest violation of a fundamental principle of law. The seizure of the 'Granada' seems to have been a violation of this principle, but besides that it was a double violation of the fishery regulations as interpreted by the British themselves, for she had gone into a Nova Scotia port under stress of weather, and was seized two or three hours after her arrival. She was entitled to the hospitality of the harbour for 24 hours at any rate, and even for a longer period in case she needed shelter.

To appreciate the significance of the action of the Canadians, we must bear in mind that the waters in which we take our fish are the waters of the deep sea, free to all the world, and the case is just as if some foreign power should suddenly close its harbours against all American whalers, forbid them to land or sell a barrel of oil, or buy a dollar's worth of stores, or anchor for more than a single day in any of their ports, and do this for the single and avowed purpose of breaking up the American whaling business. We must bear in mind also that the use of Canadian ports, under the ordinary commercial restrictions applicable to other industries, is necessary for certain branches of the fisheries, such as the trade in fresh fish caught at a great distance from our own shores, and needing to be transported in ice; and that no other civilized country in the world refuses us the ordinary facilities of trade.

The illegal seizures which will inevitably take place, and probably have taken place already under this Japanese policy of exclusion, can perhaps be avenged in the courts of law; but for the possibly legal wrong done by these hostile regulations another remedy must be found. The President has suggested two measures which would doubtless prove sufficient to correct the evil. The Canadians are now enjoying from us the same privileges which they refuse to grant. Their merchandise is imported in bond into the United States and carried across our territory. During the winter the commerce of Montreal is conducted

CANADA.

through our seaports. We have the power to refuse hospitality to their ships, and to charge duties upon every bale and box of goods which enters New York, or Boston, or Portland, on its way to Canadian importers. These are serious measures, not to be adopted until remonstrance has been exhausted. They would result in hardship to some of our own citizens, but others would find a profit in them, while to the Canadians they would be ruin. Retaliation between neighbouring nations is always to be deprecated; but it may become necessary, and it will in this case, unless the new fishery regulations are modified in many important particulars.

[From the 'Ottawa Times,' January 17, 1871.]

'The New York Tribune' echoes the "outrages" complained of "under oath" by the Massachusetts fishermen. Unlike some other of its contemporaries, to say nothing of United States' officials, it gives us an example. This instance is the case of the fishing schooner 'Granada.' The 'Tribune' says, on official authority from Washington, that this vessel was seized while at anchor in Port Hood, N.S., having run into the harbour for shelter. Its readers are left to infer that the vessel was so detained for an alleged violation of some "new regulations" regarding the fisheries. This is tangible at last. We are, therefore, enabled to meet the complaints by a direct contradiction. The 'Granada' was *not* seeking shelter, and was *not* seized for infringing the fishery laws. The true facts are altogether different. The master of this vessel pretended to be bound on a fishing voyage to Newfoundland, and yet deviated from his course while a *light fair wind was blowing* to enter and cast anchor in one of our ports. There is abundant testimony to prove that the weather was neither dangerous nor even tempestuous. Naturally enough the revenue officer boarded her, as it was his duty to do under such suspicious circumstances, and, finding no clearance for the pretended destination, he examined her cargo, and finding a large assortment of dutiable goods, such as smugglers have been pretty freely dealing in of late along our sea-coast, he took her in charge for an infraction of our trade navigation (*not our fishery*) laws. If the 'Tribune' can manage to persuade its readers that the following merchandise found on board a foreign vessel running into out-of-the-way harbours instead of proceeding on to the fishery grounds, affords any proof of innocency, they must be well provided with Butler spectacles to read through. The manifest, among other articles necessary to a fisherman's outfit, contains twenty barrels of flour, two chests of tea, several boxes of tobacco, a puncheon of molasses, two casks of paraffine oil, various cases of india-rubber goods, boxes of boots and shoes, two barrels of gin, provisions, cordage, nets, &c., &c.

We really do pray our neighbours to keep these "outrages" about fishing and illicit trade as distinct as possible. The seizures are altogether too well founded in fact and in law. It matters little whether they be called "outrages" or anything else: our law courts will sift the merits, and the lists are open to any amount of legal defenders. Bluster and menace will never make trespass a lawful act, nor an evasion of our revenue laws an innocent deception. Better try a little common sense and truthfulness.

No. 7.

No. 7.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 19.)

Government House, Ottawa, January 19, 1871.

(Received February 3, 1871.)

MY LORD,

I HAVE the honour to forward herewith the copies of the depositions with reference to the seizure of the United States' schooner 'Romp,' by the Dominion schooner 'Water Lily.'

2. I enclose also a memorandum with which I have been furnished by the Fisheries Department, from which your Lordship will perceive that the case has since been tried at the Vice-Admiralty Court at St. John, New Brunswick, and that the vessel was condemned.

The Earl of Kimberley,
&c. &c. &c.

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

Memorandum,
Jan. 18. 1871.

Enclosure 1
in No. 7.

Enclosure 1 in No. 7.

MEMORANDUM.

In re American Fishing Schooner 'Romp.'

Department of Marine and Fisheries, Ottawa,
January 18, 1871.

The United States' fishing vessel 'Romp,' of Eastport, Maine, 20 tons register, Sumner Buckman, of Eastport, owner, James Oliver, master, was seized by Albert Betts, Esq., commander of the marine police schooner 'Water Lily,' while moored at a wharf in Back Bay, in the county of Charlotte, New Brunswick, on the 8th day of November, 1870, for having on credible testimony obtained, and on the

subsequent admission of the master, fished and caught about 50 barrels of herrings, on and before the 5th day of November, 1870, by the said master and the crew, at the mouth of Grand Harbour, at the place called Three Islands, near Grand Manan Island, in the county of Charlotte, and province of New Brunswick, in Canadian waters, within three miles of the land.

The case has since been tried in the Vice Admiralty Court, at St. John, and the vessel condemned for infringing the treaty and the fishery laws.

CANADA.

Enclosure 2 in No. 7.

*In the matter of the Schooner 'Romp.'*Enclosure 3
in No. 7.

City of St. John, Province of New Brunswick.

Appeared personally, Albert Betts, fishery officer in command of the schooner 'Water Lily,' a vessel in the service of the Government of Canada, and employed in the service of protecting the fisheries; Oliver Haley, sailing master on board the said vessel; and Robert Burns and Jacob Robblee, two of the crew of the said vessel 'Water Lily;' and made oath as follows:—

That on or about the 8th day of November last the said schooner 'Water Lily' was lying at Bliss Island Harbour, in the county of Charlotte, and province of New Brunswick, with these appearers on board:

That whilst the said schooner 'Water Lily' was lying anchored within the said harbour, information was received that a schooner called the 'Romp,' owned by citizens of the United States of America, was discharging fish for the purpose of packing them at Back Bay, in the said county of Charlotte, at a distance of about three miles from said Bliss Island:

That the said fish had been caught at Three Islands, at the mouth of Grand Harbour, near Grand Manan, in the county of Charlotte, and province of New Brunswick:

That the said appearers thereupon went in search of, and found and boarded the said schooner 'Romp' at Oliver's Wharf, in said Back Bay, at about eleven o'clock in the forenoon of the said 8th day of November:

That there had apparently been landed from the said schooner 'Romp' about 50 barrels of unpacked herrings:

That no person was found on board the said schooner, and after having waited about three hours to find some one to give this appearer, Albert Betts, information, he searched the said schooner 'Romp,' and found an American enrolment and fishing licence, stating that the said vessel was the 'Romp,' of Eastport, of 20 tons register, and one Sumner Buckland, of Eastport, State of Maine, was owner; and that James Oliver was master:

That this appearer, Albert Betts, thereupon seized said schooner 'Romp,' and towed her to Bliss Island aforesaid, and anchored her close by the said schooner 'Water Lily':

That this appearer, Albert Betts, seized the said schooner 'Romp,' because, from information received, he believed that the said schooner, being foreign, had been fishing without a licence, and that fish landed from her as aforesaid had been caught by said schooner in British waters, and within three marine miles of the coast near Grand Manan, in the said county of Charlotte:

That at about five o'clock in the afternoon of the same day, James Oliver, the master of the said schooner 'Romp,' came on board the said schooner 'Water Lily,' and after being duly sworn, as required by law, made the following statement:—

"James Oliver, master of the schooner 'Romp,' whereof Asa Buckman is owner, deposes, that he arrived at Oliver's Wharf, Back Bay, parish of St. George, county of Charlotte, on Saturday, the 5th day of November, from Grand Manan, with about 50 barrels of herrings; that said herrings were shipped at Three Islands, Grand Manan, where they were caught by James Hooper, Benjamin Hooper, Samuel Dean, and William Harris; and that the fish belonged to the said James Hooper, Benjamin Hooper, Samuel Dean, and William Harris; that the said schooner 'Romp' is kept sometimes at Eastport and sometimes in the said county of Charlotte; and that the said master had been fishing in the said schooner for a period of 11 years."

That the said affidavit was made before these appearers, Albert Betts, and Oliver Haley, and George G. Crompton, second lieutenant of the said schooner 'Water Lily':

That these appearers were informed, and believe, that the said James Hooper, Benjamin Hooper, Samuel Dean, and William Harris, were engaged on board the said schooner 'Romp' in the business of fishing; and that the said 50 barrels of herrings, landed at Back Bay as aforesaid, were caught by the said James Hooper, Benjamin Hooper, Samuel Dean, and William Harris, and others, as crew of the said schooner 'Romp,' at Three Islands aforesaid, near Grand Manan; and these appearers further say that the said place called Three Islands, at which the said James Oliver swore the said fish were caught, belongs to Canada, and is situate in the said county of Charlotte, and province of New Brunswick aforesaid, at the mouth of Grand Harbour, so called, near Grand Manan, and is in British waters, and within three marine miles of land at said Grand Harbour:

That this appearer took charge of the said vessel 'Romp,' placing on board the said George G. Crompton, second lieutenant, and three other men:

That on Thursday, the 10th day of the said month of November, they proceeded with the said vessel to the harbour of St. John, where she arrived on Friday, the 11th day of the said month of November; and on the same day the said vessel 'Romp' was delivered into the custody of James R. Ruel, Esq., collector, of the said port of St. John.

(Signed)

On the 31st day of December, A.D. 1870, the said Albert Betts, Oliver Haley, Robert Burns, and Jacob Robblee, were severally duly sworn to the truth of this affidavit, at the said city of St. John, before me.

ALBERT BETTS.
OLIVER HALEY.
ROBERT BURNS.
JACOB ROBBLEE.

(Signed) W. H. TUCK, Notary Public, St. John.

CANADA.

Port of St. John, Province of New Brunswick.

I, William Henry Tuck, of the city of St. John, in the province of New Brunswick, Notary Public by Royal authority, duly admitted and sworn, residing and practising at the city aforesaid, do hereby certify unto all whom it doth or may concern, that Albert Betts, Oliver Haley, Robert Burns, and Jacob Robblee, whose names are subscribed to the foregoing affidavit, were, on the 31st day of December instant, severally sworn to the truth thereof before me, at the said city of St. John.

In testimony whereof I have hereunto subscribed my name and affixed my seal notarial, at the said city of St. John, the 31st day of December, A.D. 1870.

(Signed) W. H. Tuck, Notary Public, St. John.

No. 8.

No. 8.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 25.)

Government House, Ottawa, January 24, 1871.

(Received February 9, 1871.)

MY LORD,

WITH reference to my Despatch, No. 17,* of the 18th inst., I have the honour to transmit, herewith, a copy of the depositions made by the seizing officer in the case of the American fishing schooner, 'Perseverance,' recently captured by the Canadian police vessel 'Water Lily,' for an infraction of the fishing laws of the Dominion.

I have, &c.,

(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 8.

City of St. John, Province of New Brunswick.

Appeared personally, Albert Betts, fishery officer in command of the schooner 'Water Lily,' a vessel in the service of the Government of Canada, and employed in the service of protecting the fisheries; Henry Edwin Betts, first officer on board the said vessel; Oliver Haley, sailing master; and Robert Burns, boat-swain, of the said vessel 'Water Lily,' and made oath as follows:—

That on the 7th day of January instant, the said schooner 'Water Lily' was lying at Bliss Harbour, in the county of Charlotte, and province of New Brunswick, within three marine miles of the coast or shore, with these appearers on board:

That whilst the said schooner 'Water Lily' was lying in Bliss Harbour as aforesaid, a Captain Ring, of the schooner 'Flying Mist,' came on board the 'Water Lily,' and complained that fish had been stolen from his nets a few nights before the arrival of the 'Water Lily' in Bliss Harbour; and that he believed that the crew of a schooner called the 'Perseverance' were the persons who had stolen the fish; and the schooner 'Perseverance' was owned at Eastport, in the State of Maine, one of the United States of America; and that the said schooner had gone to Eastport aforesaid, with a cargo of fish which she had caught on the 6th day of January instant, in said Bliss Harbour, and within three marine miles of the coast or shore:

That the said schooner 'Perseverance' got back to said Bliss Harbour from Eastport aforesaid, on the 11th day of January instant:

That on the 12th day of January instant, this appearer, Albert Betts, boarded the said schooner 'Perseverance,' and told Stephen Thorpe, the master thereof, the complaint against him; but he denied that his crew had stolen fish:

That this appearer, Albert Betts, about three hours after this time, sent for the said master, Stephen Thorpe, who came on board the 'Water Lily,' and upon oath made the following statement, to wit:—

"I, Stephen Thorpe, am master of the schooner 'Perseverance.' I left Eastport yesterday, the 11th day of January, 1871. I had been fishing last week, and left Bliss Island the 7th day of January, and arrived at Eastport on the same day, and there discharged my fish, which were all caught in British waters about Bliss Island; that the vessel belongs, one half to myself, and one half to Paine and Co., of Eastport, from whom I bought my half. I gave them 350 dollars for my half. I myself live at Eastport, and own two houses there. I own only two nets in the schooner, the rest belong to the crew. John and Peter Hill, Frank Hill, James Thorpe, and myself, compose the crew, who fish on shares."

That this appearer, Albert Betts, thereupon, on the said 12th day of January instant, seized the said schooner 'Perseverance' while she was lying in Bliss Harbour aforesaid, and about 200 fathoms from Fry's Island, so called, at the mouth of L'Étang River:

That at the time this appearer seized the said schooner 'Perseverance' as aforesaid, one of the crew of the said schooner was setting his nets in said Bliss Harbour, in British waters, and within three marine miles of the coast or harbour:

That at the time of the said seizure the said master, Stephen Thorpe, claimed to be a British subject; and that the said vessel was a British vessel, because she was registered in the name of Joseph Patch, of Campo Bello, in the said county of Charlotte:

That this appearer, Albert Betts, found no flag, either British or foreign, on board said vessel:

That he did find on board said vessel 'Perseverance' a certificate of British registry, dated the 2nd day of June, A.D. 1866, from which it appeared that the said vessel was owned by Joseph Patch, of Campo Bello aforesaid, in the said county of Charlotte:

That the date of the said vessel's registry is the 9th day of August, 1860; his official number is 55,387; and his registered tonnage is 21 $\frac{10}{16}$ tons:

* Page 19.
Deposition of
Albert Betts,
Jan. 18, 1871.

Enclosure in
No. 8.

That this appearer, Albert Betts, seized the said schooner 'Perseverance,' because the said schooner, being actually owned by citizens of the United States, had been, on the 6th day of January instant, fishing without a licence at Bliss Harbour aforesaid, in the county of Charlotte, and province of New Brunswick, being in British waters, and within three marine miles of the coast or harbour, the fish caught at this time having been taken to Eastport, and disposed of as caught by a vessel belonging to the United States, and because the said schooner, at the time of her said seizure, had no licence, and was then actually fishing by having her nets set in Bliss Harbour aforesaid, in British waters, and within three marine miles of the coast or harbour; and because the said schooner, although sailing under a certificate of British registry, was trading as a schooner belonging to the United States, and was owned by citizens of the United States:

That this appearer, Albert Betts, took charge of the said vessel 'Perseverance,' and proceeded with her to the harbour of St. John, in the said province of New Brunswick, where she arrived on Friday, the 13th day of the said month of January; and on the following Saturday, the 14th day of January, the said vessel 'Perseverance' was delivered into the custody of James R. Ruel, Esq., Collector of the said port of St. John.

(Signed)

On the 18th day of January, A.D. 1871, the said Albert Betts, Henry E. Betts, Oliver Haley, and Robert Burns, were severally duly sworn to the truth of this affidavit, at the said city of St. John, before me.	}	ALBERT BETTS. H. EDWIN BETTS. OLIVER HALEY. ROBERT BURNS.
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(Signed) W. H. TUCK, Notary Public, St. John.

Port of St. John, Province of New Brunswick.

I, William Harry Tuck, of the city of St. John, in the province of New Brunswick, Notary Public by Royal authority, duly admitted and sworn, residing and practising at the city aforesaid, do hereby certify unto all whom it doth or may concern, that Albert Betts, Henry E. Betts, Oliver Haley, and Robert Burns, whose names are subscribed to the foregoing affidavit, were, on the 18th day of January instant, severally sworn to the truth thereof before me, at the city of St. John.

In testimony whereof I have hereunto subscribed my name and affixed my seal notarial, at the said city of St. John, the 18th day of January, A.D. 1871.

(Signed) W. H. TUCK, Notary Public, St. John.

No. 9.

No. 9.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, February 2, 1871.

(Received February 16, 1871.)

(No. 34.)
MY LORD,

WITH reference to my Despatch, No. 18,* of January 19th, on the subject of the seizure of the 'Granada,' I regret that I cannot at present send your Lordship any further details.

* Page 19.

2. I am informed, however, that the case as it now stands is not one of any hardship to the owners. The 'Granada' was released after a very short detention, on the deposit of \$800. The decision of the Court will be obtained, and if the judgment is in favour of the vessel the money will be returned. The question of compensation for loss of interest and costs, &c., &c., can then be disposed of by the Government here.

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

The Earl of Kimberley,
&c. &c. &c.

No. 10.

No. 10.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, February 20, 1871.

(Received March 9, 1871.)

(Answered, 375, March 18, 1871, page 97.)

(No. 44.)
MY LORD,

I HAVE the honour to send a report from the Committee of the Privy Council of the Dominion, which has had under consideration Vice-Admiral Fanshawe's Despatch to me, dated 15th December, 1870, transmitting his general report on the protection of the Canadian Fisheries for the year 1870, together with the reports on the same subject of the naval officers under his command.

Feb. 17, 18

2. This report also conveys the views of the Council in reference to your Lordship's Despatch of the 22nd December last, No. 318,† and to the communication it covered from the Lieutenant-Governor of Prince Edward Island on the subject of the claim on the part of the Government of the United States that their fishing vessels should be allowed to trade in British ports.

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

The Earl of Kimberley,
&c. &c. &c.

CANADA. (Confidential.)

Enclosure in No. 10.

Enclosure in
No. 10.

COPY of a REPORT of a COMMITTEE of the HONOURABLE the PRIVY COUNCIL of CANADA, approved by HIS EXCELLENCY the GOVERNOR-GENERAL in COUNCIL, on the 17th February, 1871.

Privy Council Chamber, Ottawa, February 17, 1871.

The Committee of the Privy Council have had under their consideration Vice-Admiral Fanshawe's Despatch to your Excellency, dated 15th December, 1870, transmitting his Excellency's general report on the protection of the Canadian Fisheries for the year 1870, together with the reports of the naval officers on the same subject. They have likewise had under consideration the Earl of Kimberley's Despatch of 22nd December, 1870, transmitting the copy of a Despatch from the Lieut.-Governor of Prince Edward Island, on the subject of the claim on the part of the Government of the United States, that their fishing vessels should be allowed to trade in British ports. Although the Committee of the Privy Council have communicated to Her Majesty's Government, very recently, their deliberate opinion on the various questions at issue between Great Britain and the United States, relating to the construction of the Treaty of 1818, they deem it only proper to call attention to the very interesting reports from the naval officers, and to notice the views expressed by the Government of the island of Prince Edward. Her Majesty's Government are already aware that the Government of Canada dissents from the opinion that the trading in British ports is not "a substantial invasion of British rights." This particular question seems to be the one in which the Government of Prince Edward Island differs with the Canadian Government on the policy that ought to be pursued, and it therefore seems to the Committee of the Privy Council desirable to refer to the reports of the naval officers in order to establish the necessity of the greatest possible stringency in checking the trespasses of the American fishermen. In paragraph 4 of Vice-Admiral Fanshawe's Despatch to the Secretary of the Admiralty, dated 22nd November, 1870, he observes:—"It must be evident that the number of the United States fishermen is too large, and their determination to trespass upon colonial coast fisheries too general to admit of the law being maintained without the adoption of vigorous repressive measures." In the report of Lieut. Cochrane, dated 18th November, 1870, he says:—"At the beginning of August there were a few Americans in the bay; they left immediately they received information there was a man-of-war cruising." Again, "Mr. Best, the fishery warden at Beaver Harbour, N. B., informed me he often saw 20 or 30 American vessels fishing." Commander Knowles, in a Despatch dated 7th November, 1870, states with reference to Port Hood:—"This port seems to be a great harbour of refuge for the American schooners, about 50 of them were frequently at anchor at a time; and previous to the treaty large supplies were obtained from the storekeepers on shore, but owing to the constant presence of a man-of-war the traders now derive little, if any, profit. The general feeling here is, that the abrogation of the licence system, and stringent manner in which the laws have been enforced, have had the effect of greatly improving the catch of the inshore and coast fishermen." Commander Bateman, in his report dated 1st November, 1870, states:—"The presence of a man-of-war on the coast has a very wholesome effect in frightening off the Americans, who would otherwise encroach, and put into harbour for supplies, which they are not permitted to get." Lieut. Digby, in his report dated 19th November, 1870, observes:—"The collectors of customs should be called upon to exert themselves in repressing the illegal practice of supplying provisions, fishing outfits, bait, &c., to the Americans, and be desired to apply to the naval commanders for assistance if required." Captain Phillimore states:—"The residents about the west coast of the Gulf of St. Lawrence have informed me that their inshore fishing this season has been good, and that they attribute this in a great measure to the American schooners having been kept off the coast. Large numbers of these schooners have been fishing in the Gulf of St. Lawrence this year, and have been frequently seen doing so within three miles of the coast, notwithstanding the precautions that have been taken to prevent them." One of Captain Phillimore's suggestions is, "that no person in Canada should be allowed either to sell bait to, or in any way to assist to procure it for, any person connected with a foreign vessel." Captain Harding, in his Despatch dated 17th September, 1870, gives most important testimony with regard to the encouragement given at Charlottetown, Prince Edward Island, to the American trespassers. He states: "In consequence of the evidence obtained of various vessels in the employ of, or belonging to, Mr. J. C. Hall, an American citizen doing business in Charlottetown, being illegally registered, and wearing English colours to enable them to prosecute the inshore fishing, my attention has been greatly given to the detection of these irregular vessels." Again, "I have seen as many as 13 vessels at one moment fishing close inshore, but of course the whole were outside the limits before they could be approached." Commander Poland, in his report dated 18th November, 1870, states:—"Every facility is given in the ports of this island (Prince Edward) to foreigners for obtaining and replenishing their stock of stores and necessaries for fishing. This, if the treaty is intended to be strictly enforced, should not be allowed, as, if it is intended to drive the United States fishermen from these waters, they will then be obliged to return home for supplies." The evidence of all the naval officers engaged in the protection of the British fisheries establishes the fact that there is a systematic trespassing in the British fishing grounds by American fishermen, and that any facilities afforded to the trespassers for obtaining bait or other supplies must tend to encourage illegal traffic.

The Committee of the Privy Council entertain a very strong opinion as to the importance to Great Britain of the British North American fisheries as a nursery for seamen; but they likewise claim for the Canadian people the rights secured to them by the Treaty of 1818. They have ever been willing to discuss the stipulations of that treaty in the most liberal spirit, and have even made temporary concessions on points not open to doubt, from a desire to meet the conciliatory policy of Her Majesty's Government, but they cannot acquiesce in any abrogation of the rights secured to Her Majesty's subjects by that treaty. It appears from the correspondence before them, that the Government of Prince Edward Island, while admitting the correctness of the Canadian interpretation of the treaty, is disposed to make concessions, with the avowed object of fostering a trade with the American trespassers, which is advantageous to individuals who have no interest in the fisheries. Her Majesty's Government may not be aware that the inhabitants of Prince Edward Island have engaged in the fisheries to a very limited extent, and that

Charlottetown has been the headquarters of the American trespassers. The Committee of the Privy Council readily acknowledge that there are persons in Canada who would be very desirous that an illegal traffic, by which they would derive profit, should be encouraged. There have always been persons interested in smuggling and in poaching, who, although not immediately engaged in such pursuits, have nevertheless profited by them, and have indirectly encouraged them. The Committee of the Privy Council have only, in conclusion, to express their firm conviction that Her Majesty's Government will adhere to the stipulations of the Treaty of 1818, which, in their judgment, cannot be abrogated without the consent of Canada. It appears to the Committee of the Privy Council that if the Government of the United States should make any complaint of the stringency of the regulations for the protection of the British fisheries, Her Majesty's Government will be enabled to state in reply that they have learned from the reports of the naval officers on the North American station, that there has been systematic trespassing by American fishing vessels in the waters in which they expressly renounced all right of fishing by the Treaty of 1818; and that Her Majesty's subjects in British America have good reason to claim a strict adherence to treaty rights, when the abandonment of such rights would obviously encourage the illicit trade which is openly carried on.

(Certified) Wm. H. LEE,
Clerk, Privy Council, Canada.

No. 11.

No. 11.

(Confidential.)

Government House, Ottawa, February 22, 1871.

(Registered March 10, 1871.)

MY LORD,

I HAVE the honour to state, that immediately upon the receipt of your Despatch (Confidential) of the 24th ult.,* I sent for Mr. Campbell, and spoke to him about the misapprehension which your Lordship desires to correct. * Page 92.

2. Mr. Campbell at once admitted the inaccuracy of the Minute of Council, but added that there is no discrepancy between the statement in the formal Report which he presented to me of his mission to England and your version of what passed between you.

3. I enclose a copy of his Report. The terms of the passage marked page 4, lines 5 to 9, appear to accord with your Lordship's view.†

4. The mode in which the inaccuracy pointed out found its way into the Minute of Council is explained, and apologized for, in the accompanying Memorandum, furnished by Sir F. Hincks, who, it seems, was entrusted with the drawing up of the Minute in Mr. Campbell's absence. Feb. 18, 1871.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure 1 in No. 11.

Enclosure 1
in No. 11.

To His Excellency the Right Honourable Sir JOHN YOUNG, Bart., Governor-General of Canada, &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

Having been in June last requested to proceed to England to make personal representations to Her Majesty's Government on the several subjects hereinafter mentioned, and having discharged the duties entrusted to me, I beg to submit a Report of my proceedings.

I found on my arrival in London that the death of the Earl of Clarendon, which had occurred whilst I was at sea, rendered a change in the Colonial Office probable, and although Lord Granville was good enough to see me on the subject of my visit, it was not until the appointment of his successor that I had an opportunity of making those full representations which it was the desire of your Excellency's Government I should submit on the several subjects referred to. Lord Kimberley honoured me with repeated interviews, and received my representations with every attention and consideration.

1. *The Fenian Invasion and troubles caused by them.*—Upon this subject I pointed out the troubles and losses which, during a number of years, had been caused to Her Majesty's subjects in Canada, by the Fenian marauders; that these men were American citizens, many of them not even Irish by descent; that they were enlisted, armed, and drilled in the large cities of the Union, under the orders of a Fenian Congress and Executive assuming the pretensions of a Government, the drilling occasionally even taking place in company with militia corps, under officers believed to hold commissions under the Government of the United States, the United States' journals of the day giving the fullest publicity to everything which was being done. I described the Fenian invasions and repulse in 1866, and referred to the representations and the claim for indemnity made by Sir George Cartier and Mr. Macdougall on behalf of Canada to Her Majesty's Government with reference to the losses thereby caused, which were stated in a Memorandum furnished to the Colonial Office by those gentlemen as amounting to several millions. I referred to the several alarms which had taken place since 1866, all attended with more or less injury to the country, and with more or less expenditure, and said that early in the present year the threatened invasion and the actual one had injured the country very much; that the loss with regard to industrial

† The passage referred to in this Despatch is printed in italics.

CANADA.

pursuits it would be difficult to estimate, and there had been a large expenditure in sending forward Volunteers to meet the invading forces. The number of men sent out was about 6,000 in April, and in May about 12,000—these numbers would be equivalent to calling out 60,000 and 120,000 in England. In answer to an inquiry by Lord Kimberley, I said that I could not state the actual military expenditure with any accuracy, but that up to the time I left Canada it was supposed to be somewhere between \$500,000 and \$800,000, and that whatever it was, it formed but a small portion of the loss sustained by the country. We thought a very strong case might be made out for a demand for indemnity from the United States. Messrs. Cartier and Macdougall had asked that such a demand should be made with reference to the loss sustained in 1866, and we considered that we were entitled to ask for indemnity in reference to all the expenditure that had been since caused to us by the Fenians. Failing the obtaining of such an indemnity from the United States, we thought the Empire should join with Canada in meeting the losses. The Fenian difficulties were not of our creating, but grew out of real or imaginary wrongs that the Empire had in the past inflicted on Ireland, and we were fighting battles which were not ours but those of the Empire. We were quite ready as a portion of the Empire to bear our share of these or any other troubles in which the country might be involved, but it was not fair that we should be allowed to suffer alone all the losses and consequences of the Imperial acts or policy which were complained of, and I strongly urged that for the past and the future, should any further Fenian troubles arise, the Empire, as a whole, should bear the burden of resisting such attacks, and that Canada should only contribute as a portion of the Empire. Lord Kimberley suggested that the present generation of Canadians were as responsible for the alleged wrongs of Ireland as the present generation of their fellow-subjects residing in Great Britain. Admitting this, I urged that the fair conclusion was that all alike, and not Canadians alone, should bear the losses and consequences of the course which had been in the past followed towards Ireland. His Lordship said it was impossible for him to dispose of the question, and he took for granted that I did not anticipate he would, but he would consider it himself and obtain early consideration of it by his colleagues, letting the Canadian Government know what view was taken.

2. *The withdrawal of the Imperial troops and the relations of Canada to the Empire.*—On this subject I submitted to Lord Kimberley that when the Confederation of the several Provinces of British North America was suggested, it was agreed on all sides that it was a matter of both Imperial and Colonial Policy; that Canada felt assured in carrying out the scheme that it would have the advantage of the moral and material support of the Empire. We had undertaken the task, and so far, carried it out successfully, but at very considerable sacrifice, and a sacrifice that was likely to be continuous. There was a growing feeling in Canada of distrust in the disposition of the Imperial Government to give us that support to which we thought ourselves entitled. It was somewhat difficult to point out the exact grounds which had occasioned this feeling, but generally it proceeded from the tone adopted by public men, and particularly by members of the Government, in reference to Colonial and Canadian topics. There seemed to us to be a disposition to overlook the exertions we had made for the purpose of preserving the connection, and to depreciate the strong feeling of attachment which subsisted towards the mother-country, and we apprehended a tendency on the part of the Government to withhold from us that assistance and support so likely to cement the existing relations.

Lord Kimberley said that his attention had been called to the feeling of distrust to which I had referred, but that he thought nothing had been done by the British Government to afford any grounds for it: there was no desire to separate Canada from the Empire, and so long as we desired to remain connected, they could not either in duty or honour do anything in the direction of severing the connection: he thought the feeling of distrust not justified by anything that had occurred. The Government did not wish to interfere with the freedom of Canada's future, but so long as she chose to remain connected with the Empire, so long under all circumstances of foreign aggression was the Empire bound to maintain the Union, and would do so, but in internal affairs it was the duty of Canada to protect herself.

I said that we had for many years undertaken the maintenance of the internal peace of the country, but that we did not consider the Fenian invasion an internal trouble, but one proceeding from Imperial causes, from which the Imperial Government should protect us, or against the expense of which they should indemnify us. I urged that it would reassure the public feeling in Canada very much if the garrison at Quebec were to be maintained: we did not ask this on account of the number of men which might be placed there, or because their presence would be to us a symbol of the sovereignty of the Empire. Quebec was an Imperial fortress, and the maintenance of the garrison of Her Majesty's troops there would be looked upon as indicating the determination in England to maintain the existing relations, and would have the most useful effect on public feeling in Canada. I pointed out that the argument which had been used, that the maintenance of a garrison at Halifax was much the same as retaining one at Quebec, was not just, inasmuch as Halifax was 600 miles from Quebec, and the railway which Lord Granville had spoken of in Parliament was not completed, and would not be for two or three years. I added that the French Canadian population regarded with particular disfavour the withdrawal of the troops, and expressed a hope that the Government would reconsider the question.

Lord Kimberley said that the matter had been repeatedly and very fully considered, and that the decision that had been arrived at was not likely, he thought, to be departed from; but my representations should be considered.

3. *Fisheries.*—I urged upon Lord Kimberley the great importance to Canada of the fisheries, which employed a large number of seamen, and had many collateral pursuits and industries dependent upon them. We possessed the whole of the herring and mackerel fisheries on the western side of the Atlantic, the Americans having no inshore fisheries of any great value. This possession was of the first importance to us, and we felt exceedingly anxious that it should be maintained in accordance with treaty rights. Induced by a strong sense of the responsibility involved in the matter, and out of deference to Imperial views, we had proposed in 1865 the Licence system. We had given every possible opening in this direction at a sacrifice of our immediate interests, in order that our affairs might not tend to endanger the peace of the Empire. This system had been continued to the present year, and we were satisfied that no advantageous results would be obtained from it.

Lord Kimberley admitted that the time had come when Canadians *might reasonably expect that the state of things, anterior to the Reciprocity Treaty, should be reverted to, or that some other definite arrangements with the Americans on this subject should be arrived at.* He added that he was glad that I had not mixed up the two questions of Reciprocity and the Fisheries, because he saw no reason to expect a renewal of that treaty. He agreed, he said, that the Fisheries question should be treated by itself. I said that we in Canada had arrived at similar conclusions. The policy of conciliation had been fully tried, and we ceased to expect anything from the Americans from it. We thought the only course now open to us was to ask the Imperial Government to fall back upon the rights which we enjoyed and maintained anterior to the Reciprocity Treaty, and I was directed to request this at the hands of the Government.

Lord Kimberley said there might be some difference with regard to the interpretation of the treaty as to bays. I replied that we thought it clear upon that point, but that the suggestion made by Mr. Adams in 1866, and adopted by Lord Clarendon, to have a Joint Commission to settle, on the ground, the line within which, under the treaty, exclusive fishing was to be enjoyed, would be a satisfactory mode, as far as the Canadian Government was concerned, of disposing of any difficulty which might exist as to the interpretation of the treaty as regards bays; but I urged that should a Commission be appointed, a representative from Canada should be upon it, and that its sittings should be held in America, and if possible in Ottawa or Halifax.

Lord Kimberley said he concurred in the suggestion for the settlement of whatever doubt might be found to exist as to the interpretation to be put upon the treaty with regard to bays; that he merely spoke his own views, however; but that he would bring the matter at an early day before his colleagues, and would then give a final answer.

4. *Fortifications.*—I found that the Guarantee Bill was about to be introduced into the House of Commons shortly after my arrival, as it subsequently was, and became law.

I had the fullest opportunity of presenting to Lord Kimberley the views of your Excellency's Government on the several questions referred to, and before leaving London he did me the honour to inform me of the conclusions which had been arrived at by Her Majesty's Government in reference to the matters which had been discussed. These conclusions were subsequently communicated to your Excellency in his Lordship's Despatch of the 27th of July, and I need not here therefore particularly refer to them. I availed myself, however, of the opportunity afforded by their being communicated to me by Lord Kimberley to press for some indication as to the course Her Majesty's Government would pursue: 1st, in the event of the United States refusing to listen to any claims as to the losses inflicted upon us by the Fenian invasions, would they then, I asked, make the losses, as the causes of them were, Imperial, and unite with Canada in bearing them? He could not pledge the Government in advance. He did not wish to be understood as dissenting from my argument as to the equity of such an arrangement, nor as assenting to it. They would take it up when the result of their appeal to the Government of the United States should become known. 2nd, as regards the Fisheries—should the American Government refuse or neglect the suggestion for a Joint Commission, would they then fall back on the rights maintained anterior to 1854? He could not commit the Government in advance. They would urge the creation of a Commission in every way in their power. Should they fail, they would consult with the Canadian Government, and with them, or after hearing them, decide as to the course to be pursued, and the instructions to cruisers to be issued another year.

All of which is respectfully submitted,

By your Excellency's
Most faithful servant,
A. CAMPBELL

Ottawa, 10th September, 1870.

Enclosure 2 in No. 11.

Enclosure 2
in No. 11.

The undersigned has the honour to submit the following observations on the Earl of Kimberley's Confidential Despatch to your Excellency, dated the 24th ult. The Confidential Minutes of the Privy Council, to which reference is made in that Despatch, were drafted by the undersigned during the absence from the seat of Government of Mr. Campbell, the Postmaster-General, and in referring to the conversation on the fishery question, and writing from memory, he believed that he gave the substance of the Earl of Kimberley's remarks. On Mr. Campbell's return to Ottawa, he called the attention of the undersigned to the discrepancy between the Minute of the Privy Council, which had been already despatched, and his own Report, but the undersigned was not inclined to attach so much importance to it as Mr. Campbell appeared to do. The undersigned will here cite the text of Mr. Campbell's own Report, which will be laid before the Dominion Parliament in a few days:—"Lord Kimberley admitted that the time had come when Canadians might reasonably expect that the "state of things anterior to the Reciprocity Treaty should be reverted to, or that some other definite arrangements with the Americans should be arrived at." The undersigned has only further to express his regret at his having inadvertently misquoted the Report of Mr. Campbell, which the Earl of Kimberley will find to be substantially correct.

I have, &c.,
(Signed) F. HICKES.

Finance Department, Ottawa,
18th Feb., 1871.

CANADA.
No. 12.

(Confidential.)

No. 12.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, February 23, 1871
(Received 10 March, 1871.)

MY LORD,

(Answered Confidential, 17 March, 1871, page 96.)

* Page 25.

February 17,
1871.

† Page 92.

I HAVE the honour to enclose a Minute of the Privy Council which expresses the hope that their Report of the 17th instant enclosed in my Despatch, No. 44,* of February 20th, will be found to supply the information required by your Lordship's Confidential Despatch of the 16th January,† though it did not reach them before the Report had been prepared.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 12.

Enclosure in
No. 12.

COPY of a REPORT of a COMMITTEE of the HONOURABLE the PRIVY COUNCIL, approved by HIS EXCELLENCY the GOVERNOR-GENERAL, on the 17th day of February, 1871.

The Committee of the Privy Council had prepared the Report of this day's date before your Excellency communicated to them the Secretary of State's desire, expressed in his Despatch of the 16th January, to be made acquainted with the views of your Excellency's responsible advisers on the reports of the naval officers.

They hope that that Report will supply the information required by the Secretary of State.

(Certified) W. H. LEE,
Clerk, Privy Council, Canada.

No. 13.

No. 13.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 54.)

Government House, Ottawa, March 2, 1871.
(Received 17th March, 1871.)

MY LORD,

(Answered, 389, 12th April, 1871, page 98.)

† Printed in
Confidential
Paper,
January,
1871, page 86.

IN your Despatch, No. 198,‡ of July 27th, 1870, your Lordship stated that with a view to avoid any misunderstanding between the Imperial and Canadian Governments, the regulations to be issued for the fishing season of 1871 should be considered by the two Governments in good time before season commences.

February 27,
1871.

2. I have now the honour to forward herewith a copy of a Report of the Dominion Privy Council, approving a draft of special instruction to the Commanders of the Canadian cruisers for the approaching season.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 13.

Enclosure in
No. 13.

COPY of a REPORT of a COMMITTEE of the HONOURABLE the PRIVY COUNCIL, approved by HIS EXCELLENCY the GOVERNOR-GENERAL, on the 27th February, 1871.

On a Memorandum, dated 25th February, 1871, from the Hon. the Minister of Marine and Fisheries, having reference to the Despatch from the Right Hon. the Secretary of State for the Colonies, dated 27th July last, and to the Minutes in Council adopted in connection with the subject of Regulations for the guidance of the commanders of the marine police cruisers to be employed in protecting the inshore fisheries during the approaching season, and submitting (pending the proceedings of the Joint High Commission) a draft of special instructions to the commanders of Canadian cruisers, with reference to the laws affecting fishing by foreign vessels, in accordance with the concluding recommendation of the Report of the 1st November last.

The Committee advise that the draft of special instructions submitted by the Minister, and hereunto annexed, be approved and adopted.

(Certified) W. H. LEE,
Clerk, Privy Council, Canada.

(Confidential.)

CANADA.

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to FISHERY OFFICERS, *ex-officio* MAGISTRATES, in command of GOVERNMENT VESSELS engaged as MARINE POLICE in protecting the INSHORE FISHERIES of CANADA.

Department of Marine and Fisheries.

SIR,

Fisheries Branch, Ottawa, February 25, 1871.

The service to which you are appointed is a special and peculiar one: and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions, for your information and guidance, are of a confidential nature.

The duties you will perform and the powers you shall exercise are defined by the present instructions.

Duties.—It will be your duty to cruise at all times with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the inshore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably, American fishing vessels and fishermen chiefly will be concerned. Therefore it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent, and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

The terms of the First Article of the Convention of the 20th October, 1818, between Great Britain and the United States, has, since the expiration of the Reciprocity Treaty, governed the participation of American fishermen in the Gulf and Labrador fisheries. A copy of the said Article is appended.

1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are:—for shelter, repairing damages, purchasing wood, and obtaining water. They are to be admitted for no other purpose whatever. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations.

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; nor is it desirable to impose 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 the 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 desire of Her Majesty's Government that 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.

Americans, when so admitted, 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 observe 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 throwing overboard the offals, thus fouling the fishing, feeding, and breeding grounds. The Fisheries Act (Sec. 14) provides a heavy penalty for this offence.

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

Copies of the Fishery Laws of Canada accompany the present instructions.

Powers.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a fishery officer are derived from the following statutes: "The Fisheries Act" (31 Vict., cap. 60);

"An Act respecting Fishing by Foreign Vessels (31 Vict., cap. 61) and "An Act to amend the Act respecting Fishing by Foreign Vessels" (33 Vict., cap. 15).

"Chapter 94 of the Revised Statutes (third series) of Nova Scotia" (Of the Coast and deep Sea Fisheries);

The Act entitled "An Act to amend cap. 94 of the Revised Statutes of Nova Scotia" (29 Vict., 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 Vict., cap. 69); (The Imperial Act, 95 George III., cap. 38);

CANADA.

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 Marine and Fisheries, under the Fisheries Act hereinbefore cited.

In such capacity, your jurisdiction must be strictly confined 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, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than six miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found in violation of these regulations within three marine miles of the coast.

Should you have occasion to compel any American 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, and hauling of seines, and use of "trawls," or "bultows," more especially at and around the Magdalen Islands,—your power and authority over such cases will be similar to that of any other fishery officer appointed to enforce the fishery laws in Canadian waters. (Vide Fisheries Act).

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will therefore be given you by the Customs Department, authorizing you to act as an officer of Customs: and it will form part of your duty to see that the laws and regulations affecting revenue, are duly observed. In your capacity of a Customs officer, you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs laws.

Jurisdiction.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion that by the Convention of 1818 the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen 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, though in parts more than six miles wide, is less than six geographical miles in width at its mouth. In the case of any other bay, as Bay des Chaleurs, for example, you will not interfere with any United States fishing vessel or boat, or any American fishermen, unless they are found within three miles of the shore.

Action.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than six geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof not wider apart than six geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, in accordance with the above-recited Acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation, but you are not to do so *unless it is evident and can be clearly proved that the offence of fishing has been committed* and that the vessel is captured within the prohibited limits.

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provide for carrying out the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

Directions.—If from threatened resistance and obvious determination to contest the seizure and because of the relative inadequacy of your own force you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorized to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need you must signal for or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Government vessels belonging to the marine police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, 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 disposed of as soon as convenient in the manner directed by law; 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 respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place, and the ship, vessel, or boat was seized. Also corroborate the bearings taken by soundings and by buoying 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 endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the headland lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause

independent of the will of the master and the crew, you will consider these circumstances and satisfy yourself with regard thereto before 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 endeavour to engage a few trustworthy men to supply any such emergency. 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 or the other British Provinces may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations or in port shall be 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 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.

The service in which you are engaged will be subject to the general direction and control of the chief officer in command, Captain P. A. Scott, R.N., on board the Government steamer 'Lady Head' (in the case of the schooner 'La Canadienne' this general control is vested in Napoleon Lavoie, Esq.), whose orders and arrangements you will conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and naval officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive as above.

Considerable inconvenience is caused by Canadian fishing vessels and those belonging to Prince Edward Island 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 impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

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

I have, &c.,
(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

APPENDIX A.

ARTICLE I. of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA.
Signed at LONDON, October 20, 1818.

Article I.—Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have for ever in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; Provided, however, that the American fishermen shall be permitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, or purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 14.

The LORD LISGAR to The EARL OF KIMBERLEY.

TELEGRAM.

(Received 10th March, 1871.)

"IN regard to your Confidential Despatch of 16th February,* Canadian Council request me to say that Canada considers inshore fisheries her property, and that they cannot be sold without her consent."

No. 14.

* Page 95.

CANADA. (Confidential.)

No. 15.

No. 15.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, March 2, 1871.

(Registered March 20, 1871.)

MY LORD,

I HAVE the honour to enclose a Report of the debates in the two Houses of the Dominion on the High Commission recently appointed, and the topics likely to be submitted for its consideration.

2. Sir Alexander Galt moved the Resolution in the House of Commons which you will find interesting, as expressing the opinions of the Anti-Ministerial party.

3. In the Senate Mr. Letellier de St. Just, as leader of the Opposition, proposed no resolution, but contented himself by moving for the papers, and Mr. Mitchell made a statement on the part of the Government.

4. The 'New York Herald,' a journal not usually friendly to England or Canada, or very conciliatory in its language, made the following comment on what passed.

The 'New York Herald' says: "The debate in the Dominion Parliament on Friday night relative to the powers of the Joint High Commission was in tone and temper, as well as in its result, creditable to the Canadian people. Sir A. T. Galt, after the manly speech of Sir John A. Macdonald, very wisely withdrew his resolutions—resolutions unnecessarily distrustful of the mother-country and unnecessarily fearful of the United States. Through the labours of the Joint High Commission Sir John A. Macdonald looks forward to a long era of peace and prosperity. We shall not be sorry if Sir John's expectations are fulfilled. On this continent there is room enough for both peoples, and scope enough for our joint energies."

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 15.

THE FISHERY QUESTION.

Enclosure in
No. 15.

Hon. Mr. Letellier de St. Just made the motion, which he had allowed to stand over on a previous day, for an address to his Excellency the Governor-General, praying that his Excellency will cause to be laid before the House copies of the correspondence relating to the fisheries since the last return made to Parliament; also copies of all correspondence relating to the Joint Commission appointed by the Government of Great Britain and the United States. Great anxiety, he said, existed throughout the country with respect to the question, and grave doubts were entertained whether our rights would be preserved intact by the Commissioners meeting at Washington. Under these circumstances it was very desirable that the House should have every information given it respecting the question.

Hon. Mr. Mitchell replied that he and his colleagues were much obliged to the honourable gentleman for the manner in which he had allowed his motion to stand over until the papers were ready to be submitted elsewhere. That honourable gentleman had stated that some anxiety was entertained throughout the country with respect to the question, and grave doubts had arisen in some quarters whether the rights and privileges hitherto enjoyed by the people of the Dominion would be sustained or abandoned. He (Mr. Mitchell) was, however, glad to be able to tell his honourable friend, that there need be no such doubts henceforth, and that our rights would be fully vindicated. He was pleased to state his own firm conviction, and that of the Government of which he had the honour to be a member, that England would continue in the future as in the past to preserve the rights of the Dominion. In order that the House might thoroughly understand the question, it would be necessary to give a short history of it. Honourable gentlemen would remember the Treaty of 1783, under which certain privileges were given to the Americans. It was true that the Americans of that day claimed, in the settlement of the Treaty of 1783, that they had as much right to certain fishing privileges as the British themselves. They claimed that they had assisted in conquering from old France a portion of the Provinces of British North America, to which the fisheries were a territorial adjunct. Therefore, by right of conquest, they urged that they were entitled to an equal share in the fisheries. It must be evident to every one that such a claim could not be recognized by England. In fact, it was never acknowledged by her; but in that spirit of conciliation which so often characterizes her dealings with other powers, she determined, rather than protract the war, to grant certain concurrent privileges, which they continued to enjoy up to 1812. When the war of 1812 broke out, of course that Treaty of 1783 became a dead letter. When peace again ensued, difficulties arose with arranging a satisfactory plan with respect to the use of the fisheries. The Treaty of 1814 was subsequently signed without any reference to the fisheries or the navigation of the Mississippi—the two questions on which there was a difficulty of arriving at a satisfactory arrangement. The Americans no doubt hoped by a persistent use of the privileges they enjoyed up to 1812, to obtain a right by *usur* to the fisheries. It would be in the recollection of the honourable gentlemen who have studied the question that the British Government, under the direction of Earl Bathurst, issued a Despatch giving such directions to the officer in command of the British North America squadron as would require him to enforce the strict rights which British subjects were entitled to enjoy, and excluding foreigners from participation in our fisheries, which were the exclusive property of the British. That law was strictly enforced for some time; with moderation, it was true, but nevertheless with firmness, so as to prevent any right of *usur*

accruing with respect to the fisheries. It would also be recollected that seizures were made which became the subject of remonstrance through the American Ambassador at the Court of London, and the result was the Convention of 1818, which ended in the American Government accepting the privilege of fishing, free "in common with the subjects of His Britannic Majesty, 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, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, and through the Straits of Belleisle, and thence northeasterly indefinitely along the coast." The Americans at the same time voluntarily abrogated any claims or privileges, if ever they had any, along the coast of the rest of the British North American possessions. The language of the treaty was so strong that it was worth while quoting it: "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." From 1818, during a few years, the rights of the two nations were perfectly well understood—no complaints of infringement were made. Subsequently, however, the Americans found that they were not enjoying as many advantages from the fisheries as they had formerly had, and then commenced to encroach upon the British American fisheries. The effect of these encroachments was to direct the attention of the British Government, who gave instructions to Admiral Seymour to enforce the law, and several seizures were accordingly made up to 1840. The right of excluding American fishermen was not only enforced by England within the three marine miles, but within the headlands. Then the question of headlands came up. It was urged on one side that the question of headlands should not be enforced, inasmuch as one head of the Bay of Fundy was on American territory. But the main argument was the terms of the treaty did not contemplate exclusion from the large bays, but from the small ones, such as were inside the Bay of Fundy itself. Neither the Bay of Fundy nor the Bay of Chaleurs, it was urged, was meant by the treaty. Thus the matter stood in 1840. The Americans continued to maintain that they could not be legally excluded from the Bay of Fundy, inasmuch as one of its headlands was American territory. The English Government, whilst consenting to the practical use of the Bay, did not agree in the construction of the point raised by the Americans with respect to the headlands. At the same time, another question arose on account of the seizure of a vessel, about 20 miles off the coast of Nova Scotia. The subject being brought to the notice of the British Government they at once ordered that the vessel be given up on the ground that she was seized entirely out of their jurisdiction, and that the officer who had made the seizure had exceeded his instructions. But another seizure occurred afterwards within 12 and 14 miles from the land, and the Government upheld that seizure, because it was made within the headland line claimed by the law of nations. It was admitted beyond a doubt both by American as well as English jurists and publicists that the Government of a country, having waters around it, has a territorial right to those waters to a distance of three miles along the sinuosities of the shores. The Americans did not object to that, but the English Government went further and said that they had a right to exclude foreigners—not following merely the sinuosities of the shores, but three miles drawn from headland to headland. Similar claims were recognized by eminent American authorities like Story and Webster—all of whom were ever ready to assert American rights to the utmost. In 1840 a good deal of apprehension was felt concerning the question, but during the next four or five years the Nova Scotia Government acted with a great deal of vigour. They enforced the law relative to the three marine miles, and made many seizures, which were condemned in due form in the Courts. The Americans therefore remonstrated, but the result was to sustain Nova Scotia in the assertion of the strict construction of the rights of the Maritime Provinces. In 1854 the Reciprocity Treaty was entered into, and there could be no doubt that the necessity of obtaining the use of the fisheries had a great deal to do with inducing the Americans to enter into that treaty. Under that treaty it was agreed that Americans should come within the headlands and inshore, in return for certain concessions granted us. That treaty remained in force for 11 years, and all recollected the manner in which it was repealed by the Americans taking the initiative. When the Government of Canada found that the Americans were resolved on the repeal of the treaty, there was a belief pervading the British portion of the continent that the privileges enjoyed under the treaty of 1818 would again come into effective operation. He need only say that at that time the British Government was anxious that no difficulties should arise on account of the enforcement of our rights, and adopted every mode to bring about an amicable arrangement. Mr. Cardwell brought the subject under the notice of the Government of the old province of Canada, and they in a Minute of Council, under date of March 20, 1866, expressed the fear that the hope entertained by the British Government, that satisfactory commercial relations would be soon restored with the United States, would be proved futile, and at the same time stated their belief that the prospects of attaining such a result in the future would be greatly diminished if the American fishermen continued to exercise the rights given by the treaty. Under these circumstances they suggested the issue to Americans of joint licences to fish in all Provincial waters at a moderate fee. That arrangement was carried out for a year, at the end of which a feeling still prevailed that there was a chance of obtaining a renewal of the Reciprocity Treaty. A conference was held at Washington on the subject, Hon. Messrs. Galt and Howland representing Canada, Hon. Mr. Henry, Nova Scotia, and Hon. Mr. Smith, New Brunswick. But time passed away, and there appeared little prospect of obtaining a new treaty. After confederation the Government of Canada felt that it was necessary to enforce in some way the fishery rights, and it was deemed advisable to continue the licence fee, which was raised to one dollar. The result of the working of the licence system, however, was just as it had been predicted by Nova Scotia in 1866—that it would practically hand over the fisheries to the Americans without compensation. The licence fee was systematically evaded in the course of time, until the amount collected in 1869 was nearly nominal. Under these circumstances the Government felt that it was incumbent upon them to refuse to grant further licences, and to exclude foreigners from our fishing ground altogether. As respects the inshore fisheries, the exclusion during the past season had been effective—the fleet of American fishermen had been able to obtain only partial fares. As regards the fisheries within the headlands, he would say that in 1865 the British Government urged the Canadian authorities

CANADA.

not to ask the enforcement of the headland line. England was most anxious then as now to enforce our rights, but she wished to do so moderately, but at the same time firmly. However, when the Americans continued to refuse to enter into new commercial arrangements the British Government had to meet the question of the fisheries during the past year. The Government of Canada, at the close of the past session, asked the British Administration to assent to regulations for the enforcement of our right of excluding Americans from the inshore fisheries, and to assent to a proposition to settle the dispute with respect to the headlands. The British Government consented to that proposition. His honourable colleague, the Postmaster-General was sent to England, and the correspondence connected with his mission was before the House. The Canadian Government suggested that the plan recommended by Mr. Adams in 1866, and adopted by Lord Clarendon, for a joint commission to consider the questions in dispute respecting the fisheries, might very properly be carried into effect. Her Majesty's Government stated, through Earl Kimberly, that they would make a proposition to that effect to the American Government, and subsequently we were informed that it had been agreed to. The United States then wished to extend the scope of the Commission, and that was agreed to by the British Government. It was certainly a matter for satisfaction to Canada that not only her proposition for a Commission had been accepted, but that the place of meeting was arranged, as she had wished it, in America. That morning Sir John A. Macdonald had left for Washington to take his place on the Commission, as one of the representatives of British and Canadian interests. He (Mr. M.) had no sympathy whatever with those who were continually intimating that our interests would be sacrificed by England, in view of other and more potent considerations. The past history of England was a guarantee that none of our rights would be abandoned. The course she had pursued since the whole question had come before her, was sufficient to prove to us how anxious she is to subserve our welfare. Not only did she accept our proposition respecting the Commission, but she placed on it the foremost public man in Canada. In this way, she gave Canada a position which no other colony ever before occupied. In the first time in the history of England, she had given a Canadian and colonial statesman a share in the settlement of imperial questions. Not only would a Canadian statesman be present to watch over our interests, but Lord Granville had stated in the House of Lords that the Commission could not take any final action—that the refusal of any one member to concur would put an end to it. No one could assert that a public man of the high standing of the Premier of Canada would sacrifice our rights, or give them up without some adequate compensation. If the United States showed any disposition to enter into some fair commercial arrangement, he was satisfied that Canada would be willing to meet them half way. As respects the question of the headlands, it was more a matter of law than of arrangement. As to the international law sanctioning our claims there could be no doubt in the mind of any intelligent man. In conclusion, he must refer to the interest now taken in the fisheries by the people of Ontario as well as by those of Quebec. A short while since there was little knowledge in the West of the great resources of the maritime provinces, but now, as a representative of that section he was gratified to see how identified Western men had become with the welfare and prosperity of Nova Scotia and New Brunswick. It was also due to the commanders of the Canadian marine force—especially Captain Scott and Captain Lavoie, who commanded the two sections of the fleet—that he should speak of the energy and discretion with which they had performed the delicate and responsible duties entrusted to them in the course of the past season.

Hon. Mr. Dickey said that as a representative of one of the maritime provinces, with a coast line of 1,000 miles, he could not allow the present opportunity to pass without making a few remarks. He was glad to receive so strong an assurance from the Minister of Marine, that our rights in these inestimable treasures of the sea would be kept inviolate and intact. On one point, however, he wished information, and that was, the necessity for submitting the question at all to a Commission. He did not speak with a view of finding fault with the course pursued in the matter; it was perhaps the best plan to submit the question to a Commission. He had understood the honourable gentleman to say that the question was one of international law, and if that were so, why must it be disposed of in the way proposed? Previous to the Reciprocity Treaty of 1854, there were repeated seizures of vessels for the infraction of our rights. The result was the Reciprocity Treaty! That measure was, however, repealed, and we resumed our rights with respect to the fisheries, and were apparently in the right track to make the Americans agree to other commercial arrangements. The Hon. Minister of Marine had spoken of the seizures between 1840 and 1845, only in a very cursory manner. Now from 1846, during the eight years up to 1854, there were repeated seizures and forfeitures in the Vice-Admiralty Court of Nova Scotia; and the issue was the Americans were forced into the Reciprocity Treaty. It was certainly strange, he must add before concluding, to find the President of the United States in his annual message to Congress, making such extraordinary statements on this very subject. Those remarks might have been made with the knowledge that the Commission was to meet; but at all events they were unwarrantable in fact. He was gratified that Canada was to be so ably represented on the Commission, and shared the anticipations of the Minister of Marine that her interests were safe in the hands of the Premier. It was only right to call attention to the fact that the expectations of his own province with respect to the operation of the licence system had been realized, but the remonstrances of the Government of Nova Scotia were unheeded. He hoped that now the question had assumed the present shape, some satisfactory solution would be found. It was with much satisfaction he saw that the Canadian Government had thought it their duty to insist upon the just claims they had, arising out of the recent Fenian invasions. He trusted that those demands would be followed up in the manner suggested in Earl Kimberley's cool Despatch, and that they would be submitted in such a way as to obtain that justice which Canada has a right to ask. (Hear.)

Hon. Mr. Botsford followed, and said that there never had been any doubt in New Brunswick as to the rights which we have respecting the headlands. It would be a matter of deep regret if the construction of the Treaty of 1818 was not enforced by the High Commission which has been appointed to adjust such matters. His object, however, in rising was to refer to the following passage in a joint address passed unanimously by the Legislature of New Brunswick in 1854, and especially setting forth our rights:—
 "Maritime nations at all times, and in every quarter of the globe, have set up and maintained certain
 "exclusive privileges within three marine miles of the shore; and by universal custom and the law of

"nations, the claim has been defined by lines, not within bays, but from the entrance of such bays, as designated by a line drawn from headland to headland forming such bays; which law has been fully recognized by the most eminent statesmen, as well as other jurists; and by the articles of the Convention of 1818 the United States renounced for ever the liberty of fishing within three marine miles of the coasts, bays, creeks, or harbours of certain portions of the British North American Colonies. This treaty stipulation is clearly expressed, and is incapable of misconstruction." Without dwelling further on that point, he would content himself with bearing testimony to the very efficient manner in which the Government had maintained our fishery rights, and to the interest now taken by the people of the West in the resources of the Maritime Provinces. He considered the latter fact a favourable omen for the future of the Confederation. (Hear.)

Hon. Mr. Letellier de St. Just was not prepared to admit as much as the gentleman who had just spoken. He could readily understand that the Government might, with a regard to the interests of the country, have suggested a Commission of three—one from England, one from the United States, and the other from Canada. It was quite possible that the United States would not have accepted the proposition; nevertheless it would have been one decidedly in the interests of Canada, for she would have the controlling power. The present Commission, however, was composed equally of British and American representatives, and was to deal with questions which England had a very great desire to settle as soon as possible. The vindication of the fishery rights of Canada was only a trifling matter compared with the removal of other matters in dispute which might embroil England in war with the United States. He was not at all satisfied with the tone of Lord Kimberley's Despatches—they were couched in an extremely cold tone, and showed throughout an absence of appreciation of Canadian rights. Take, for instance, that extraordinary reply to Mr. Campbell, who was urging that the Empire, in case of further Fenian troubles, should bear the burthen of resisting such attacks, and that Canada should only contribute as a portion of the Empire. Lord Kimberley suggested "that the present generation of Canadians were responsible for the alleged wrongs of Ireland as the present generation of their fellow-subjects residing in Great Britain." Even as respects the question of the fisheries, Lord Kimberley said that "there might be some difference with regard to the interpretation of the treaty as to bays." The tone of indifference throughout was not at all satisfactory to those who looked for sympathy and support from the mother-country. He must say he did not think the Hon. Postmaster-General had accomplished as much as had been claimed. He did not see how we could be benefited by having our rights mixed up with other questions of greater importance to England. It was said that whilst we were under the flag of Great Britain, there was no fear that she would forget her duty towards us. But we must not be more loyal than the Queen. We should consider what was due to our own self-respect. If we read the Despatch of Lord Kimberley, it seemed as if there was a coolness in the sentiment of Great Britain towards Canada. Formerly it would have been high treason for anyone in the Houses of Lords and Commons to declare that Great Britain could allow her connection with the colonies to be severed. Now Lord Kimberley must even go out of his way to say that "the Government did not wish to interfere with the freedom of Canada's future." Under all the circumstances he had not much confidence that the Commission would really protect our fisheries. The interests of England rather than those of Canada would be considered.

Hon. Mr. Tessier said that as one who had been generally designated as "the Member of the Gulf Division," he felt bound to make a few remarks expressive of his gratification at the interest taken in one of the greatest natural resources of the Dominion. He had had his doubts last year whether the efforts of the Canadian fleet would be satisfactory to Canadian interests, but he must acknowledge now that its establishment was a wise and proper measure. (Hear, hear.) He could not agree with those who anticipated that our rights would be sacrificed because the fishery was mixed up with other questions. If war was to take place to-morrow respecting the 'Alabama' claims, Canada would be the greatest sufferer, and she would be the battle-ground; and therefore it was clearly our interest to have all causes of difficulty between England and the United States removed as soon as possible. It would be very impolitic on our part were we, whilst the Commissioners were sitting, to allow the suspicion to be created that we would throw any obstacle in the way of an amicable adjustment of the questions between the two nations. For his own part, he had great confidence that the whole matter would be arranged so as to promote Canadian as well as Imperial interest.

Hon. Mr. Mitchell contended that, in view of the great interests at stake, Canadian as well as Imperial, a Commission was the best mode of arranging the questions in dispute. No time seemed more opportune than the present for a settlement. The American people were endeavouring to pay a war debt, and had hardly yet recovered from the effects of their civil strife. A few years later, when they had entirely recovered themselves and renewed their strength, the time might not be so opportune for an amicable adjustment of troublesome questions between England and the United States. If we had not asserted our rights respecting the fisheries and repealed the licence system, the Americans might in course of time have raised a claim to them on account of their regular enjoyment of them. The longer we delayed the settlement of the question, the more we imperilled our interests. In asking for a Commission the Government was largely actuated by a desire to take a course which would be most acceptable to Great Britain. It would have been a very serious responsibility to have pressed on England the necessity of any course that might have embroiled her with the United States. The Government took the course open to them as an alternative, of referring the question to a Commission selected from each country, not for the purpose of concluding the rights of either party, but in order to point out the best mode of bringing about a settlement of the difficulties between the two nations. It was certainly wiser in England obtaining a settlement peaceably in the way proposed, than by spending millions of treasure and wasting the lives of her people in an unnatural war. He repeated his belief that Canadian interests were safe in the hands of the Commission, one of the members of which was a Canadian statesman who would agree to nothing that did not meet with the approval of the Parliament of Canada.

After a few remarks from Hon. Messrs. Dickey and Letellier in explanation, the debate closed and the motion passed.

CANADA.

THE INTERNATIONAL COMMISSION.

Enclosure 2
in No. 15.

Hon. Sir A. T. Galt moved the following resolutions: Resolved—That this House recognizes in the fullest manner the importance to the cause of peace and civilization, of the settlement of all questions in dispute between Great Britain and the United States; and, in the especial interests of Canada, will rejoice to find the result of the Joint High Commission productive of cordial and lasting friendship between the two nations.

That this House regards the control and disposal of the inshore fisheries and the navigation of the inland waters of the Dominion as specially within the powers conveyed to the Parliament of Canada under the British North American Act; and will view with the utmost concern and apprehension any proposal to alter or diminish the just rights of the Dominion, in these respects, without their consent.

That this House has always been, and now is, prepared to concede the most free and unrestricted use of the fisheries and inland navigation to the United States upon receiving as an equivalent therefore complete compensation in modification of the United States' commercial system, directed to the more free and liberal interchange of the products of labour in the two countries.

That the concession to the United States of the freedom of the fisheries and of the St. Lawrence without compensation would place Canada in a most disadvantageous position for future negotiation by depriving her of the means of offering any adequate equivalent for those concessions she is desirous of obtaining from that nation.

That the House willingly consents to the consideration by the Joint High Commission of all subjects in which Canada is concerned with the United States, and will cheerfully make any sacrifices that may be required at their hands in the interest of the Empire, so far as they do not compromise the national interests and security of this country, and directly tend to their undue subordination to the United States in the future.

He said he had never on any occasion been more strongly impressed with the gravity of the circumstances under which he addressed the House, than he was at this moment. The interests which were at stake in the negotiations now pending between Great Britain and the United States were of the most vital character to this Dominion. Our future political existence depended on the manner in which they were settled. It was the duty of the House to strengthen the Government by every means in their power in the protection of the interests of their country, and he was sure the Government would be glad to have the support of Parliament in carrying out the policy which they had themselves announced. There were matters connected with the appointment of the Joint High Commission which were calculated to excite distrust in the minds of our people, and rendered it necessary that the views of this House should be presented in unmistakable language. He knew that this action would imply a doubt as to the protection of the interests of this country in the negotiations now pending. He would not, however, for a moment attribute dishonourable motives to the Imperial Government. Far from it. But they were anxious for a settlement of the pending disputes and the establishment of cordial relations with the United States. Having those great ends in view, he thought they might look at our Canadian interests in these questions as of comparatively minor importance. It was a favourite idea with the Americans that Canada should become a part of the Republic. The States would prefer the concessions to be made should be such as to place us in a position of subordination and inferiority. This, rather than English concessions or money payments, would be particularly welcome to our neighbours. A year ago the only question of great moment between Canada and the States was that as to our claims to indemnity for the Fenian raid. As to the fisheries, no treaty or national recognition was needed to confirm or establish our rights to the three-mile limit. Our rights were of an international character. The fact of the treaty being made, confirmed the Canadian national pretension on the subject. The licence system avoided difficulties as to the fisheries. The causes for a failure of the licence system were and must be found in the fact that it was not enforced. An able pamphlet recently issued on this subject proved that statement. If the Government were unable to carry out the system of licenses or partial exclusion, a fortiori it would be still more difficult to enforce a system of total exclusion. In protecting the rights of Canada, the Government would receive as cordial assistance from him as if he cordially approved of all their previous action. (Cheers.) Our Government soon found that they could not enforce their rights respecting the three-mile limit without running risk of losing their rights involved in the headland question. Interference of England was again evoked. Mr. Campbell had expressed the feeling of distrust in Canada, and in the Cabinet, whose members saw it was proper to express it. The papers showed that the fisheries and Fenian raid questions were pressed, and the subject of the withdrawal of the Imperial troops. (Hon. Sir A. T. Galt here read portions of the papers recently brought down, exhibiting the representations of Mr. Campbell and the reply of Earl Kimberley.) He (Hon. Sir A. T. Galt) presumed that the instructions respecting the protection of the fisheries for the current year, which were the same as last year, were the fruit of Imperial counsel. This, however, seemed vague, and not satisfactory. The reply of Earl Kimberley was as vague as it could be in the then state of affairs, binding the Imperial Government in no respect whatever. The second point was as to Fenian claims. They were very much stronger than the 'Alabama' claims. (Cheers.) The raid took place in a time of peace, and when no causes existed here to give it a shadow of excuse. The drilling and preparations, moreover, were carried on in broad daylight. The 'Alabama' escaped by stealth. What comparison was there between the two cases? The 'Alabama' case was a single one, but we have had these raids from year to year. Properly, then, Mr. Campbell was urged to press these claims for indemnity for the past and security for the future. Under those circumstances, the language of the Imperial Government should have been plain and distinct. (He read Earl Kimberley's Despatch to show how the reply contrasted with what might have been looked for.) The House and the country would learn with surprise that Canadian remonstrances had not been productive of any British remonstrances with the United States' Government. All that was done was a demand for a bill of the losses by those outrages; and we were required not to present our claims in any way calculated to hurt the feelings of our neighbours. No man in Canada needed this warning. Suffering as we had suffered in those cases, we might have expected a more sympathetic and useful

response than we had received from the Imperial authorities. Then as to the withdrawal of the military, little consideration had been shown our feelings, if not our interests, in the matter. The action taken had been characterized by great haste and precipitancy. In the Canadian appeal preferred by Mr. Campbell, a cordial and friendly answer might have been given. The language of the Earl was of a wholly different character. After reciting the language of that nobleman, to the effect that the Imperial Government's decision as to the withdrawal of troops would not be departed from, he said he only adverted to this subject now because it formed part of Mr. Campbell's mission. The language of that Government had a most important bearing upon our present position. Unless the House expressed some opinion in this matter, we should be assumed to be perfectly satisfied with the measure of support indicated in the English Despatches. The correspondence was unsatisfactory, and the mission of Mr. Campbell, so far as eliciting any promise of Imperial support and encouragement, a failure. With respect to fishery question, and Despatch of Oct. 10th, 1870, we found proposal for a Commission to settle disputed points as to fishery limits, came from Mr. Adams when Minister to England in 1866. The object was to remove doubts as to geographical limits within which Americans had a right to fish. Proposal remained in abeyance till Mr. Campbell went to England. Order in Council giving him authority to proceed thither, said nothing about a Commission. He was glad to think our Government did not propose it, because we claimed right and professed certainty upon it, and could not properly have put our pretensions in doubt. It was for Americans to propose a Commission, and, fortunately for us, they were first to do it. (Cheers.) Notwithstanding the proposition of the Imperial Government for a joint Commission to settle the fishery limits, it was intended to be of a practical kind, with the object of settling what was fair and just between both nations. Considering the absence of complaints and correspondence on the part of the United States respecting the fisheries, President Grant's accusations on the subject in his message startled the whole Dominion. We might have assumed that the United States' Government would have inquired in regard to the supposed Canadian abuse of fishery rights. No communications with our Government took place. The first thing we heard of the matter was through newspaper paragraphs, that the subject of fisheries was being discussed at Washington. The Canadian Government papers, in good faith doubtless, denied the stories, but they were correct. Up to the 10th of February, the Imperial Government communicated with the Canadian Government on the negotiations. Afterwards, however, the British Ministers entirely ignored our Government. With regard to the reference in the Queen's Speech of the possibility of individual indiscretions in relation to the fisheries, and warning against our deprecating them, unless there was some concession respecting the three-mile right contemplated. Individual indiscretions would be as likely to occur after the decision of the Commission as they are at present. Canada had an undoubted right to this limit, and if the exercise of her authority could be construed into improprieties or indiscretions, we should know it. He doubted if the Canadian Government had any information as to the Commission further than the Thornton fish correspondence. He censured the extension of the Commission, which was at first designed to settle headlands question. His object in this motion was to strengthen the hands of the Government—not to weaken them. He did not desire to censure the Imperial Government or accuse it of any intention to sacrifice our rights, but he believed the mixing up of Canadian with Imperial questions in this Commission would be disadvantageous to us. Both sets of questions should have been kept separate. The fisheries were of paramount importance to us. They meant an important source of employment and trade to us, and a field for the training up of seamen. They have intrinsic merits also. They constituted valuable means of commercial exchange with the United States—means of securing useful trading equivalents from our neighbours. It was the way we dealt with fisheries and navigation of the St. Lawrence upon which depended our future advantage and superiority with the United States in negotiating any commercial convention. If we made an improper use of them—if we lost those advantages, we should be placed in a position of inferiority, having nothing to offer for enviable opportunities. He vindicated the manner in which Canada had discharged her neighbourly obligations towards the United States during the last war. We were always ready, and are still, to treat with them on fair terms. We always offered them coveted facilities for a reasonable return. There was no reason why our claims and interests should have been exposed to injury by union with British questions, on which Britain's position was not near so strong as was ours. Then he proposed to introduce a few short resolutions referring to the matters in dispute between Canada and the United States, which were distinct from the questions pending between Great Britain and the Republic. It was important that we should make no concessions which would sacrifice our rights. There were certain things which this country could not lose. The House would agree with him in believing that the concessions that would be demanded by the United States would, if granted, place us in a position of inferiority. The Imperial Government would, no doubt, be asked to transfer this country to the United States. He for one repudiated the idea that this country was in any way subordinate, or that it should ever be subordinated to the policy of the United States. (Cheers.) He had only one object in view, a desire to maintain the connection with Great Britain as long as it could be maintained with reference to the honour and interests of the two countries, and when the time should come that that connection was to cease, he desired that the people of Canada should not be placed in any position of inferiority to the great Republic to the south of us. He desired to hold in our hands those great interests which would go hereafter to build up an empire on this continent. (Cheers.) He desired that we should not lightly part with them, that they should be kept intact in the hands of this Dominion, and it was by maintaining our rights, and not consenting to any weak concession on this point, but by a firm assertion of what we believed to be the rights of this country, and maintaining them, that we should best protect ourselves from what he believed to be the somewhat dangerous position in which we now stood. (Cheers.)

Hon. Sir J. A. Macdonald expressed his pleasure at the intimation of the hon. gentleman, that his motion was not one hostile to the Government. He was certain he occupied too high a position in the politics of the country, and as a statesman, to say otherwise than he thought, or shrink from any proper responsibility. No doubt he believed the passage of his motion would strengthen the hands of the Government and of himself (Sir John) as a member of the Commission. (Hear, hear.) But he did not

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believe it would strengthen their hands to give the Government and people of the United States reason to believe that they entertained any distrust of the mother-country (cheers), that they feared she could think for a moment of sacrificing the interests of Canada. (Renewed cheers.) They should avoid any expression of distrust. He could not join in it, being satisfied of the truth and loyalty of England, in the larger sense of the word, towards us. (Hear, hear.) He was satisfied of the honour of the statesmen of England, and that they would not for any consideration of peace or the quiet settlement of any of the questions between their country and the United States, sacrifice the interests of the people of Canada. He was convinced that if any Government were base enough to propose such a course, it would be repudiated and rejected with disdain by the British people. He had no fear that the pledges given by Government after Government would be broken. If there was a country in the world, or a Government in the world that had always kept its pledges, carried out its engagements and enforced its treaties—no matter at what sacrifice—it was that of England. (Cheers.) They were not going to betray us now; and why should we by any act or expression inform the people of the United States that we were so distrustful of the honour of England, of her protection—were so convinced of the great danger of being sacrificed, as to weaken the hands of the Commission—or to show there was a division between Canada and England in sentiment and feeling? Why show the United States the fissure through which the entering wedge of severance could be put? He was not aware of any cause to distrust the Government and people of England. The hon. gentleman was a member of the Government in 1865, and of the deputation to England, and was then as satisfied as his colleagues of the assurances of Lord Palmerston's Cabinet, that in the case of war we should be defended by land and sea with the whole force of the Empire. Had there been any change since? The Government they had met day after day for consultation comprised the present Premier, Mr. Gladstone, Earl de Grey, Mr. Cardwell, and Earl Somerset, men of the existing Cabinet. Could they be suspected of infidelity to their previous pledges, or of conduct lowering to the dignity and honour of England? For what? For fear of war? Did we not lately see England rise as one man at the threat of interference with the independence of Belgium? And was she, so willing to run the risk of a great continental war to keep her engagements towards Belgium, likely to betray her own child, the country she was bound by every tie to protect with all her power, to the last man and the last shilling? In order to lay the basis or groundwork for his resolution, the hon. gentleman was obliged to bring in, as an indication that England was not true to us, the tone of Earl Kimberley's Despatches about the Fenian invasion and the withdrawal of the troops. He (Sir John) thought it was unfortunate his language on this subject should have been of the kind heard. It would be quoted and republished in every journal in the United States, and turned to our disadvantage. The hon. gentleman complained of the words of the Despatch recommending the use of becoming language, on our part, in forwarding our claims from the Fenian raid, and that there was no expression of sympathy with us. We did not want any further expression of sympathy than we had received again and again. England asked our statement for what purpose? To lay it before the Washington Government. We were merely asked to set it forth in diplomatic, courteous language, so as to avoid annoying the susceptibilities of either people, already delicate on account of the 'Alabama' and other questions. As to the withdrawal of the troops, he was not concerned on behalf of the Canadian Government to support or defend the course taken by her Majesty's Government in their own discretion. As an individual and a member of a Canadian Government, and looking to the future relations between Canada and England, to the growing importance of Canada, and of a warm, friendly feeling between her and England and between them and the States, he had no hesitation in saying it was a mistake to withdraw the troops. He thought it would have been a wiser policy—as a symbol of the sovereignty of England in this continent—to use the words of Mr. Campbell—to have left the troops among us. That opinion was held by one of the oldest and most experienced of English statesmen, Earl Russell, the representative of the great Whig party, and by Lord Carnarvon, a leading statesman, and one of the chiefs of another great party. The Government, however, had taken a different ground, believing that the interests of England, as well as of the Empire, were better served by the concentration of the troops in the mother-country. Though he believed this a mistaken policy, it was no evidence of England's intention to disregard her pledge to defend us with the whole power of the Empire. The British Government, in compliance with the Canadian Government's representations on this matter—they had not failed in their duty in respect to it (hear, hear, from Hon. Sir A. T. Galt)—reiterated their pledges of 1865, that the whole force of the Empire would be used in our defence. (Cheers.) Why then express distrust of England? The hon. gentleman said he was glad the Canadian Government had not suggested the Mixed Commission, and that he (Sir John A.) was in error in stating they had. In 1866, after the termination of the Reciprocity Treaty, Minister Adams proposed that while the whole subject of the renewal of the Treaty or the settlement of the fishery question was under discussion, the American fishermen should be allowed their old unrestricted fishing privileges. Lord Clarendon's speech in reply was a masterpiece of statesmanship. He readily met the proposal for a Commission on the disputed question. We, however, at once represented that during the discussion of the matter we should not agree that Canada should be precluded from asserting her right. That Despatch was sent to Lord Clarendon, and by him transmitted to the United States' Government, and from that moment the matter ended. It ceased to be a matter of personal interest, and became as much a matter of history as the proceedings in connection with the Treaty of Ghent. Lord Clarendon saw the astute mode in which the American Minister proposed to keep open the question of our fishery rights, while the Commission might sit till eternity.

Hon. Sir A. T. Galt—Mr. Campbell said it was accepted by Lord Clarendon.

Hon. Sir John A. Macdonald said he did accept it on certain conditions which were not accepted by the American Government, and so the thing fell to the ground. Why did we renew the proposition in any shape whatever? It was important we should have not only the moral support of Her Majesty's Government, but the material support of her fleet. England at once granted us this support in the shape of a large squadron, commanded by an able and energetic officer. We assented to the proposal of England that we should not, for the time, assert our exclusive rights to the fisheries till the headland question was settled. We did not abandon or waive our rights, but merely to remain in accord with the British Govern-

ment, with whom rested the responsibility for peace or war with the States, we yielded to their wishes for the time being. He believed we were right in so doing, and should have shown a selfish disregard of the interests of England had we taken any different course. We showed a due regard for England's interests and our own in delaying till a more opportune season the enforcement of our rights. We felt and still feel the inconvenience of having the rights we were afraid to enforce—of having to waive from day to day and year to year—and therefore had instructed Mr. Campbell to ask for a Mixed Commission to settle the fishery question. He believed in so doing they would receive the approbation of the House and country. (Cheers.) They had thus gained the assistance of her Majesty's Government on the fishing banks and at Washington. He believed the experience of last year had shown that, if we persisted in the policy we commenced in 1867—setting aside the question of headlands altogether—the policy of a rigorous exclusion of American fishermen from our three-mile limit—we should virtually exclude all foreign fishermen from our waters. They would not, so great would be our geographical superiority, find it to their interest to employ their capital in our waters. We were thus gaining our rightful advantages while abstaining at the instance of England from pressing our rights to their utmost limits. We adopted the licence system because it was regarded as merely provisional, till a better, a final one, could be devised. His hon. friend is wrong in thinking that a system of licences was less difficult to enforce than one of exclusion. The exclusion altogether was much easier, because the other system required a large police, with constant visits and interference. His hon. friend was opposed to the licence system.

Hon. Sir A. T. Galt said the hon. Premier was wrong in saying he was opposed to the licence system.

Hon. Sir J. A. Macdonald said his hon. friend's policy was the same as his own on the subject. As Ministers in the same Government, the moment the treaty came to an end, they proposed the complete exclusion of American fishermen from Canadian waters. They were to be notified of this decision promptly. The Government, of which the member for Sherbrooke was a member, acted promptly and decisively on the subject. They adopted the licensing system as a temporary expedient and in deference to the wishes of the British Government. It was to be employed only until a new and better arrangement could be made. The Governments of the Maritime Powers also consented to the English recommendation. The Canadian Government, by its Order in Council of 1866, announced that their fixed policy was one of exclusion. So in this way the hon. gentleman was opposed to the licences.

Hon. Sir A. Galt—Of course, in the same way as my hon. friend. (Laughter.)

Hon. Sir John A. Macdonald—The licence system was found a failure, and it was perceived that the effective assertion of our Canadian rights was the only, the best course, we could pursue. The last hope of the renewal of the Reciprocity Treaty having ended, and the licences having failed, they introduced again, in 1870, the policy of exclusion, which had proved successful. It would appear by the papers that the Canadian Government desired a Commission touching the headland question. The Imperial Government had a right to unite the fishery and 'Alabama' questions, and having this right, there was no reason to fear Canadian interests would be sacrificed in the negotiations. One would think, from the speech of the hon. gentleman, that the settlement of the 'Alabama' question was a matter of no importance. Was it of no importance that a terrible war between England and the States, which would subject Canada to all the miseries of the battle-ground, should be avoided? (Cheers.) If this threatening cloud were removed—if the pending controversies were settled—we might calculate upon a long term of peace with the United States, with increased trade and prosperity, upon a vista of tranquillity, progress, and happiness. He was glad the United States had suggested a settlement of this dispute, and when there was a mutually sincere desire on this subject, there would be a way found out of the difficulty. (Cheers.) The invitation to Canada to take part in this Commission, showed that Canada had made an additional step in the estimation and favour of England, in this, that he, unworthy as he was, should have been chosen to represent the cause of Canada at Washington. (Cheers.) His hon. friend had expressed himself as afraid that the fisheries question would be neglected if associated with the 'Alabama' claims and others in which the Imperial Government were more directly interested. He (Sir John) thought differently. The very fact of its being made a matter of Imperial interest, and on which the Imperial statesmen were obliged to act with the same force as on the 'Alabama' claims, would give it more importance in the eyes of the United States' Government than if dealt with by a smaller committee. He had no doubt that if he were to take sweet counsel with his hon. friend on the resolutions, they would find that there was little difference between their views.

Hon. Sir A. T. Galt—Hear, hear.

Hon. Sir John A. Macdonald—That was one thing, but it was quite another matter to bring the subject before the House at this time. It was much to be regretted that an attempt should be made to fetter the representation of the Dominion. How would he stand in Washington with the other unfettered representatives, if he was sent merely as a delegate to repeat the instructions he had received from this Parliament? It would prevent a free and frank discussion of the question if he was to be restricted to saying, as these resolutions would imply, that the demands of Canada were merely for modifications of our commercial relations with the United States. Could anyone imagine the four Commissioners from England receiving instructions from the British Parliament in such a way? He was quite sure that the gentlemen who composed that Commission would decline to act under such conditions. He agreed with his hon. friend that by international law and the Treaty of 1818 the three miles of water extending along our shores were as much a portion of Canada as any place three miles within land, and could his hon. friend suppose for a moment that England would give away a portion of our territory? There was no fear of England ceding a part of Canada, and she would as much be giving up a portion of this country by ceding our rights to the three-mile limit as if she gave away one of our cities. Her policy was opposed to ceding territory in any case without the consent of the inhabitants of the place to be given up. Then again, Lord Granville in the House of Lords, and Mr. Gladstone in the House of Commons, have announced that the action of the Commission would not be final. If the result of this Commission was to settle the pending questions, he had not the slightest doubt that all matters affecting this country would be submitted to this Parliament for ratification. It was so with the Reciprocity Treaty. In 1866 there was a Mixed Commission appointed to settle the fisheries question between France and England. That

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Commission quite rearranged the matter. The treaty they framed was submitted to the British Parliament and ratified by them, but was rejected by the French Government, and the policy of the British Government was so averse to considering a treaty binding that was not ratified by the people affected by it, that the treaty of that Commission is considered a nullity. In the Joint High Commission about to sit at Washington there would be a sincere desire on both sides, he believed, for a settlement of the pending disputes, but there was no risk whatever to our interests. Even if we could suppose that England were willing to sacrifice us, as a matter of law she could not until the Canadian Parliament ratified the treaty by its own act. He hoped his hon. friend would be satisfied by this discussion that our rights were of the first importance, that they could not be over-estimated, and that our interests must not be given away or surrendered in any way except by our own act. He had no doubt that such was the general opinion of this House, and he hoped his hon. friend would not inopportunately affect the action of the Commission by pressing his resolutions to a vote, but would consent to withdraw them. (Cheers.)

AFTER RECESS.

Mr. Mackenzie said he had listened with great pleasure to the speeches of the member for Sherbrooke and the leader of the Government, and was far from regretting that the discussion had taken place. The leader of the Government had taken very strong grounds on the subject, asking on what occasion England had ever failed Canada in her negotiations. Unfortunately, he maintained, she had almost always failed her, mentioning the treaty relating to the boundary between the United States and Canada, both in the east and west, as an instance in which the ignorance of English statesmen had resulted in depriving Canada of a large amount of territory which she ought to possess, and it was therefore no matter of surprise that when a new question such as the one then under discussion came up, the people of Canada should manifest some doubt as to whether they would obtain a satisfactory settlement. Still the House had already pronounced on the subject in its reply to the speech of the Governor-General, and as the matter of the Commission was already settled, and the Commissioners appointed, he thought the passage of the resolutions would imply a suspicion that the parties named in the Commission would not fairly consider the matters with which they had to deal. It should also be remembered that the hon. gentleman at the head of the Government was to be a member of that Commission, and although he had never agreed with that gentleman's views, he could not believe that any Canadian who had occupied the prominent position that that gentleman had occupied could ever be so lost to the honour of his country as to fail to recognize his duty, and while he agreed with many of the views expressed by the member for Sherbrooke, he thought it would be wrong to force the adoption of the resolutions he had moved. He believed it was essentially necessary for Canada to use every means in her power to promote friendly relations with the United States, and he, for one, was willing to make any reasonable concessions to accomplish that end, but it had in the past invariably been found that anything yielded was merely the prelude of more exorbitant demands on the part of the States. The hon. gentleman at the head of the Government had mentioned in his speech the subject of the national defence. In this matter he would simply say that in his opinion the mere retention of a few British troops could be of no possible avail as a defence from an attack from the United States, and that if ever such an attack should be made, it would have to be met by a force ten or twenty times as large as that which the British Government could ever be asked to station in Canada, and if the British troops were merely to act as a symbol of the force of the Empire that lay behind them, why we had that symbol in our own redcoats and in our flag, which was the same as that of England, and he did not think therefore it would make any difference whether the three or four thousand British troops were left in Canada or taken away altogether, as we had already the assurance of the British Government that whilst we remained in connection with her the whole force of the Empire would always be available for our defence. He believed, however, that the really valuable spirit of the United States was hostile to any acquirement of territory by conquest, and that spirit would steadily grow; and looking at the future, he did not believe the time would ever come that Canada would have to defend her territory against an army from the United States. If ever there should be war between England and the United States, it would be for some cause that was considered just by one country or the other, and he had too much faith in the people of both countries to believe that the one would ever be guilty of committing any wrong that would compel the other to go to war to repair. He thought that in the matter under discussion they owed a certain obligation to the opinions of the gentlemen opposite, and as they had declared that it would be injurious to their success in negotiating with the other members of the Commission to have any such resolutions passed as those then before the House, and as on other grounds he thought it would be impolitic to pass those resolutions, he felt bound to recommend their withdrawal. He wished, however, to refer to one expression made use of by the member for Sherbrooke, namely, that the Imperial Government would rather concede some of our rights in compensation for the 'Alabama' claims than make a money payment.

Hon. Sir A. T. Galt stated that what he had intended to say, and what he believed he had said, was that the American Government would prefer to receive some such concession than a money payment.

Mr. Mackenzie, after acknowledging the correction, proceeded to say that he believed the sole object of the leading men in the United States in keeping the subject of the 'Alabama' claims so prominently forward was to endeavour to drive British power entirely from the continent, and as far as that was concerned, he agreed with the remarks of the member for Sherbrooke, who he was sure would join heartily in resisting all such attempts. The future position of Canada might be such as was anticipated by the member for Sherbrooke, but he (Mr. Mackenzie) did not think it was desirable that any change should take place in our political relations, and he did not speak of this merely as a matter of sentimental attachment—although he was not ashamed to own that he had that sentimental attachment—but on material grounds he believed it was for our interest that our relations should not be changed. But if the anticipations of the honourable gentleman should be realized, he believed the people of Canada would be fully equal to the emergency. He thought it was very desirable that the public men of Canada should express a bold, decided opinion on the matter under discussion, but he hoped the hon. gentleman, the

mover of the resolutions, would not force a vote upon them, as he thought a division would be most undesirable.

Hon. Dr. Tupper said he was sure the House would agree with the opinion expressed by the hon. member for Sherbrooke, that no more important question had ever been submitted to that Parliament than the one now under consideration. He (Dr. T.) considered that the Government, the House, and the country were deeply indebted to the hon. mover of these resolutions, as the discussion that had been elicited would show to the world that while public men here differed upon the comparatively insignificant questions as to who should administer public affairs, the moment that any question arose involving the material interests or touching the honour of the Dominion, all parties would be found standing shoulder to shoulder in defence of the rights of their common country. (Cheers.) He accepted the statement frankly made by the hon. member for Sherbrooke, that he had moved these resolutions with a sincere desire to strengthen the hands of the Government and of the first Minister as a member of the Joint Commission, in its fullest sense—(hear, hear, from Sir A. T. Galt),—but he believed that the hon. member would, seeing that his object had been fully attained by the discussion, in deference to the desire expressed on both sides of the House, consent to withdraw them. He could not agree with that hon. member in the opinion that there was any ground for distrusting the Imperial Government. He had faith in the Government, Parliament, and people of England, and believed that no party could retain power in that country who would sacrifice the rights of the Dominion. In relation to the important question of the fisheries, the House had the guarantee of the past that our interests would be duly protected. This was not a question of yesterday. For the last 30 years this controversy had existed, except, when, happily, suspended during the operation of the Reciprocity Treaty. The British Government having discovered that a great error had been committed in allowing the United States to fish in our waters, under the Treaty of 1783, when that treaty was abrogated by the war of 1812, refused to renew those concessions, although earnestly pressed for by the United States. In defence of our rights they sent a naval force into British American waters, and made numerous seizures of American fishing vessels, until, by the Convention of 1818, the United States renounced for ever the right of fishing within three miles of the coasts, bays, or harbours of British America, except in certain localities therein specified. In 1819 an Act was passed by the Imperial Parliament, to carry into effect the provisions of that Convention. In 1836 the Legislature of Nova Scotia passed a stringent Act for the same purpose, containing a clause under which the master of a fishing vessel could be examined under oath if found hovering in our waters. In 1838 a naval force was sent from England in response to an address from the Legislature of Nova Scotia, and in the following year numerous seizures of trespassers took place. In 1841 an exhaustive remonstrance was made by Mr. Stevenson, the American Minister at the Court of St. James, complaining of the severity of the Nova Scotia Act, the exclusion of American fishing vessels from the bays, and from a line drawn three miles outside of the headland, and claiming the right to navigate the Gut of Canso. This was referred to the Government of Nova Scotia, and a case on all these points was prepared and sent for the opinion of the law officers of the Crown in England. The opinion of the Advocates and Attorney-Generals of the British Government, sustaining our view of the question on all these points was adopted and sent out by Lord Stanley, in 1842. In 1843 the 'Washington,' an American fishing vessel, was seized for fishing in the Bay of Fundy, and Mr. Everett, then the United States' Minister, made an earnest appeal to Lord Aberdeen, claiming that that bay ought to be excepted. He said, May 25, 1844, "the existing doubt as to the construction arises from the fact that a broad arm of the sea runs up to the north-west, between the provinces of New Brunswick and Nova Scotia. This arm of the sea being commonly called the Bay of Fundy, though not in reality possessing all the characters usually implied by the term bay, has of late years been claimed by the provincial authorities of Nova Scotia to be included among the coasts, bays, and creeks, and has been forbidden to American fishermen." Lord Aberdeen, while asserting the right to exclude foreigners, under the Convention in 1818, from the Bay of Fundy, agreed to make it an exception from all the other bays, but asked in return for this "liberal concession" a reduction in the American duty on fish, which was made by Congress in 1846. An attempt having been made to extend this privilege to other bays, the Colonial Minister, Lord Stanley, sent a Despatch in reply to remonstrances from New Brunswick and Nova Scotia, saying that Her Majesty's Government would adhere to the strict letter of the treaty except as to the Bay of Fundy. In 1851 the agreement of Colonial delegates in London to unite in the protection of the fisheries was followed by a proposal for reciprocal trade between the United States and British America in the Presidential Message. Nothing having been done in 1852, Sir John Pakington sent a Despatch saying, "among the many pressing subjects which have engaged the attention of Her Majesty's Ministers since their assumption of office, few have been more important in their estimation than the questions relating to the protection solicited for the fisheries on the coast of British North America. Her Majesty's Ministers are desirous to remove all grounds of complaints on the part of the Colonies in consequence of the encroachments of the fishing vessels of the United States upon those waters, from which they are excluded by the terms of the Convention of 1818, and they therefore intend to despatch, as soon as possible, a small naval force of steamers or other small vessels to enforce the observance of that treaty." Those who have been surprised at the recent Message of President Grant, will find by looking back to the events of that day, that history is only repeating itself. The excitement in and out of Congress was far greater than now, but it was only the prelude to a fresh proposal for a convention on reciprocal trade made in December of the same year, and which resulted in a Reciprocity Treaty which happily disposed of all these difficulties, and which resulted in the greatest commercial advantages to both countries. Unfortunately, in a moment of irritation, arising from circumstances connected with the late civil war, the Government of the United States put an end to that treaty, and deprived their fishermen of the privileges they had under it enjoyed. The British Government, believing that a new treaty would be made if our rights were not at once enforced, proposed that they should be left in abeyance for one year with that object, but readily concurred in the policy of requiring foreign fishing vessels to pay licence. They sustained the Government of Canada in raising that charge, and when it was found ineffective in enforcing our rights, and no disposition evinced for reciprocal trade, they again sent a large naval force to aid in

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excluding foreign fishermen. New causes of irritation having sprung up between England and America, Her Majesty's Government have desired, pending their discussion, to avoid the enforcement of our extreme rights; but they have been careful to notify the United States that they do not concede anything that has ever been claimed under the Treaty of 1818. He (Dr. Tupper) contended that with this evidence before us of the determination on the part of England not to yield up one jot or one tittle of our rights, but to aid us on every occasion for the past 30 years to maintain them unimpaired, it would be as unjust as it would be ungrateful to evince the slightest distrust, or suppose for a moment that the Imperial Government could for any consideration forget the interests of this Dominion. His hon. friend, the member for Sherbrooke, had complained of the withdrawal of the troops from Canada, but while all would regret their departure, if Her Majesty's Government were of the opinion that by concentrating their forces in England they could best consult the security of the Empire, we must bow to their decision. The House must not forget that, no sooner had the first indication of danger occurred at the time of the 'Trent' affair, than swift steamers from England were following each other in rapid succession across the ocean, pouring troops and munitions of war into Canada for its defence. Nor must it be forgotten that two regiments of British troops and three batteries of artillery are maintained at Halifax, the present headquarters, which is being made one of the strongest fortresses in the world by Imperial expenditure. If Her Majesty's Government had shown an anxious desire to avoid any possible cause of collision with the United States, he believed it was largely increased by the reflection, that in such a struggle Canada must naturally be the battle-ground for that unnatural war. He could readily understand the desire of England to avoid by any means consistent with national honour a war that would be a disgrace to civilization. For his own part he had no fear on this point, and did not expect that the hon. gentleman would ever see a blow struck between the two countries, but all would rejoice to see any cause of difference removed, as he had no doubt they would be by the measures proposed by the Joint Commission about to sit at Washington. He rejoiced to know that no time could be more opportune than the present for the consideration of the questions in which Canada was so deeply interested. The abrogation of the Reciprocity Treaty was done under the mistaken impression that Canada was so dependent upon the policy of the United States that it would be compelled to join them. The Confederation of these provinces was considered an experiment likely to result in failure. Only a year ago the North West was in a state of insurrection, and it was said that British Columbia was seeking annexation to the Republic. To-day the provinces of this Dominion are consolidated into one harmonious whole. The new province of Manitoba, with the vast North West has been added to our country without shedding one drop of blood, and the Legislature of British Columbia has unanimously asked admission to the Confederation upon the terms offered by the Government of Canada. Instead of being starved into annexation by the abrogation of the Reciprocity Treaty, we find our exports to the United States exceeding any former year by 13,000,000, and largely in excess of our imports from that country. Never did the whole of the Dominion enjoy so high a degree of prosperity; while each of the provinces of which it is composed can boast a large surplus revenue, the Central Government is able to show an increase of exports and imports over any former year; a large increase in the revenue from imports, excise, canals, railways, post-office and bill stamps, evidencing the highest degree of commercial prosperity, while the value of Canadian Bonds and Stocks has reached a point never before attained. Such is the financial position of Canada, that the Government is prepared not only to construct the Intercolonial Railway, and grapple vigorously with the great questions of canals and a railway to the Pacific, but at the same time reduce the comparatively light taxation of the people. I feel assured that under these auspicious circumstances the hon. member for Sherbrooke will withdraw his resolutions, and this House by its unanimous action will show to the world that all parties in Canada have unqualified faith in the justness of our cause, the support of England in the maintenance of our rights by allowing the Commissioner whom Her Gracious Majesty has chosen for Canada to enter upon the high duties with which he is charged as free and untrammelled as his colleagues belonging to either England or America. (Loud cheers.)

Hon. Mr. Macdougall was surprised to hear the remarks of the hon. member opposite. The circumstances of this country with regard to England had undergone no change. With respect to our fisheries, the policy of the English and Canadian Governments has been the using of them with a view to promote the reciprocal trade of Canada and the States. The chief object was not the simple protection of our fisheries. So far as we had gone little had been gained in the direction desired. The hon. gentlemen on the Treasury Benches had changed their views with regard to the importance of the fisheries as a means to the attainment of a larger trade with the States. The question would now seem likely to be settled on its merits. The questions to be submitted to the Commission were mainly connected with the late civil war, with which we had nothing to do. The claims of Canada touching the Fenian invasion do not seem likely to be dealt with. The House should receive distinct assurances that the Government had done its duty in this matter. If all the other subjects mentioned in connection with the Commission were to be considered, the Raid claims would stand a poor chance of consideration. He was glad at the prospect of a settlement of these questions, but feared the High Commission, without any expression on the part of this House, would dispose of the fishery question to the advantage of England, and as a set-off to the 'Alabama' claims. The interests of Canada would run the risk of grave injury. The rights and interests of the people of this country should not be sacrificed as a set off to American claims upon England, and this House should so express its opinion. From personal knowledge of the feeling of men in the lower provinces, he could state that it was feared the rights and claims of Canada would suffer in the forthcoming Commission. That was his own apprehension also. There was no doubt that vigilance and determined action were necessary on the part of Canadian statesmen to prevent our interests being seriously compromised. We had suffered gravely from the blunders of British and Colonial representatives in dealing with questions between us and the United States. The tendency of the negotiations, the spirit in which they would be undertaken, led to the conclusion that our interests were in danger. (Ironical cheers.) He was firmly convinced that the attempt of the Government of Canada to put in force extreme claims and rights of this country with regard to the fisheries, without the cordial assistance of the Imperial Government, was a dangerous policy. (Cheers and counter cheers.) The Hon. Finance Minister laughed, but if

England had gone to war with Russia, as was lately probable, another kind of expression would have overspread his countenance. He believed that the Hon. Premier should not be allowed to commit this country to any arrangement—that he should not be subjected to defeat in the Commission by a majority of his colleagues, without a previous declaration of the opinion of this House. (Cheers).

Mr. Young said as far as the resolutions were concerned, he could not agree with the hon. member for Sherbrooke; at the same time he did not think it right to find fault, unless the question was brought before them in an enlarged manner. Our relations both to the United States and the mother-country should be cordial and friendly. The interests of the Dominion tended to draw closer the bonds of friendship with the mother-country and the United States. We all sprang from the same origin, and we ought to be drawn together in the common bonds of friendship and good feeling, and if others did anything that would cause a breach of amity and good feeling, we would not be to blame. With the exception of one particular point he did not think that any just cause of complaint could be brought against Canada. He referred to placing the duty on coal. He warned the Minister of Finance that matter would be taken exception to on the other side of the line, and that it would be likely to create ill-feeling there. With the exception of that one serious blunder the policy of the Government had been conciliatory. But disguise it as we might, a very considerable portion of their people had encouraged attacks upon this country. With these facts before them, he, for one, felt that the Commission at Washington should stand up for the rights of this country. It would cause a dangerous feeling here, if the rights of our fisheries were to be at all yielded to the United States. With regard to the President's Message he considered that our policy had been most liberal towards them. It had gone to the extreme limits—as far as the rights of this Government could go. We have allowed them the use of our canals, and, considering the expense we had been at in the building of them, he thought, under these circumstances, we ought to stand up for our rights. He was inclined to think that from what was said about the Fenian raids, our Government had not pressed it upon the Imperial Government in as strong a light as they should have done. With regard to the Hon. Minister of Justice, he had the utmost confidence in his judgment and knowledge. We have learned some wholesome lessons since 1866, the time when the treaty was abolished. He could not speak much for the other provinces, but for the province of Ontario they had good evidence of the prosperity existing there. They had evidence that the deposits in the banks were largely increasing. In 1869 there were six millions of dollars in the various Savings Banks, and at the present time there were fully 70 millions belonging to the people in our Building Societies. Still we were willing to meet our neighbours half way, though under no necessity of doing so. He considered if the Americans were prepared to place our commercial relations on a better basis, it would be for the advantage of both countries.

Mr. Blake thought that they were not in a position, from the information in their hands, to properly discuss the question; and even if they were, they were not, in the interest of the country, free to discuss it in all its bearings to any advantage; and while there could not be free, unfettered discussion, it was better there should be none at all. As to the best mode of settling international disputes, there was, of late days, no difference of opinion. The humane and equitable spirit was conceded all due influence. This did not conclude the present question, however. This was not the case of a regular dispute between two ordinary nations. The complicated position of the mother-country, with its various dependencies and various interests, created or occasioned questions of a different character from those originating with other powers. He felt averse from pronouncing upon the present motion or the character of the Commission, for a variety of reasons. In the first place, they did not know what its scope was. The Premier was not able to tell whether it embraced the claims of Canada on account of the Fenian raid. Then some of the members had not had time to study the papers brought down, and some material to the case had evidently not been produced. A document made and sent to the United States was surely one which the people of Canada, in whose name and for whose behoof it was despatched, should have been made acquainted with. (Cheers.) Again, we did not know whether our consent to the Commission's conclusions was to be asked. The Premier seemed to assume that because the provisions of the treaty would "probably," as he had observed, be submitted to the Imperial Parliament, they would have to be submitted to this Parliament. That by no means followed, we had already recorded our views upon those matters shortly to be considered—that the people of this country had not demanded and did not demand anything more than their rights, secured by treaty and the law of nations. Had we not recorded that declaration the statement of the First Minister, on introducing this question, would have filled him (Mr. Blake) with considerable apprehension; because he believed this speech was designed to lead the country to the conclusion that the headland question was one which they would probably hear the end of in this Commission, and in a way not satisfactory to the people of this country (hear, hear). The question was, now, having recorded our position—what more could we do? The Commission had been constituted, the place had been decided. The Government took the responsibility in the first instance of proposing the Commission with regard to the fisheries, and in the second place, of agreeing to participate in the labours of that Commission when its scope had been enlarged to other subjects, and, in the third place of agreeing to that Commission without knowing whether it would embrace the Fenian raid claims of Canada. The step had been taken and was irrevocable. The Commission was just about to sit, and it appeared to him that no act they might take could in the slightest degree reverse that policy at this moment. We were powerless to prevent the sitting of the Commission, or the continuance of its sittings, or its arrival at conclusions on the questions which the Premier said might probably be submitted to it. The question was, whether we ought to do or say anything which might in the slightest degree embarrass or impede the course of the administration with regard to the matters upon which they had assumed this responsibility. His opinion was they should not by voice, vote, or record, do or say anything of the kind. We should allow matters to proceed without doing anything to hamper the Government, or tending to bring the labours of the Commission to an unsuccessful termination. He did not think it was expedient we should come to any resolution whatever on this question. He believed, notwithstanding, the claims of Canada were indisputably correct. However, he joined with the hon. gentlemen on both sides of the House in requesting the hon. member for Sherbrooke to withdraw his resolutions.

Hon. Sir A. T. Galt, in reply, said he was willing that the First Minister and other gentlemen

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should combat his conclusions, but he denied their right to charge him with imputing motives when only interpreting acts. (Cheers). With regard to the policy of Great Britain in the matter of the removal of the troops, he did not propose to discuss the question, as the hon. gentleman the leader of the Government had stated, as his individual opinion, that he was opposed to the present policy of the Imperial authorities, and it might be assumed that that was the opinion of the whole Government, as shown by Mr. Campbell's Report. He considered, however, that that policy evidenced a material alteration in the relation of the Empire to Canada, and he contended that it was therefore a fit subject for discussion, as it concerned the nearest interests of the country. The leader of the Government had also stated, in regard to the course taken by Canada on the fishery question, that if Canada had refused to meet the wishes of the Imperial Government in the matter of licences, she would have been acting against the interests of the Empire, and would have been liable to all the consequences that might have flowed from a serious disagreement between England and the United States. He thought, however, that that argument should have been remembered by the Government a year ago, when they determined on the policy then commenced, which was certain to bring about this disagreement. What he had desired throughout had been that such a temperate policy should be pursued as would have avoided all trouble. Still, in the present aspect of the matter, although he might disagree with the course the Government had taken, he would not be found weakening their hands. The member for Lanbton, though admitting that the debate might prove useful, had stated he thought it would appear ungracious to interfere in any way with the proceedings of the Commission, and had spoken of his (Sir A. T. Galt's) remarks on the question of defence, as though they had some practical bearing on the particular question under discussion, whereas they had only been intended to indicate in the policy of the Imperial Government a divergence from that of the Canadian Government, showing the necessity that the House should express its opinion on a question which concerned Canada alone. He then referred to the inquiries which had been made in the House of Commons in England in reference to the scope and powers of the Commission, as a sufficient precedent to justify him in bringing the question before the House. The member for West Durham had stated that the discussion was inopportune, inasmuch as the House had already disposed of the matter in its reply to the speech of his Excellency. He maintained that in passing that reply it was understood that the House was not bound to anything; and he would mention that, on that occasion, he had only been prevented from introducing the present discussion by expressions from both sides of the House that it had better be postponed to a future time.

Mr. Mackenzie said that he had, on the occasion of the passing of the reply to the Address, asked for the papers, expressly in order that the discussion might take place.

Sir A. T. Galt continued that the discussion was only postponed in the absence of the papers, and he had therefore simply brought forward what ought to have been disposed of in considering the Address. However, on a question of such importance, surrounded by considerations of the very gravest moment, he would be unworthy of his position as a representative of the people if he did not defer to what appeared to be the general opinion of the leading members of the House. He had thought that a declaration of the views of the House on the question would do good, and he still thought so, but inasmuch as the first Minister of the Crown had stated that he would feel hampered and embarrassed in the discharge of the important duties assigned to him, if the resolutions before the House were carried, he had only one course open for him. The leader of the Government had thus assumed the responsibility of the matter, and he had the most implicit confidence that the honourable gentleman, whatever he might think of his policy in some respects, would do his duty in the interests of the country, ably and well, and he felt that they had obtained some additional guarantee for their safety in the negotiations then about to take place. He therefore asked permission to withdraw his resolutions.

Mr. Fortin said that in rising to address some remarks on the important subject under discussion, he would first beg the indulgence of the House, as he was going to speak in a language that was not his own. He had heard the hon. member for the North Riding of Lanark make a statement that he could not admire. This hon. member had said that in the protection of our fisheries, we had advocated and maintained extreme rights. Mr. Fortin was ready to assert (and in this assertion he was sure to be sustained by all the people engaged in the fisheries), that the Government of Canada had not maintained extreme rights in the execution of the measures adopted by the protection of the fisheries. Far from it. We had always acted in a friendly and conciliatory spirit towards the fishermen of the United States, and we had even allowed several of our rights to remain in abeyance in view to conciliation; such, for instance, as the right to draw the line, inside which foreign fishermen are excluded, from headland to headland. We had only prevented the foreign fishermen to come and fish inside the three miles limit, in waters which according to the law of nations, are uncontestedly ours. We have advocated the same rights that the Government of the United States maintain on their own seaboard. It is also said that when the Treaty of Reciprocity was cancelled, our Government did not give sufficient notice to the people of the United States of our intention to maintain our rights, and thereby exclude foreign fishermen from our waters. Why, when we, in 1866, adopted the licence system, by which we allowed the fishermen of the United States to participate in our inshore fisheries for a nominal fee, it was well understood at the time that we would stand by our rights the next year. However, we continued the system through the same spirit of conciliation and friendliness, in 1867, 1868, and 1869, although it had proved a failure, very few American vessels having taken licences during the last two years. Did we receive any compensation for what I will call the surrender of our rights from the people of the United States? I must answer, No. Could we continue this system any longer? No, it was against the interests of our fishermen to do so, and we stood by our rights. The Government of the United States was informed of this determination of ours. The United States Government gave notification of it to their own fishermen as early as the middle of the month of May, and besides despatched one of their war vessels in the Gulf to warn their fishermen against intruding in our waters. Was that not sufficient notice? But besides, are not the American fishermen instructed as to our rights on the back of their fishing licences that they have to take instead of clearances from their Custom officers when they start for a fishing voyage? There is to be found on that document the greatest part of the Treaty of 1818, by which they can see at once on what parts of the British coast

they have a right to fish, and on what other parts they have not that right. In my opinion this complaint that our Government did not sufficiently notify the fishermen of the United States of our intention to maintain our fishery rights is futile and not at all founded on facts. Another complaint that has come from across the border is that we, in an unfriendly manner, have prevented the fishing vessels from getting their fishing supplies and transshipping their cargoes in our ports. This is nothing else but exercising a right of trading, and it is well known that by the Treaty of 1818, no such right is granted to the fishermen of the United States. I will say more, the American fishing vessels are forbidden by their own Government to trade in foreign ports. With regard to the fishery question itself, he thought that the matter in contestation between the two Governments were not difficult of adjustment. Our fishery rights were undeniable and could be easily established beyond any doubt. As for the three miles limit, we only asserted and claimed rights that were given to all maritime nations on their seaboard by the law of nations, and which the United States people claim and maintain themselves on their own seaboard. The right of drawing the line from headland to headland was not, on our part, a new pretention. The British Government had always maintained that right, and had repeatedly asserted it by the seizure of American vessels found fishing inside of that line, prior to the coming into operation of the Reciprocity Treaty. And when this treaty was cancelled, this right was only left in abeyance, in a spirit of friendliness and conciliation towards the people of the United States, but it was never given up by our Government. And why should we abandon it? Does not the Government of the United States claim and maintain a similar right on the coasts? Do not they assert and exercise jurisdiction over the Chesapeake Bay and Delaware Bay, although both are about twelve miles in breadth at their mouths? and should be refused a similar right on our seaboard? The question of the fisheries was going to be submitted to a Commission composed of British and American statesmen, and he was happy to know that we should be represented in that Commission by our able Premier. He had confidence that the British Commissioners would defend our rights, and the mother-country would stand by us. And if for the purpose of ensuring the continuance of amicable and peaceful relations, and giving greater facilities to the trade between the two countries, some arrangements were recommended by the Commission, he expected that none of our rights would be given up, unless equivalent advantages were secured. Our inshore waters are the fields of operation of our maritime population. It is there that our fishermen have to reap for the support of their families. It is, so as to say, the soil they have to till day and night, and every one knows how their work is laborious, dangerous, and often poorly retributed. And therefore, if any of our fishery rights are to be given up, a policy that I am now prepared to recommend, it must be well understood that equivalent advantages, directly benefiting our maritime population, must be secured from our neighbours, such as fishing rights on the United States coasts, although I may say they are not of great value to us, a free market for our fish, and the same advantages to our shipping in the waters of the United States as they enjoy in ours. Mr. Fortin had also a few remarks to make with regard to another complaint coming from the other side of the line. It was that the fishermen of the United States had been molested on our coasts. He could say that this was also without foundation. It had been his lot to be employed during sixteen years in the protection of the fisheries of Canada, and he had reliable information as to what had taken place in the Gulf prior to the establishment of the Protection Service in 1852, and he could say that the American fishermen had never been molested on our shores, neither by the agents of the Government, nor by our maritime population, who at all times treated the American fishermen in a most friendly manner. He would say more, it was the American that had often molested our fishermen in our waters, and he could prove that this was the case by citing numerous instances. But he would content himself by mentioning the following cases: How often has it not happened that our fishermen have been practically excluded from the harbour of Notashquoin, and the fishing grounds adjoining it, although Notashquoin is to the West of Mount Joli, and consequently undeniably in waters reserved to the British fishermen, because American fishing vessels happening to be there before our vessels, filled that harbour to such an extent, that hardly any room was left for our own vessels to find shelter in it, while the fishing grounds were covered by swarms of American fishing boats, which, as may be well understood, injured very materially the operations of our fishermen. How many times have not large numbers of American fishing vessels come to anchor in our harbours, roadsteads, and bays, inside and among the moorings of the nets of our fishermen, and have either prevented the latter from setting their nets, which were going to provide them with bait for the next day's work, or have, in running out during the night or even in the day time, torn and destroyed many of those nets, worth from \$20 to \$40, by catching them with the keels of their vessels, and thereby depriving our fishermen of the means of prosecuting their labours of the morrow and sometimes of many days. No bait, no fishing, as every one knows. I will not speak of the numerous instances in which our maritime population have suffered from depredations, trespasses, and other acts of malfeasance, and for which our people got no redress. Before ending his remarks, Mr. Fortin renewed the expression of his confidence in the Government, and said that the utterances that had fallen from the lips of the Honourable Premier, when he spoke this afternoon, confirmed him in the belief in the negotiations being about to be opened at Washington, the Government would maintain our rights. He added that the protection given to our fisheries last year had been productive of a great deal of good, and hoped that it would be continued. There was a time when this question of our fisheries and their development and protection were looked at under different points of views by the people of different sections of this country. The western portions of this country had in general always opposed the fostering and protection of this important part of our national wealth, and all know the opposition that had been made, and the ridicule that had been attempted of the action of the Government when the first expedition was fitted out in Canada for the protection of our fisheries. But it was with pleasure that he could state now that those unfortunate differences of opinion had disappeared, and that in the question now before the House, the sentiments of the whole nation were in unison. And this is not the least of the happy results of Confederation which has bound together the people of the different Provinces, not only by material tie, but more so by sentiments of friendship, respect, and union, which justify us in the expectation of a bright future for this country.

Dr. Robitaille.—I did not intend, Mr. Speaker, to offer any remarks on the subject that has occupied the attention of this hon. House for several hours, but I must corroborate the statements made by my

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friend from Gaspé. The American fishermen have never been molested by our fishermen nor by the authorities of this country; on the contrary, they have been the aggressors on all occasions. They have, without provocation, ill-used our people on shore as well as at sea; they have taken advantages of the Sunday to abuse and insult our peaceful population on the highway as well as in the houses; they have wantonly destroyed nets set along the shore for bait belonging to our fishermen; they have stolen our fishermen's boats, and have, by their large numbers, made themselves masters on the waters on Bay Chaleurs as well as on shore, insulting and assaulting right and left without any provocation; and of this I am an eyewitness. They used to look upon the Licence System as null and ridiculous, because, as they jocosely used to say, the officers engaged in protecting the Canadian fisheries must give them three warnings before seizing upon them, and they were sure of being enroute for Boston after the first or second warning, with a full cargo; and therefore they would not take licence when they could so easily avoid doing so. Hence the failure of the licence system. I need not repeat what has been so eloquently said of the importance of our fisheries, of their value to our brave and hardworking fishermen, of their value to this country in a pecuniary point of view, as well as a field for the promotion of a hardy class of sailors, upon whom may depend on some future occasion the safety of this country. I need not enlarge upon the necessity of preserving intact those most valuable fishing grounds, that vast field of labour for nearly one-fifth of our population, as those things are fully understood by this House and by the public at large. My chief object in rising, when the subject of this debate has been so completely exhausted by able and eloquent speakers, is to ascertain from the honourable leader of the Government if I understood him correctly when I gathered from his remarks concerning the fisheries the other day, speaking on the Address, "*That the headland question was of little moment, provided we could preserve our exclusive right to the three miles limit.*" If I am correct in this, the honourable Premier will permit me to say that he has not grappled with the importance of the question; that if he is prepared to give up the question of the headland limit he may as well be prepared to give up the three miles reserve; that if he by any possibility entertains any such notions he had better not go to Washington, as he would sacrifice one of the greatest interests of the Dominion; and I speak thus to the honourable gentleman because the moment he allows the American fishermen to penetrate into our bays he may rest assured the fishing is done for our own people. For instance, the moment the American fishermen come into Bay Chaleurs, where I have personal experience, even keeping outside of the three miles limit, the fishing is done for our people, as they come in large numbers and ruin our fishing grounds by their practice of sowing bait and throwing the offals of fish into the sea. The honourable Premier knows that I appreciate his talents and his consummate knowledge (and, indeed, Mr. Speaker, if I had not had ten years' experience of his ability, his statesman-like speech this afternoon would have been sufficient to gain my esteem). He knows that I repose implicit confidence in him; that I feel his presence at Washington will be a safeguard to the interests of the Dominion, and therefore I trust he will accept my remarks in the same spirit as they are given, and that he will be in a position to dispel my apprehensions.

Hon. Sir John A. Macdonald had much pleasure in repeating what he had already said, which was, not that the headland question was of no consequence, but that it was unimportant as compared with the whole question of the fisheries. In order to meet the wishes of Her Majesty's Government, and in order to obtain the support of that Government, the Canadian Government had agreed that the headland question should be left in abeyance, but at the same time it was fully stated, and in no way abandoned. If the Canadian Government had not so acted it might have failed to get the moral support of the Imperial Government and the presence of the British squadron in Canadian waters.

Dr. Robitaille.—I am happy to hear the honourable Premier say that the question of headlands will not be abandoned, and I have full confidence in his assertion. Now, Mr. Speaker, I had expressed, last session, complaints because of our fishermen were left unprotected against the encroachments and molestations of American fishermen, and I feel it my duty to declare to this House that during the last season, such judicious and efficacious protection has been given as commands my approbation as well as that of this honourable House.

Permission was then given for the withdrawal of the resolutions.

No. 16. (Confidential.)

No. 16.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, March 9, 1871.

(Registered March 25, 1871.)

MY LORD,

I HAD the honour to send to your Lordship to-day the following telegraphic message:—

* Page 95.

In reference to your Confidential Despatch of February 16th,* Canadian Council request me to say "Canada considers inshore fisheries her property, and that they cannot "be sold without her consent."

The Earl of Kimberley,
&c. &c. &c.

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

(Confidential.)

No. 17.

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No. 17.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, March 16, 1871.

MY LORD,

(Received March 30, 1871.)

(Answered Confidential, April 10, 1871, page 97.)

I HAVE the honour to forward, in reference to your Lordship's Despatch (Confidential) of the 1st February,* a Minute of the Privy Council, which authorizes the Minister of Marine and Fisheries to take the necessary steps to procure for transmission to your Lordship the information you desire under two heads.

* Page 94.

March 13,
1871.

1st. As to the conclusions arrived at by the courts of law in regard to certain trespasses and offences against the fishery laws; and 2ndly. Instances of cases in which transactions of the kind had been in fact prevented by authority.

2. I think it best to transmit also the Report of the Minister of Marine and Fisheries, which the Council had under consideration. Though the Minute of Council does not allude to various points raised and statements of opinion expressed in the Report, but simply confines itself to giving the authority required to collect and furnish the details specified in your despatch.

3. Your Lordship will observe the suggestion made in the Report of the Minister of Marine and Fisheries that copies of the evidence and judgments in the several cases of seizures named in the Nova Scotia journals to which your Lordship refers would probably be found on reference to the records in the archives of the departments at home which had at the time supervision of the seizures referred to.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 17.

Enclosure in
No. 17.

COPY of a REPORT of a COMMITTEE of the HONOURABLE the PRIVY COUNCIL, approved by HIS EXCELLENCY the GOVERNOR-GENERAL in COUNCIL, on the 13th day of March, 1871.

The Committee have had before them the Memorandum, dated 2nd March, 1871, from the Honourable the Minister of Marine and Fisheries on the Despatch from the Earl of Kimberley of the 1st February last, requesting further precise information as to the practice which, previous to the conclusion of the Reciprocity Treaty, was pursued with respect to the admission of United States' fishing vessels into the ports of the former provinces of Nova Scotia, New Brunswick, and Canada; and they respectfully advise that the Minister of Marine and Fisheries be authorized to take the necessary steps to procure, for transmission to the Secretary of State for the Colonies, the information asked for in his said despatch.

(Certified) WM. H. LEE,
Clerk, Privy Council, Canada.

Department of Marine and Fisheries, Ottawa, March 2, 1871.

The undersigned has the honour to report for the information of the Governor-General in Council on the Despatch referred to him from the Earl of Kimberley, dated the 1st ultimo, respecting further precise information as to the practice which, previous to the conclusion of the Reciprocity Treaty, was pursued with respect to the admission of United States' fishing vessels into the ports of the former provinces of Nova Scotia, New Brunswick, and Canada.

In reference to the first point stated by his Lordship, viz.: "As the Treaty of 1818 was so plainly the inauguration of new relations on the subject, I do not think that much stress can be laid on the letters of Lord Bathurst and Rear-Admiral Milne."

The undersigned cannot agree with his Lordship in reference to this Despatch or the effect of it; nor can he perceive any reason why the positions assumed by the Earl of Bathurst in 1815, and enforced by Her Majesty's vessels of war under Rear-Admiral Milne, at a period when the United States' Government questioned our right to exclude their fishermen, should be less patent after the Convention of 1818, which limited the rights of American fishermen much within their previous pretensions, and which contained a positive disclaimer of the greater part thereof.

The inauguration of the "new relations" to which his Lordship refers were simply a settlement of the points previously in dispute between the two nations, and in which the position assumed by the Earl of Bathurst *quo ad* those portions of our coasts within which we still exercise exclusive jurisdiction, was maintained, and the undersigned respectfully submits that the precedents established by the correspondence of the Earl of Bathurst, and enforced by "Admiral Milne," remain equally valid as precedents and authorities at the present day as they did prior to the Convention of 1818; nor can he see any reason adduced by his Lordship to support the opinion that their value or importance as precedents had been affected.

Upon the second point referred to by his Lordship, viz.: "The seizures alleged by Mr. Mitchell to have been made in 1817," the argument above stated equally applies. His Lordship, however, in further reference to these seizures, states that they "moreover appear by the Nova Scotia journals, to which Mr. Mitchell refers, not to have been supported by the courts to which they were referred." Upon this point the undersigned would respectfully observe, that though the Courts of Justice of Nova Scotia, before

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which the vessels referred to as having been seized in 1817 were libelled, held that they had infringed upon our rights by their encroachments; yet, inasmuch as there was no legal machinery to enforce punishment, the vessels were ordered to be restored.

The undersigned would therefore respectfully submit that the release of the vessels referred to, having been made upon the grounds stated, does not invalidate the force of the precedent which their seizure illustrates, but simply proves that the machinery was wanting to enforce our rights, and this was subsequently supplied by the Act of 39 Geo. III., cap. 38.

The undersigned would further observe, that as Lord Kimberley desires more specific and authentic information in reference to seizures of foreign vessels which have heretofore been made, and also on other points mentioned in his Lordship's Despatch, in relation to such vessels and in connection with the enforcement of our fishery rights, it is probable that Her Majesty's Government, by reference to the records within their reach in the archives of their department, having at the time supervision of the seizures referred to, would find copies of the evidence and judgments in the several cases of seizures named in the Nova Scotia journals to which his Lordship refers; and his Lordship would thus probably be able to obtain the information upon the accuracy and authenticity of which its value mainly depends; but in order to supplement such information, the undersigned would recommend that Council should direct that copies of the evidence and depositions taken, and judgments passed, should be obtained in all cases of detention and seizure of foreign vessels for violation of our fishery rights between the years 1812 and 1854, in the provinces of Nova Scotia, New Brunswick, and the former province of Lower Canada, as well as full information on the several other points requested by his Lordship's Despatch before referred to, in order that the same may be forwarded with as little delay as possible for the information of Her Majesty's Government.

The whole nevertheless respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

No. 18.

No. 18.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 99.)

Government House, Ottawa, May 4, 1871.

(Received May 18, 1871.)

(Answered, No. 427, May 25, 1871, page 98.)

MY LORD,

* Page 98.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 389,* of April 12th, 1871, suggesting the suspension of that part of the special instructions to the commanders of the Canadian marine police vessels which relates to the exclusion of United States' fishing vessels from entering bays or harbours for purposes of trade.

2. I duly referred your Lordship's Despatch to the Privy Council of the Dominion, whose Minute thereon I beg now to enclose. Your Lordship will perceive that they have acted in accordance with your suggestion, and suspended the enforcement of the prohibition for the present season.

May 4,
1871.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in
No. 18.

Enclosure in No. 18.

COPY of a REPORT of a COMMITTEE of the HONOURABLE the PRIVY COUNCIL, approved by HIS EXCELLENCY the GOVERNOR-GENERAL, dated the day of May, 1871.

The Committee have had under consideration the Despatch, No. 389, dated 12th April last, from the Right Honourable the Secretary of State for the Colonies, in reference to instructions to the commanders of Canadian cruisers on the service of the protection of the fisheries for the approaching season of 1871, and suggesting the suspension of a portion thereof.

They have also had before them a Report, dated 2nd May, 1871, from the Honourable the Minister of Marine and Fisheries, to whom the above Despatch was referred, submitting copy of the instructions to Canadian fishery officers, amended in the manner suggested by Lord Kimberley; and they advise that the change proposed be adopted, and a copy of such amended instructions transmitted for the information of Her Majesty's Government.

(Certified) WM. H. LEE,
Clerk, Privy Council, Canada.

(Confidential.)

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to FISHERY OFFICERS ex-officio MAGISTRATES, in command of GOVERNMENT VESSELS engaged as MARINE POLICE in protecting the INSHORE FISHERIES of CANADA.

Department of Marine and Fisheries.

Fisheries Branch, Ottawa, February 25, 1871.

SIR,

The service to which you are appointed is a special and peculiar one; and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions for your information and guidance are of a confidential nature.

The duties you will perform and the powers you shall exercise are defined by the present instructions.

Duties.—It will be your duty to cruise, at all times, with the vessel under your command, on the various “stations” to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the inshore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably, American fishing vessels and fishermen chiefly will be concerned. Therefore, it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

The terms of the first article of the Convention of the 20th October, 1818, between Great Britain and the United States has, since the expiration of the Reciprocity Treaty, governed the participation of American fishermen in the Gulf and Labrador fisheries. A copy of the said article is appended.

1. United States fishermen may exercise the liberty of fishing, in common with British subjects, along that part of the coast of Canada extending from Mount Joly, near the river Grande Natashquan, to the easterly limit of Canada at Blanc Sablon Bay, and around the Magdalen Islands, and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are: for shelter, repairing damages, purchasing wood, and obtaining water. Under the treaty United States fishermen are prohibited from frequenting colonial ports and harbours for any other purpose whatever; but for the present season it is not proposed to enforce such prohibition. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them.

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, nor is it desirable to impose 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 the 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 desire of Her Majesty’s Government that 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.

Americans, when so admitted, 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 observe 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 throwing overboard the offals, thus fouling the fishing, feeding, and breeding grounds. The Fisheries Act (Sect. 14) provides a heavy penalty for this offence.

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

Copies of the fishery laws of Canada accompany the present instructions.

Powers.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a fishery officer are derived from the following statutes: “The Fisheries Act” (31 Vict., cap. 60);

“An Act respecting Fishing by Foreign Vessels (31 Vict., cap. 61) and “An Act to amend the Act respecting Fishing by Foreign Vessels” (33 Vict., cap. 15).

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia” of the Coast and deep Sea Fisheries);

The Act entitled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vict., 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 Vict., cap. 69); The Imperial Act 59 Geo. III., cap. 38;

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 Marine and Fisheries, under the Fisheries Act hereinbefore cited.

In such capacity, your jurisdiction must be strictly confined 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, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than six miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found in violation of these regulations within three marine miles of the coast.

CANADA.

Should you have occasion to compel any American 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, and hauling of seines, and use of “trawls,” or “bultows,” more especially at and around the Magdalen Islands,—your power and authority over such cases will be similar to that of any other fishery officer appointed to enforce the fishery laws in Canadian waters. (Vide Fisheries Act).

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will therefore be given you by the Customs Department, authorizing you to act as an officer of Customs: and it will form part of your duty to see that the laws and regulations affecting revenue are duly observed. In your capacity of a Customs officer, you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs laws.

Jurisdiction.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818 the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen 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, though in parts more than six miles wide, is less than six geographical miles in width at its mouth. In the case of any other bay, as Bay des Chaleurs, for example, you will not interfere with any United States fishing vessel or boat, or any American fishermen, unless they are found within three miles of the shore.

Action.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than six geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof not wider apart than six geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, in accordance with the above recited Acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation; but you are not to do so unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and that the vessel is captured within the prohibited limits.

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provide for carrying out the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

Directions.—If from threatened resistance and obvious determination to contest the seizure, and because of the relative inadequacy of your own force you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorized to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need you must signal for or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Government vessels belonging to the marine police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, 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 disposed of as soon as convenient in the manner directed by law; 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 respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place, and the ship, vessel, or boat was seized. Also corroborate the bearings taken by soundings, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and landmarks as shall place beyond doubt the illegal position of the seized ship, vessel, or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the headland lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause independent of the will of the master and the crew, you will consider these circumstances and satisfy yourself with regard thereto before 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 endeavour to engage a few trustworthy men to supply any such emergency. 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, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations or in port shall be 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 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.

The service in which you are engaged will be subject to the general direction and control of the chief Officer in command, Captain P. A. Scott, R.N., on board the Government steamer 'Lady Head' (in the case of the schooners 'Stella Maria' and 'La Canadienne' this general control is vested in Napoleon Lavoie, Esq.), whose orders and arrangements you will conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and naval officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive as above.

Considerable inconvenience is caused by Canadian fishing vessels and those belonging to Prince Edward Island 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 impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

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

I have, &c.,
(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

APPENDIX A.

ARTICLE I. of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA,
Signed at London, October 20, 1818.

Article I.—Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 19.

No. 19.

The LORD LISGAR to The EARL OF KIMBERLEY.

(Confidential.)

Government House, Ottawa, May 25, 1871.

(Registered June 8, 1871.)

(Answered, Confidential, July 20, 1871, page 103.)

MY LORD,

THE various extracts from newspapers which I have the honour to enclose will give you a full and tolerably correct view of the mode in which, at the present moment, people in Canada are disposed to regard the Treaty of Washington, and especially those parts of it which touch Canadian interests.

2. These papers may be ranged under four heads.

CANADA.

1st. The Resolutions of the Provincial Parliament of New Brunswick.

2nd. Opinions of the Press collected in the columns of the 'Daily Globe,' the great opposition paper.

3rd. The first leading article on the treaty, issued by the 'Daily Globe.'

4th. The first leading article issued in the 'Minerve,' the leading French paper which writes in the ministerial interest.

3. The resolutions adopted by the Legislature of New Brunswick are sufficiently explicit, and are endorsed by the paragraph in the speech of the Lieutenant-Governor closing the session.

4. You will observe that neither the Lieutenant-Governor nor his Parliament waited for any formal or authentic announcement of the conditions of the Treaty, but proceeded to condemn certain points and place their opinion on record without loss of time upon receipt of the newspapers containing an account of the Treaty alleged to have been surreptitiously procured.

5. This prompt hostility augurs ill for the temper in which this New Brunswick Legislature will probably be found disposed to deal with Clause 31, which is specially reserved for their sanction.

9. The premature disclosure in full of the terms of the Treaty was unfortunate as regards the Provinces of New Brunswick and Nova Scotia.

7. In the former the session was just drawing to a close, a few days more and the members of the Parliament would have been dispersed to their homes; had the disclosure been postponed for those few days the opportunity would not have offered itself for enunciating an adverse opinion in such hot haste.

8. In Nova Scotia the Provincial elections were in process to be decided within the week in which the publication took place. It is said the news injuriously affected the Unionists' candidates, but to what extent I have not heard stated with any degree of accuracy. The Unionists have, in any case, made a great rally, they numbered only two in the former Parliament. In this they have won several seats, and they now number 15 or 17—a respectable minority in an Assembly of 38—about two-fifths of the whole.

9. The news, I therefore infer, cannot have had much influence against the Unionists. There is, however, only too much reason to fear that both they and their opponents, the Anti-unionists, will take the same line as that taken in New Brunswick so soon as the opportunity is offered by the meeting of the Provincial Parliament, for the coal-owners and miners looked for the taking off of the duties on their coals imported into the United States, and the lumberers of both the one and the other Province export mostly lumber of the quality on which the high duties of the United States weigh very heavily.

10. It was an unlucky chance that gave New Brunswick the lead and enabled it to strike the first blow in the conflict of debate. That Province is the only one of the four in the Dominion which has adopted the practice of voting by ballot at the parliamentary elections. The ballot has, I am told, produced the same effects in the Province which it has been observed to produce in the United States and elsewhere of eliminating or discouraging the competition of the better class of candidates at the hustings, and of rendering the bodies elected impulsive and apt to take up the extreme views current at the moment on any topic of public interest in their fear of losing popular favour, and their ignorance of the parties and adherents on whom they can rely for support.

11. It is to be regretted that a public body thus inferior, as I am informed by persons of authority, to those which exist in the other Provinces, both in its individual members and in its general tone, should have had the first word in the controversy which is now raging—for controversy it is. Opinion in the Dominion is by no means unanimous against the Treaty, and this being so, we may hope that as many months must elapse before the Parliament of Canada can be called upon for a decision, that a more thorough examination of the Articles of the Treaty, and a calmer appreciation of the general position, will induce more moderate councils than those which the good people of New Brunswick are at present inclined to entertain.

12. The 'Daily Globe' is the great organ of the opposition. It reserved its own opinion for several days, but collected and published extracts from the newspapers of the United States and Canada, several of which I subjoin (No. 2 enclosure).

13. On the 19th May, however, it broke silence in a leading article (No. 3 enclosure), which is supposed to convey the result of the deliberations of a conclave of the principal leaders of the opposition, and to foreshadow the line of conduct which they mean to pursue in Parliament in reference to the Treaty.

14. The 'Minerve' is the leading French paper of Canada. It writes in the interests of the Government, and you will be pleased to see the tone it takes, as well as interested by the various facts and accurate statistics with which it supports its view of the case.

15. I do not know that I can add anything to the general view of feeling and opinion as they stand at present which these papers will convey.

16. I hear General Butler has made a furious speech, which I have not seen, denouncing the fishery articles of the Treaty as ruinous to the fishermen of Maine, Massachusetts. It will probably reduce the price of fish to the consumer in the United States, for the annexed extract (No. 5) shows that the United States levy \$200,000 on fish imported from Canada, i. e. on what is computed to be about a fifth part of the whole consumption. The amount so levied must enhance the cost of the other four-fifths to the consumer and serve as a bounty to the United States' fishermen.

The Earl Kimberley,
&c. &c. &c.

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

P.S.—After I wrote the above I obtained the summary of General Butler's speech, which will be found at No. 6 enclosure.

L.

Enclosure 1 in No. 19.

Enclosure 1
in No. 19.

The RESOLUTION of the PROVINCIAL PARLIAMENT of NEW BRUNSWICK.

St. John, N. B., May 17.

The following is the correct text of the resolutions introduced by the Attorney-General in the Legislative Assembly yesterday:—

“Resolved, That, in the opinion of this House, the treaty signed at Washington on the 8th day of May inst., by the respective plenipotentiaries of Great Britain and the United States, so far as the same relates to our fisheries, is not satisfactory to the people of this province, inasmuch as whilst containing no definition of the existing rights and duties of the subjects and citizens of Great Britain and the United States, and postponing all questions growing out of the exercise and enforcement of such rights and duties, it prematurely, and without sufficient consideration of Canadian interests involved therein, substitutes for the protection to which the British fishermen are fully entitled by public law, and which the recent enactments of the Parliament of Canada have largely secured, a policy of unlimited and dangerous concessions.

“Resolved, That the privileges accorded to subjects of Great Britain by the 19th and 21st articles of the treaty are by no means an equivalent for the privileges by the 18th article accorded to the inhabitants of the United States; that the reciprocal privilege of fishing in certain American waters is barren and delusive, and that the mode of determining and accounting for the excess in value of the privileges accorded the Government of Great Britain over those accorded by the Government of the United States is erroneous in principle and impracticable in execution; and the considerations of the advantage are too remote and uncertain.

“Resolved, That in any treaty relating to the free use of the fisheries, and to the navigation of rivers and canals, Canada should at the same time make provisions for the further regulation of commerce and navigation beyond those secured by the articles of the treaty as above concluded, in such manner as to render the same reciprocally beneficial and satisfactory.

“Resolved, That in the opinion of this House the Parliament of Canada should, under existing circumstances, adhere to and carry out the policy of the protection of the fishery rights of the Dominion of Canada, recently adopted, and should not give assent to the articles of said treaty relating to the fisheries.”

After the resolutions had been read, the Attorney-General said this was a serious question for British subjects the world over. It had been 16 years since this Assembly had considered a question calculated to add so much weight to its deliberations. No one had been fully prepared to find such concessions in the treaty agreed upon by the joint High Commission. What was the first object of the Commission? It was to consider the 'Alabama' claims. The Dominion had of its own free motion stepped in and submitted the question of the fisheries. The question, however, which was intended to be submitted was that of the right in the fisheries to the three miles from the shore, measuring from headland to headland, and another question of less importance arising under the Treaty of 1818. He then read this treaty, which defines the privileges which the United States now have in our fisheries. It was recognized by the American Government for a long series of years, though individual citizens may have violated it. He then related the history of the whole question since 1818, showing the prosperity under the treaty, and how conciliatory our legislation had been when the Americans in anger discontinued the treaty, and how they had not appreciated this legislation, but abused the licence system by neglecting to take out licences, and by trespassing upon our fishing grounds. In 1866 there were 350 licences taken out; in 1869 only 25 or 30. The Dominion was then forced to adopt a new and different policy, excluding American fishermen from our waters, not standing upon her rights entirely, and enforcing the limit from headland to headland but only the three miles limit from the shore, following the sinuosities of the bays and harbours. Having shown from official reports how advantageously these had operated for the Dominion, and how, from it, the American fishery interests had largely decreased, he claimed we should stand upon our treaty rights, and continue to protect and foster this one of our most valuable resources. It was, he said, insulting to intelligent men to speak of our receiving as a return the permission to use the American fisheries. Everyone knew they were worth nothing at all to us. We want them not when our own shores are teeming with fish; and though their markets may be a slight consideration, we have other markets. This manner of leaving to a Commission to decide upon the excess of advantage given by the treaty to the United States

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was false in principle and impracticable in operation. When we have rights we should stand up for them, and not barter them for contingencies. There was no time fixed for the Commission to meet; and any way he had little hope of its deciding justly, especially as a clause was admitted into the section referring to this matter that the United States does not admit it receives any excess of advantage. We wish to enjoy our own fisheries, taking fish into American markets in spite of high duties, if we can, or founding a market in the West Indies, South America, or the Mediterranean ports. We did not want war, and it behoved this Assembly, having no voice in such matters, to avoid all terms of menace; but while not indulging in this, he felt, and the country felt, that dangerous concessions were being made to the United States. In earlier days British statesmen spoke in firmer terms. The provision regarding trade on the lakes and the use of canals gave reciprocal advantages, and would draw trade from New York to Montreal; but these Lower Provinces want to adhere to the policy already inaugurated by the Dominion Parliament. This we ask of the Dominion Parliament. He expressed his feelings of hostility—not for the mother-country—she had in the interests of peace made great sacrifices, bowing herself in the dust—but for the country which had ever shown an unchristian-like tendency to grasp from us our rights. We knew not but that war or peace stood trembling in the balance, and that England, not for herself—seeing she could batter down seaport towns of the United States—but for us who would suffer most, had consented to these provisions. If the United States had in view the forcing us into annexation, they may as well know at first that this is impossible. He would say of the mother-country, “Though she should slay us, we yet will trust in her.”

The Attorney-General was frequently and loudly applauded while delivering his very able and eloquent speech.

He was followed by members of the Opposition, all speaking in support of the resolutions and against the proposed treaty.

There is no doubt whatever that they will pass both Houses without a dissenting voice.

The fishermen of the Bay of Fundy are alarmed and indignant. Steps are being taken to hold a public meeting, and if time is afforded the whole population of the province will protest against it as a gross outrage.

Intelligence from Nova Scotia and Prince Edward Island represent a similar state of public feeling as prevailing there.

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OPINIONS of the PRESS collected in the columns of the ‘DAILY GLOBE,’ the great opposition paper.

From the ‘Goderich Signal.’

The navigation of our canals and the use of our fisheries have been conceded without a sufficient equivalent from the United States, as the Americans are jubilant in concluding; we think the Dominion will have reason to lift up its voice in a decided veto to that part of the arrangement. The talk about a possible money compensation is mere “buncombe,” for no payment our neighbours would agree to make to the Dominion would compensate the maritime provinces for the loss they would sustain. The position to our mind is just this:—As we were; or reciprocal trade in exchange for the use of Canadian canals and fisheries.

From the ‘Belleville Intelligencer.’

That the United States will ratify at least this portion of the treaty is pretty evident, because the advantages are all on the side of her people. That the Imperial Government will also ratify it is also self-evident, for the present administration in that country seems to be willing to do just about what the United States ask for or demand. That the Legislature of Prince Edward Island will ratify it is not so clear, and we very much doubt if the pressure from Great Britain or that of the United States will have the effect of securing its passage by that Legislature. That it will be ratified by the Canadian Parliament in the shape that it is presented to us, is somewhat doubtful. We are told that it is a simple question of reciprocity; that the United States grants permission to Canadians to fish along her coasts in return for permission to fish on our own coasts. But that is a one-side bargain. The United States fisheries have been fished out, and there is consequently no equivalent for the concessions we are asked to make. . . .

Much stress is laid upon the provisions of what is known as the bonding system, in the treaty just consummated between the Joint High Commissioners at Washington; many believing that the benefits are all on the side of Canadians, forgetting that the direct route to the west is through Canadian territory, and that it is of as much importance to the Western States to have their goods pass through Canada in bond, as it is for Canadians to seek an inlet and outlet through Portland or New York, a want from which we shall, in a great measure, be relieved when the Intercolonial Railway shall have been opened, while it will bring Chicago and other Western States two or three days nearer European States than at present, and render the bonding system of more importance than ever to the trade of the west.

From the ‘London Advertiser.’

The treaty, as we understand it, proposes to settle the fishery question by making Canada surrender her long-cherished rights, trusting to a future Commission to decide whether she shall receive anything in return, and if anything, only a certain sum of money. With this surrender any expectation of a fair commercial reciprocity in the future may well be given up. In American eyes, the fisheries have been the most valuable privilege they looked for from Canada. This freely given up, reciprocity must be left to the time when free trade principles shall govern the commerce of the States, which is not likely to be in our time. More than this, we surrender a territorial right that should be jealously guarded. Our authority over three miles of water from our shores—an authority firmly held by all people—one which a young nation

should be very slow about relinquishing—is to be given in exchange for advantages too immaterial in comparison to be worthy of notice.

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From the 'Ingersoll Chronicle.'

Canada is not so hard up for money as to descend to the national degradation of selling a portion of her territory, and the three miles from her shores are just as much a portion of her territory as is the county of Oxford. If the right to use the fisheries be conceded to the Americans for a specified period of time for a money consideration, Canada may agree to it for the sake of peace, although even that plan would be naturally distasteful; but if the Joint High Commission or the American Senate, or any other body suppose that Canada will ever consent to transfer her absolute right of property in the fisheries to the United States for any money consideration whatever, they very much mistake the spirit of the Canadian people.

From the 'Cornwall Gazette.'

Enough has leaked out to warrant the believe that, as usual, the interests of Canada have been sacrificed, and the greed and covetousness of our cute cousins over the border gratified. It has been the custom to attribute the successes of the Yankees in treaty making, where Canadian issues were at stake, to the ignorance, stolidity, and indifference of the English diplomatists; but no such explanation can any longer, with truth, be offered, for the Prime Minister of the Dominion, always regarded as the most astute and far-seeing of Canadian statesmen, represented us upon this occasion. He is not ignorant that any important concession upon the question of the fisheries will alienate the Lower Provinces for ever.

From the London 'Free Press.'—Ministerial.

In some particulars the treaty may be regarded as advisory, but certainly not peremptory, and it will remain nugatory and dead except assent should be given to it by our own act. It is not very likely that this will be the case, for, with the exception of the privilege of the navigation of Lake Michigan and the St. Clair Canal, and of receiving a sum of money, not mentioned, in exchange for the right of fishing close up to our shores, and of curing fish upon the coasts, Canada is to get nothing apparently. The very incompleteness of the proposal; the evident lack of equivalent that appears upon the face of matters, would lead to the conclusion, almost, that no expectation has been entertained that Canada would accept the proposition. It lacks the first essential of a public agreement, that of equity, and as a measure of polity must fall still-born.

From the 'Belleville Ontario.'

The advantage received by our neighbours on the fishery question they look upon as very nearly compensated for in the rights conceded to Great Britain, so that we may be asked whether we will be exacting to a hair as against the mother-country; whether we cannot afford to be magnanimous, and pass over what may ultimately be spoken of as a slight compromise of our interests, for the sake of securing a larger interest to the mother-country. Here will be a test: parental attachment *v.* interest. Canadians, what do you think of it? It has all along been the fear of many, in view of the honours heaped upon Sir John by the Home Government, that he would be more particular to obtain good terms for England than for Canada. This certainly looks in that direction.

From the 'St. Catherine's Times.'

Canada will never submit to the outrageous proposition of selling our fisheries for a "consideration" to the Yankees. The only thing that Canadians will agree to is to a reciprocity that will embrace all kinds of agricultural products, salt, flour, and lumber, as well as the fisheries. It will be the death-blow to Sir John's rule if he tries to wheedle the Commons to accept the absurdity which is foreshadowed in the "treaty."

From the 'Brampton Banner.'

It does not appear as if Canadians are to secure such benefits from the treaty as to excite in them admiration for Sir John A. Macdonald, who was entrusted with the care of their interests on this occasion. The privilege to fish in Canadian waters, and to obtain which the American Government was only brought to think that more friendly intercourse between Canada and the United States was desirable, has, it appears, been bartered away for a privilege to Canadians to fish within American waters as far south as the line of 39, together with a supplement of money, which may be agreed upon as an equivalent to the difference in the fisheries. It is very desirable that a friendly understanding should be arrived at and maintained between Canada and the States; but it is a mistake to part with that for mere money which is so very much desired by the Americans. Nor does it appear that any claims have been put forward by Sir John A. Macdonald by way of compensation for the losses sustained by the Fenian raids. So far therefore as is known Canadians will have very little to crow over.

From the 'Galt Reformer.'

With reference to the treaty from a Canadian standpoint, we must confess to a bitter disappointment. We are aware that the position of Sir John A. Macdonald as the sole representative of Canadian interests in the Commission was one of great difficulty, yet we did expect that the interests of this country would not have been bartered in the manner proposed by the treaty without a fair equivalent. The Prime Minister of Canada was well aware that a few years ago, when Messrs. Galt, Howland, and Rose went to Washington for the purpose of endeavouring to secure the renewal of the Reciprocity Treaty about to

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expire, the mission was not successful. The proposals then made by the representatives of the United States were liberal in comparison with those now agreed upon by the Joint High Commission, and yet they were at that time indignantly rejected by this country. Then there was a very general feeling of uneasiness throughout Canada as to the possible injurious effects which it was feared would follow a repeal of reciprocity. Now that dread has entirely passed away, the past few years having demonstrated the ability of this country to prosper with or without reciprocity with our neighbours. Then we would have been prepared to have made very considerable sacrifices to secure a continuance of the reciprocal trade relations with the United States; but now, while anxious to deal in the most friendly manner in commercial affairs with our friends south of the lakes, we are only willing to do so on a quid pro quo basis. We are willing to give and take on equitable terms, but nothing more than this. This feeling is so prevalent and so universal throughout every portion of the Dominion, that we are astonished that Sir John A. Macdonald should on the part of Canada have given his adhesion to so utterly unfair and one-sided an arrangement as is contained in Sections 18 to 33 of the Washington Treaty.

In order to show the great advantages which will accrue to the United States should the Canadian Parliament ratify this portion of the treaty, we have only to make a comparison between the old Reciprocity Treaty and the proposed one. Like the one enacted in 1854, the new one is to last for ten years. The United States are to have the same rights to our fisheries as they enjoyed from '54 to '64, and similar privileges (!) are to be granted Canadians in American waters as far south as the 39th degree of latitude. By virtue of the old treaty, Canadians, if they chose, could fish as far south as the 36th degree, so that if any benefit is to be derived from the United States' fishing ground, the coast limits are under the new treaty lessened about 200 miles, while ours are the same as before. Fish oil and fish of all kinds are to be admitted free of duty from the one country to the other. Now to those who may be unacquainted with the fishery question, this would seem to be a most fair and equitable arrangement, and yet in reality nothing could be more unfair to Canada. The fact is that the fishing grounds of the United States are comparatively worthless, and none know this better than the people of that country. When the old treaty was under discussion in the House of Representatives in 1854, the Hon. Mr. Tuck, of New Hampshire, said, "*There are no mackerel left on the shores of the United States, and that fishing cannot be successfully prosecuted without going within three miles of the shore, so that unless we have the privilege to enjoy the shore fishing without annoyance, the mackerel fishing will be broken up, and that important nursery for American seamen will be destroyed.*" Another incontestable proof of the utter worthlessness of the American fisheries compared with our own, is seen in the fact that during the whole time of the Reciprocity Treaty not a single Canadian boat, nor a single Canadian fisherman ever entered the American fisheries, to take advantage of the "reciprocal advantages" secured thereby. On the contrary, our own fisheries are a source of inexhaustible wealth to the Dominion, and their value can hardly be estimated. To say nothing of the catch of fish by our own fishermen, the fishermen of the United States in the year 1866 are estimated to have taken cod and mackerel to the value of nearly \$12,000,000. In the Report of the Minister of Marine and Fisheries of Canada for the year 1869, Mr. Mitchell says, "that the material worth and national importance to Canada of the eastern and western fisheries in British American waters, can scarcely be overestimated. . . . They provide an important nursery for our seamen, and they afford an inexhaustible field for the skill and energy of our seaboard populations. *Their exclusive use, therefore, affords these United Provinces such advantages as a young country cannot too highly estimate, and should on no account neglect or abandon.*" Again in his last Report Mr. Mitchell says, "There is no country in the world possessing finer fisheries than British North America. As a national possession they are inestimable, and as a field for enterprise and industry they are inexhaustible. . . . As regards particular sections of the country, *the benefits of the sole privilege of fishing are, practically speaking, an almost vital necessity.* The teeming waters around the coasts of the British North American possessions present to our view a national property, richer and more perpetual than any mere moneyed estimation could express. It is in the highest degree gratifying to find that British subjects are becoming every year more and more alive to their vast importance, and that Canadians especially are now more than ever anxious to preserve them as the finest material portion of our Colonial heritage. . . ."

These extracts, and scores of others which we might give, attest the immense value of our fisheries. And these the Joint Commission have agreed to give—for what? The privilege of fishing on the American fisheries, where there is nothing worth fishing for, and where no Canadian has cast a line for the last 20 years, neither will for as many years to come. We are also to have the right to send fish free of duty into the United States. As a Montreal journal puts it the treaty amounts to this, "Two men, moving in the same sphere, reside side by side. One has a potato field the other has not. The individual that is minus, blandly proposes to his better-off neighbour that if he allows him to dig potatoes in his plot, he (the minus individual) will give him (the owner of the plot) the privilege of offering him potatoes for sale. It seems fair to assume that the sales would be few and far between. The above is a true simile of the proposed settlement."

We shall again resume the subject in another issue, and we hope the matter will be fairly and candidly discussed by every journal throughout the Dominion. We are anxious to have peace and harmony between Brother Jonathan and ourselves, but to secure this we are not willing to sacrifice great interests and receive therefor comparatively nothing in return. We are convinced that the treaty arranged will not be satisfactory to Canada in its present shape, and while making due allowances for the difficulties surrounding the question, we do not think we say too much when we declare that the provisions of the proposed protocol will be read with a feeling of keen disappointment by the large majority of Canadians.

From the St. John, N.B., 'Freeman.'

The worst apprehensions of the true friends of these provinces have unfortunately been realized. Our fisheries are sacrificed,—lost to us, and lost for ever, unless indeed the Senate of the United States refuse to ratify the treaty. Of this we have little hope, neither is there any hope in the Imperial Parliament. Every one must have desired to see the questions at issue between the two countries settled on fair terms. Most

persons would be willing to sacrifice much in order to obtain such a settlement. War between Great Britain and the United States would be most disastrous, no matter who came off nominally victorious. For these provinces such a war would be fraught with utter ruin; and we are therefore particularly interested in doing all that could reasonably be expected of us to avert so frightful a calamity. But why should we be made the chief victims of Imperial policy? Why should we be required to give up everything and get nothing in return but the benefit resulting from what will be a hollow truce instead of a lasting peace? Under the old Reciprocity Treaty we received in return for the admission of Americans to our fisheries free admission to the markets of the United States for our fish, our lumber, our cordwood, our freestone, our plaster, our coal and potatoes and oats—all the productions, in a word, of the sea, the farm, the forest, and the mine; and under that treaty an immense trade grew up which enriched many parts of this province and of Nova Scotia. In the Upper Provinces also the benefits resulting from that treaty were admittedly great. Now we give away more than we gave before, and all we get in return is the admission of the fish caught by our fishermen to the markets of the United States, and perhaps some small sum of money, which if obtained at all will be squandered by the Dominion as soon as it has been obtained. The people of this country were promised a Reciprocity Treaty, and now they find all they had to barter for such a treaty—their fisheries, the right of navigation of the St. Lawrence and its canals—has been given away irrevocably and for ever, and that all hope of a fair Reciprocity Treaty is utterly extinguished.

From the St. John, N.B., 'Telegraph.'—Ministerial.

But then the Canada fishermen are to be permitted to fish in American waters. There is a touch of grim humour about that idea that our fishermen will appreciate. It is rather heightened by the implied assertion that the fisheries of the United States are quite as good as those of Canada, or more correctly, that all the fishing and market privileges accorded to the Canadians are equal to those which are to be given to the United States. Except on the principle of breaking to Canadians, as gently as possible, the evil tidings in regard to their interests with which the treaty is fraught, no one will attach much value to this provision of the treaty. When these and other features of it were mentioned some time ago by the American press, the best-informed Government journals of Canada warned the public against crediting them in the absence of authentic information; now it seems the information then published was correct, and that the treaty, as the Washington telegrapher very justly says, gives away most valuable privileges to American citizens, and gives to Canadians very little in return; less than Americans ever before proposed for such a boon, less than Canadian ministerialists ever professed to be willing to receive. The document drawn up at Washington, so far as its tenor has reached us, is a surrender rather than a treaty; in that respect it completely casts into the shade the Ashburton Treaty itself.

From the 'Halifax Morning Chronicle.'

A more disastrous treaty for this province has never been agreed upon in our colonial history. It gives the Americans all the important advantages of the old Reciprocity Treaty without any satisfactory equivalent. We feel convinced that the people of Nova Scotia, irrespective of party, will join with one voice in denouncing this extraordinary and high-minded outrage upon the rights of these Colonies.

From the Proceedings in the New Brunswick Legislature, May 10.

Mr. Wedderburn said he regretted very much to read the report that had come from Washington, and asked the Government not to send the House home until they knew the result for certain. If we were to be sold like so many sheep either by the British Government or Sir J. A. Macdonald, away went our boast that we were British subjects and would receive British justice.

Mr. Hubbard drew attention to the reference to the export duty on lumber, and said if American lumber was exported free, it would be breaking in on rights secured by the Union Act, and Government should throw the whole matter on the Dominion, and make them pay the \$63,000 duty; he also said if they were doing as report stated, people in this country should not tolerate it one moment.

The Attorney-General said the Government had in mind to bring down certain resolutions when they had received authentic information.

The Provincial Secretary said if this report were true, the export duty the coming year would not be worth over \$20,000, as two-thirds of the lumber coming down the St. John River would come as American lumber. If necessary they would not prorogue on Monday, but stay 10 days longer in order to give every member an opportunity of expressing his views.

Mr. Gough said he supposed the Government would not act without official information. Although members felt that expressing views at present was premature, yet it seemed impossible to restrain their indignation, and every one who spoke on the subject was very warmly applauded on both sides of the House.

From the St. John, N.B., 'Telegraph.'

It will be said there is no use in rejecting the proposed fishery surrender, because the British Government may say to us, "If you do so we will not protect you, but leave you and your fishermen to the tender mercies of the Americans." This would be a very superficial and ill-considered rejoinder. In the first place, the Government that would say so would not be long in power. England cannot denude herself of her obligations to protect us, simply because we have exercised our constitutional privileges, and have demanded to be permitted to enjoy our territorial rights. The union of the provinces implied no surrender of those rights, despite the shallow claims of Anti-unionists to the contrary, but rather the better conservation of them. In the next place, we should take the risk of the Americans possessing themselves of our fisheries in the character of filibusters. American sentiment, which in New England at least is law-abiding, would hardly admit of such piratical doings; they would disgrace America in the eyes of the world. But

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if the worst came to the worst, we would rather take our chances of negotiation with the Americans, nay, we would rather accept the risks of being stricken down by them in an unequal contest from which England should stand aloof altogether, our colours flying in the breeze, than have all our most precious privileges filched away from us piecemeal and under constitutional forms, and be thus left without anything to offer to our neighbours in return for these trade relations which we might desire with them; we should prefer the very worst and most dangerous of these alternatives to the proposed surrender of our fisheries, according to the specious but deceptive programme of the Joint High Commission. If the Parliament of Canada be of the same opinion, we hope it will say so, and we are strongly inclined to think it will. When it does so, it will present a spectacle which will command respect and admiration in the British Isles and in the United States.

FRENCH PAPERS ON THE TREATY.

'Le Journal de Québec,' a strong Ministerialist, can see nothing in the Washington Treaty that is favourable to Canada. After giving an account of the various conditions of the treaty, it adds:—

"We forgot to say that Canadian fish are to enter the American markets free. Sorry compensation! when American fishing boats will soon cover our fishing grounds to such an extent that our own fishermen will soon have nothing to sell. Nor have our fishermen ever desired the privilege of fishing in American waters, which are far inferior to our own, as the public men of the States know only too well. These decisions of the International Commission make a division like that of Montgomery: 'everything on our side and nothing on the other.' It is the ancient policy of Britain, persisting in her sorry traditions, always giving in order to obtain peace, and always sacrificing us for fear of actual or possible conflicts with the States. The fears of the country when it saw this International Commission appointed are to be realized. The earthen pot naturally and reasonably has need to fear when travelling between two of iron. Besides, what connection is there between our incontestable and uncontested rights on those waters, guaranteed as they have been by a solemn treaty, and the question of the 'Alabama?' For our part we protest humbly but energetically against a policy so suicidal, which we do not comprehend, unless it be presumed that those who are soon to form only one people should enjoy the same privileges and the same rights. But in that case, why is reciprocity not more real, and why are *we* only called upon to suffer? If all the labour of the Commission could only arrive at the simple result that concessions have to be made exclusively at our expense, what was the need of making it so solemn and expensive an affair, and why not come to the point in a straight line? Why not tell us without any beating about the bush, 'You know what powerful motives we have for not quarrelling with the United States. We wish to preserve peace at any price, because war would endanger too many English interests. On this account be good enough to sacrifice yourselves, and because it is necessary, give up, to the very last farthing, your rights and privileges.' Will the Federal Parliament give its sanction to such a treaty? We don't know; but let us at least leave ourselves the comfort to believe that it will not."

These remarks of the 'Journal' were made on the presumption—correct as it turned out to be—that the American newspapers gave a fair account of the treaty. Returning to the subject on Saturday last, when the text of the treaty was known, 'Le Journal' gives additional comments in the following style:—

"Certain sheets are favourable to it because they are annexationists, and because everything which tends to make one people out of the two comes in for their admiration. Other papers don't see how it was possible to make a different arrangement so as to prevent a possible conflict. According to this kind of reasoning everyone should give up his property to his neighbour so as to protect himself from his covetousness, and so property would become an empty word. A profoundly absurd idea! The Montreal 'Herald,' an annexationist sheet, finds the treaty admirable even for the Maritime Provinces, where, according to the 'Herald's' idea, an enormous traffic in fish will be developed. We shall soon see if this is the way in which these provinces view the matter.

"The free navigation of the St. Lawrence might have its advantages if there were reciprocity in the exchange of products, but if it is simply the passage of American vessels through our internal waters it will be a very small thing. . . . What would this country gain by such an arrangement? Nothing! for the commerce of the West, instead of coming through our vessels, according to the arrangements lately made by Canadian companies, would come by American boats when our waters had become theirs. We should have had no objection to this had we had equitable compensations provided in the treaty; but we have been entirely and absolutely sacrificed to the British policy of peace at any price with the United States. It is annexation, with all the advantages of that arrangement secured to the United States; but for us, mere sequestration and ruinous conditions—exclusion from American markets, and ruinous tariffs."

THE TREATY IN QUEBEC.

In giving an account of the manner in which the Treaty of Washington has been received by the American and Canadian papers, 'Le Nouveau Monde' says that all the United States' journals, without exception, regard it as the best piece of diplomacy known in their whole history as a nation; and adds further, that they may well glory over it, for "without shedding a drop of blood they have obtained everything they could decently demand." In the Maritime Provinces, on the other hand, 'Le Nouveau Monde' observes that the treaty is everywhere condemned. In Nova Scotia, it is alleged that Anti-Confederate journals point to it as proof of what they anticipated from Confederation, and more than one candidate in that province, it is prophesied, will owe his election to this feat of diplomacy. In conclusion, the 'Nouveau Monde' says:—

"We see a tempest gathering round the Ministry which will not be easily dispelled. We are still ignorant of the attitude which the Government means to assume, for the inspired press continues silent.

But if it sustain the action of the Commission, of which the Prime Minister was a member, its existence will be seriously threatened."

'Le Pays' gives lengthened quotations from the Canadian press under the title of "What the Canadian press says about the capitulation known as the Treaty of Washington," and then observes:—"These decided opinions contrast singularly with the ambiguous language held by our Conservative papers." As an example of this ambiguity, 'Le Journal des Trois Rivières' is quoted, to the effect that England prefers that Canada should be plundered, rather than that herself should engage in war with the States, and that when a nation has given itself up so entirely to the pursuit of mere material interests, as England has done, there is no room for national pride; still that it would be very wrong for Canada to refuse to ratify the clauses referring to her, and that those who counsel such a course don't know what they are saying.

"We shall wait rather," adds the 'Journal,' "for the more ample discussion of this important matter. We shall probably know then what are the good feelings of England towards us, and what were the motives which determined her representatives to take such a course as they have pursued. This will certainly throw a little more light on certain sides of the question which may have escaped us, and we shall thus be better able to form a sound and impartial judgment on the point. Let us wait."

'Le Courier de St. Hyacinthe' is equally ambiguous. It concludes its account of the treaty in the following terms:—

"Such is a summary of the famous treaty which will form an epoch in the history of America. Already there are plenty of comments upon it. Some see in it nothing but evil to Canada; others nothing but good; and a third party, both bad and good. It is probable that everything depends upon the point of view one occupies in judging this work of the High Commission."

'La Minerve'—Sir George Cartier's organ—is absolutely silent on the subject, and is thus much more respectable than those who, like those above, speak only to conceal their opinions, if they have any.

'Le Pays' remarks, in another short article, that in reading over the treaty with great care there will be noticed an important point which at first might escape attention. The navigation of the St. Lawrence is given in perpetuity to the citizens of the United States, while the Canadians have the right of navigating the waters of Lake Michigan only for ten years. And even this concession may be continued or suspended by the American Government without the other conditions of the treaty being thereby abrogated. Well may 'Le Pays' head its article on this point with the motto—"These Americans have not yet done with their tricks."

CANADA AND THE WASHINGTON TREATY.

Speaking of the fact, which by the ministerial press especially has been made much of, that the treaty lately entered into has to come before the Canadian Parliament before going into operation, 'L'Évènement' says:—

"It is a mere matter of politeness that the treaty is submitted to us at all. If we should take it into our heads to protest against any of its provisions, our protest would be considered as an impertinence and would share the fate of our claims about the Fenian invasions. A small people, such as we are, ought to stake its dignity only on undertakings which it can bring to a successful issue, and which do not expose it to the possibility of affront. To demand merely to be refused, to put forth claims in vain, to protest without being listened to, is by no means a profitable course of proceeding. Such efforts to exalt ourselves above our strength can only degrade us by making our weakness more manifest. The only prudent and wise attitude which we can assume is to be without bitterness towards England, and without prejudice towards the United States. These two, after all, only act as we should have done in their place. They don't wish to injure us, but they wish to come to an understanding between themselves. No treaty that was not to the evident advantage of the Americans would have had the slightest chance of being accepted, and war might have been the issue. While altogether condemning the plan of rejecting entirely the treaty as in despair of the Canadian cause which the supporters of confederation advocate, *we must acknowledge* that their grief is legitimate. The easy acquiescence given by England to the conditions exacted by the United States is most significant proof she has yet given of her fixed determination not to maintain the Canadian Confederation at any personal risk or danger. The withdrawal of her troops is only a very secondary affair compared with this. It will naturally raise everywhere such questions as the following:—When England has so easily yielded the liberty of the fisheries and the St. Lawrence, will she not surrender Canada itself on the very first opportunity? Would she abandon her exclusive right to the fisheries and the St. Lawrence if she had not had the fixed intention of abandoning the country itself? From this point of view, must not the Treaty of Washington be considered as a preliminary treaty—as the preface of a treaty for annexing Canada to the United States? And must we not conclude that on the first opportunity a second Commission will come over to complete the work of which the present High Commission has laid the foundation?"

'LA MINERVE' ON THE TREATY.

'La Minerve' has at last broken silence and in a long leader, comes out in a modified defence of the Washington Treaty. It seeks to show by statistics that during the eleven years of reciprocity our fishermen really were not injured, while since they had the exclusive right to the fisheries they have made no sensible progress. It tries to show still farther that the number of American fishermen engaged on our coasts during the time of reciprocity did not steadily increase, but, after a few years, rather diminished. 'La Minerve' thinks we ought to get \$500,000 a year for the privilege yielded, which would be five millions for the ten years; and, as we should be worse off if annexed or independent, that we should be very thankful that the treaty provisions are no worse than they are. On the statements made by 'La Minerve,' as expressive of the opinions of the cabinet at Ottawa, 'Le Pays' says that the people must be excessively

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surprised that they have been so long in discovering all the advantages that will surely result from the abandonment of our fisheries to the Americans, and must also be struck with the blunders of our rulers in sending cruisers to our fishing grounds to drive off the vessels of the neighbouring Republic, when, according to the showing of their organ, these fisheries would be far more useful to us in the hands of our neighbours! 'Le Pays' very naturally thinks 'La Minerve' rather inconsistent in first representing the right of fishing in Canadian waters as really of little value to Brother Jonathan, and then proclaiming that the cession of this worthless privilege will destroy all chance of annexation and stop all agitation on the subject. Such kind of reasoning would, it is thought, have been just had Canadians wished either annexation or independence for the mere pleasure of seeing how well their neighbours could catch their fish; or if those neighbours had sought freedom for all North America from all European interference simply to allow the fishermen of Maine and Massachusetts to frequent coasts where, according to 'La Minerve's' statistics, they failed egregiously when they had the opportunity of doing their best! It is to be hoped, says 'Le Pays,' that Sir George Cartier's organ has no circulation in Washington, else a demand might be raised there for the insertion of a clause securing handsome compensation to the United States for their liberality in being willing to catch Canadian fish. Silence, it adds, would have been better than such a description of advocacy, which consists simply in recommending the avoidance of all subjects of dispute with our neighbours by yielding all that is asked, and at the same time thanking our neighbours for being so kind as to accept what we offer them. In the same way, if France had avoided war by yielding Alsace and Lorraine, what would have been thought of her? Or since Russia covets British India, what could be better for the interests of peace than that Britain should retire at once in favour of her great rival? "If Sir George Cartier but ruled in Britain, wouldn't peace endure a long time?" "It is possible," concludes 'Le Pays,' "that Ministers have better arguments in defence of the treaty than have been started by their organ. If not, alas for them!"

THE AMERICAN PRESS ON THE TREATY.

From the 'Daily Globe,' Toronto, May 22, 1871.

We commend to the ministerial organs on this side the following opinions of those articles in the Treaty of Washington most affecting Canadian interests taken by two American newspapers. The following is from the Buffalo 'Courier':—

"We join the Albany 'Argus' in regretting that the treaty with Great Britain has not been made to comprehend "a system of reciprocal free trade with Canada which would inure to the benefit of the whole country." Such a system, did it even only approximate to reciprocal free trade, would be an incalculable blessing to both countries. If it but went so far as to open here and there a breach in the commercial barrier which ignorant selfishness has built up, it would still be beneficent. At the same time, the failure of the treaty to include reciprocity cannot with justice, from the United States stand-point, be used as an argument against the treaty. It is the Dominion of Canada, rather than we, which has a right to complain on this score, and which does complain bitterly. By the settlement of the fisheries difficulty, as a question by itself, which the treaty effects, the Canadians find themselves not only without reciprocity, but deprived of the means by which they have ever hoped and tried to obtain it. The *quid* is gone, on the exaggerated value of which they have always piqued themselves, and they have no *quo* to show for it. We have the high tariff notions of the dominant party to thank for the fact that the treaty leaves the wall of exclusion between the countries, except as to the single article of fish, as impassable as before.

From the article of the Albany 'Argus,' alluded to in the foregoing, we extract as follows:—

"The permission given the Canadians to fish along our coast, north of the 39th parallel, excluding the shell-fish banks, and the mouths of the rivers, where salmon and shad are, is trifling and nonsense. Of course the ocean is open to all; but the shore fishing on the British coast is so much more productive and valuable than that in our waters, under these restrictions and limitations, that no Canadian would ever think of dropping a hook or a net south of Halifax. This pretended concession would have been rejected as an insult, if the British Commissioners had understood the merits of the proposition. Probably nothing of the kind was intended; for Williams, of Oregon, and Schenck, of Ohio, have no more knowledge on the subject than Grant himself. We have no precise information in respect to the value of the privileges accorded to American citizens by the treaty, but whatever they may be worth should be paid for in full, for we give them nothing substantial in return."

AMERICAN JUBILATIONS OVER THE TREATY.

The national pride of the Americans is so highly flattered by the concessions made to them in respect of the 'Alabama' question that they find time for little more than a passing word on the subject of the fisheries. Some of their journals show a little doubt whether the Canadians will fall into the scheme, whilst others affect to treat the attitude of Canada with indifference, being fully assured that what England wills must be carried out by her dependency. It is in this spirit that the Detroit 'Post' writes as follows:—

"As we expected, some of the provincial legislatures are profoundly stirred up by those portions of the Treaty of Washington which relate to the fisheries, and other matters in which the Dominion is interested. New Brunswick, however, seems most excited, and most 'set' against the treaty. The treaty will be ratified by the two high contracting powers without much regard to this tempest in a teapot, probably. Then the question will be whether the Provinces will legislate to give effect to certain of its provisions. If they do not, the treaty will impend over them all the same, and they will simply lose its benefits without gaining anything. The situation and the influence of the Imperial Government will operate together to cool their prejudice, and induce such legislation as will be necessary. It will be observed that these

provincial legislatures have nothing to do with ratifying the treaty; but certain of its provisions cannot be given effect to without action on their part. The treaty, however, provides that, if they refuse to act, then the privileges granted them by the United States shall also be withheld. These privileges are very valuable; and the Provinces, if they will listen to common sense, and consider their own interests, will soon come to terms, even if they should refuse to do so at first, which is by no means certain."

The Cincinnati 'Commercial' evidently entertains a similar opinion, and admits that the concessions asked of Canada are larger than she can be expected readily to acquiesce in. It says:—

"The strongest opposition to it is likely to come from the Dominion of Canada and Nova Scotia. The fishery conditions are quite too liberal to suit them, and are in contravention of the spirit of their legislation for the past two years on the subject; but if the Senate can agree as to the mode of adjusting the 'Alabama' claims, as set forth in the treaty, neither the fisheries nor the boundary questions will be likely to prevent ratification."

The Springfield 'Republican' shows the "cloven foot," which may be accepted as a caution to our people not lightly to part with recognized territorial rights. The 'Republican' thinks:—

"It would have been fortunate if the treaty could have gone farther, and taken an initial step, at least, toward the removal of the British flag from this continent, and paved the way either for Canadian independence or the cession of all the British American Provinces to the United States. This was our hope, but it could hardly have been the expectation of any man. The fullness of time is not yet come for that."

The Portland 'Press,' in anticipation of Canadian resistance to the fishery clauses, enters into an argument to convince us of our great unreasonableness. The 'Press' says:—

"The defeat of the settlement suggested by the Joint Commission will, if it is defeated at all, be due to Canadian influence. The people of the Dominion do not feel willing to exchange their fishing privilege for ours, even when it is provided that in case their concession is found to be the most valuable the difference shall be paid in money. They demand in return for the grant of the unrestricted right to fish in their waters that commercial reciprocity that was so beneficial to them while it lasted, and for the loss of which they have never ceased to mourn. It seems to us that the Dominion is unreasonable and unwise in this matter."

The 'Press' then reviews the past history of the fishery relations of the two countries, and then, referring to the settlement of the controversy by the Reciprocity Treaty of 1854, remarks:—

"For ten years from 1854 there was of course no difficulty, but on the expiration of the Reciprocity Treaty the Provincials again put forward their unreasonable claim, and acted upon it. A system of licences, to which our fishermen quietly submitted, having proved unsatisfactory, last year the Imperial Government co-operated with the Dominion in making seizures, to the great exasperation of our fishermen and of all the citizens of this country who have informed themselves as to the merits of the case. If the treaty is defeated on account of its provisions respecting the fisheries, it will probably be the occasion of as much regret in the long run to the Canadians as to any one else."

It so happens that the American fishermen did *not* "quietly submit" to the system of licences, but evaded them, and had themselves alone to thank therefore for its abolition, and their final exclusion by an armed police force from the fishing grounds.

The Boston 'Advertiser' thus sums up its comments on the articles that have appeared in the Canadian papers upon the treaty. The implied admissions the 'Advertiser' makes are worth noting:—

"Those who value the British connection will be willing to pay the price of this treaty for it, and those who are looking forward to an alliance of American peoples will be slow to oppose the treaty, even if it subjects them to temporary inconvenience as Canadians."

The New York 'Democrat' reproaches Canada with the contemptuous treatment of our interests shown by England in the matter. It says:—

The English Government has even sacrificed the interests of the British American Provinces by conceding to Americans the rights of fishing for a mere money consideration, and without obtaining any corresponding advantages to the Canadians of reciprocal trade between the two countries.

Enclosure 3 in No. 19.

Enclosure 3
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The first LEADING ARTICLE on the TREATY issued by the 'DAILY GLOBE.'

St. John, N.B., May 18.

The resolutions condemning the treaty proposed by the Joint High Commission passed both Houses unanimously.

Yesterday the Legislature was prorogued with the usual formalities.

The following is the paragraph in the Lieutenant-Governor's speech relating to the treaty:—"The result of the deliberations of the Joint High Commission at Washington, so far as our Dominion and Provincial interests are involved, is calculated to excite alarm and dissatisfaction; but we cannot for a moment suppose that the Dominion Parliament will give its consent to those parts of the treaty which dispose of our invaluable fishery rights for the *veriest mockery of an equivalent*, when we should have received in return therefor at least the free admission to the United States markets of our ships, coal, and lumber."

PROCEEDINGS OF THE JOINT HIGH COMMISSION.

The intense interest attaching to the Joint High Commission at Washington, and its doings, must justify our devoting so large a portion of this morning's paper to a summary of the protocols of the several conferences of that body. It is of the very highest importance that our people should thoroughly comprehend the vast interests at stake in the endorsement or rejection of this treaty, and how deeply the future stability

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and prosperity of the Dominion may be affected by the course now taken. Fortunately we have achieved the right to judge for ourselves as to the merits of the questions forced upon us for decision by the action of the Commission—and it will assuredly be our own fault if arrangements injurious to our interests should be finally concluded. We scout the base idea, now being diligently urged on the public mind by the more servile organs of the Government, that from fear of the consequences we should submit, in silence, even to the sacrifice of our most valuable material interest. To adopt such a course would not only be base, but suicidal. We should by adopting it cease to enjoy self-respect, and forfeit all title to respect or consideration from others. Be the consequences what they may, the whole bearings of this treaty must be thoroughly examined in the light of day, and the rights and interests of Canada affected by it shown and maintained earnestly and unflinchingly.

We have felt it our duty to refrain from the indignant comments on the whole affair which the term of the treaty would otherwise have forced from us, until all the facts were before us, and Sir John A. Macdonald had been heard in defence of the work to which he has attached his signature. The documents published to-day throw much additional light on the work of the Commission—but unhappily they only bring out in stronger relief the reckless manner in which Canada's interests have been sacrificed at its hands. The sooner Sir John A. Macdonald returns to Canada, and an authoritative defence of the treaty, from a Canadian point of view, is given to the public, the better will it be for all interests concerned.

The discussions of the Commissioners cover too large a field to permit of our dealing with them, as a whole, in one article; and we content ourselves this morning with directing attention to those points of their deliberations in which Canadians are most interested.

The only question really dangerous to the peace of Great Britain and the United States, and therefore calling most loudly for settlement, was that known as the 'Alabama' claims. It was for a settlement of these that a conference or some court of arbitration was needed. Diplomatic correspondence might have dealt with the San Juan boundary, and President Grant himself had not ventured to challenge the British right, in a legal sense, to reserve from foreign intrusion the inshore fisheries. Yet curiously enough, in the instructions of the State department to the American Commissioners, the fisheries stand first on the list of questions for settlement. Then follow the navigation of the St. Lawrence, the reciprocal trade between the United States and Canada, the North-West (San Juan) boundary, and finally the claims and counter-claims arising out of the American civil war.

It will be seen, therefore, that the fisheries rank as a primary topic and subject for discussion and settlement. Now, why was this? Why was a matter, so all but exclusively Canadian, raised at all, and thrust into company with matters of active and long-standing controversy? We have not far to look for the cause. In the very letter from Sir Edward Thornton to Mr. Fish which initiated the Commission, the British Minister invites a conference.—for what purpose? To settle the 'Alabama' quarrel? Not at all! To talk about San Juan? No! To discuss the free navigation of the Porcupine, or the Youcan, or even of that mighty river the Stickeen? Not even these;—but "to come to a friendly and complete understanding between the two Governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively with reference to the fisheries on the coasts of Her Majesty's possessions in North America, and as to any other questions between them which affect the relations of the United States towards these possessions." This was positively the whole ground on which the British Government proposed a conference at all. It was apparently the response of the effusive Thornton,—author of a former gushing tribute, it may be remembered, to President Grant's "loyalty" à propos of the Fenian raid—to the bellicose utterances of General Ben. Butler and the peppery message of the chief magistrate not long previously issued. It is impossible to read such an invitation without feeling that it distinctly invited the American Government to consider as an open question one on which we had not admitted there could be any dispute whatever.

No wonder the 'cute Yankees improved the occasion. It is quite possible that the British diplomatist may have regarded his angling with the fisheries as "baiting with a sprat to catch a herring," for the response from Mr. Fish at once introduced the 'Alabama' claims and other open "difficulties" into the correspondence, suggesting that the Commission proposed would fail "to establish sincere, substantial, and lasting friendship," and so forth, if it omitted to deal also with all the subjects of dispute. No doubt this was just what was anticipated. The Canadian fisheries were the worm impaled mercilessly upon the diplomatic hook that was to tempt the Yankees into council and smooth their ruffled feelings into reasonableness over the ever-critical and dangerous 'Alabama' controversy.

This view of the case is borne out by what followed when the Conference met and got to work. The American Commissioners at once pressed the question of the "claims" upon its attention. Only after an expression of regret duly tendered, and the form of arbitration settled, did the Commissioners proceed to the other subjects submitted to them. As Great Britain had consented to yield so much with respect to her conduct towards America, her representatives modestly suggested that Canadian claims for Fenian raid damages should be considered. But the American Commissioners declined, under instructions from their Government, to regard these claims as within the scope of their powers at all. They denied that they were among the subjects to be disposed of when the Commission was appointed, and declared "that the claims now referred to did not commend themselves to their favour;" which we can most readily believe. But now, mark the response of the British Commissioners. The report Reads:—"The British High Commissioners said that, under the circumstances, they would not urge further that the settlement of the claims should be included in the present treaty; and that they had the less difficulty in doing so, as a portion of the claims were of a constructive and inferential character." So because some of the claims were "constructive and inferential" those that were direct and unmistakable were to go unpaid. But were none of the 'Alabama' claims "constructive and inferential?" Read the first paragraph headed "Statements, Articles 1 to 11," and see if the American Commissioners' statement of the case of injuries and demand for damages does not abound in instances of the "constructive and inferential;" or remember Mr. Sumner's celebrated speech, and say if that were not founded from first to last on the theory that the American claims were to embrace everything that could by construction or inference be made to swell the bill. We shall be much surprised indeed if the Court of Arbitration, when it finally sits at Geneva, does

not come to the conclusion that a great many 'Alabama' claims are very "constructive and inferential" indeed. In future it may perhaps become a recognized principle of international law that no damages can be asked in international practice if some of the suitors urge compensation on grounds that are "constructive or inferential." But that principle has not yet been formally admitted by international jurists. However, the Fenian raid claims were withdrawn, and Great Britain on this point backed down.

What do we next read as to the fisheries? "The British Commissioners stated that they were prepared to discuss the question of the fisheries, either in detail or generally, so as either to enter into an examination of the respective rights of the two countries under the Treaty of 1818, and the general law of nations, or to approach at once the settlement of the question on a comprehensive basis." The Americans of course adopted the latter alternative. It suited them far better not to have the question of their legal rights or pretensions raised at all. First take the willingness of Great Britain to "settle" the question for granted, and then give as little as possible in return for what she offers. That was the course they adopted. The basis on which the British Commissioners proposed to treat was the restoration in principle of the Reciprocity Treaty of 1854. But the Americans "put their foot down" at once, and wouldn't entertain any such proposition for a moment. After some debate they said the renewal of the Reciprocity Treaty "was not in their interest, and would not be in accordance with the sentiments of their people."

Here was a point at which the fishery question might, it would seem to us, have been fairly dropped altogether out of the negotiations. But instead of the British Commissioners displaying a spirit as firm as that opposed to them, a sort of auction ensued. Shutting the St. Lawrence and canal navigation for the time, to be taken up by themselves afterwards, the Americans proposed, if their value could be arrived at, to purchase the right to use the fisheries in perpetuity in common with the British fishermen for a sum of money, and suggested as a fair price the munificent sum of a million dollars. The British Commissioners "thought (!) this offer inadequate," and proposed that the free admission into the United States of fish caught by the Canadians should be thrown in. They also hinted that "a sale of the fisheries in perpetuity was open to grave objections." It was here also explained that these questions must be submitted for approval to the Provincial Parliaments before they could be finally ratified by Great Britain. The British Commissioners still urging that the only satisfactory compensation would be a reciprocal tariff and a free coasting trade, the Americans assumed an air of indifference altogether, with the view evidently of cheapening the bargain. They declared "the value of the fisheries was over-estimated, that the United States desired to secure their enjoyment not for their commercial or intrinsic value, but for the purpose of removing a source of irritation." In this benevolent frame of mind they suggested that reciprocal free trade in coal, salt, and fish might be at once conceded, and Canadian timber, also, admitted free after July 1, 1874, subject to the approval of Congress, which would be necessary to give effect to their proposals. A reference was made at this point to the British Government; and it must be noticed that through all the negotiations the British Commissioners appear to have acted under direct instructions from home. They were advised that the proposed concessions "were inadequate, that timber should be admitted free at once, and that the new tariff should be supplemented by a money payment." Thereupon the Americans withdrew their offer, probably never seriously made; declared that it had been tendered in the interest only of peaceful settlement; and again offered a money equivalent, the amount of which they were willing to leave to be fixed by arbitration. Why the British Commissioners should have insisted so tenaciously on conceding the fisheries on some terms or other, when the Americans affected so much indifference, it is hard to imagine. It was the British Commissioners who suggested that the free admission of fish and fish oil, supplemented by a money payment to be fixed by arbitration, might be accepted in return for the surrender of the magnificent fisheries on the coasts of British North America for a term of years. Not fish caught in the inland waters—these were still to be excluded—but sea fish only and the oil thereof, with whatever sum in cash a court of arbitration might determine. One can hardly read without a smile, though the matter is far too serious for laughter, the next paragraph. It says:—"The American Commissioners were willing, subject to the action of Congress, to concede free fish and fish oil as an equivalent for the use of the inshore fisheries, and to make the arrangement for a term of years; that they were of opinion that free fish and fish oil would be more than an equivalent for these fisheries, but that they were also willing to agree to a reference to determine that question and the amount of any money payment that might be found necessary to complete an equivalent, it being understood that legislation would be needed before any payment could be made."

At last the haggling and chaffering came to an end; the British demand for a reciprocity treaty was dropped; even the modified concessions as respected coal, salt, and lumber, made by the Americans themselves, were, as we have seen, withdrawn; so the hammer descended, and, as far as the Joint High Commission's powers extended, the most splendid fisheries in the world, the grandest nursery for seamen, and the territorial right of Canada over her own shores, were knocked down to the Yankees for free trade in fish and fish oil, the right to fish in their waters—which nobody cares for—and a money equivalent, if before a court of arbitration the sharp fellows did not manage once more to get the best of the bargain! Let it be remembered, too, that these discussions and their consequent results were of Great Britain's own inviting.

We may briefly recapitulate the other points affecting Canada which were agreed to by the Commissioners in their further deliberations. The Americans would not listen to reciprocal coasting trade on the lakes; nor yet to reciprocal registration of American and Canadian vessels. They claimed the free navigation of the St. Lawrence as a right, and it was agreed to concede it to them FOR EVER, the British Commissioners stating "they regarded the free navigation of Lake Michigan as an equivalent" for the surrender of the sovereignty, practically, of our great river! They were also willing to give the Americans the right of using our canals on the same terms as British subjects.

The Americans held that, as they already had a right to navigate the St. Lawrence, the concession of the free navigation of Lake Michigan, and the use on common terms of their canals, was more than a compensating arrangement for the privilege of using our canals—an argument anyone acquainted with the facts of the case will see the absurdity of. But, while the treaty limits the reciprocal use of the canals and Michigan to a term of years, it gives up the St. Lawrence, as we have said, in perpetuity. It will hardly fail to be

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inferred from this that the natural right first claimed by the Americans to the St. Lawrence was thus by implication conceded. Even Yankee assurance could not ask much more.

Let us sum up the miserable business. We are to be allowed to carry goods in bonds as at present—an arrangement quite as profitable to our neighbours as to ourselves. We may use the St. Clair Flats Canal, built, as it is, on our own territory. We may navigate certain rivers traversing the sterile wastes of Alaska. And these are the considerations already referred to in connection with the fisheries. And for this the Americans may land on our coasts, fish in our waters, and sail without challenge into the heart of our country on equal terms with our own people. Reciprocity, meanwhile, is further off than ever, if we thus part with that which, despite the professions of the other side, might have tempted or forced them into granting it. Great Britain has been outgeneralled altogether in the bargain; and the people of this Dominion are expected to become parties to this scandalous compact, and sign away their own birthright! The thing has no parallel in British history—with one exception, the *Ashburton Capitulation*.

Enclosure 4
in No. 19.

Enclosure 4 in No. 19.

The First LEADING ARTICLE issued in the 'MINERVE,' the LEADING FRENCH PAPER which writes in the MINISTERIAL INTEREST.

LES PÊCHERIES.

Vendredi Matin, Mai 19, 1871.

Depuis que le traité de Washington a été conclu, la presse Canadienne s'est beaucoup occupée des pêcheries et a exprimé beaucoup de mécontentement de l'arrangement proposé.

Jusqu'à présent nos confrères n'ont envisagé que les côtés désagréables de la question. Ce n'est pas ainsi qu'une population doit juger de ses intérêts.

Il est certain que le Canada aurait été plus satisfait de rester tel qu'il est, plutôt que d'en arriver à ce qui est proposé. Du moment que ce n'est pas nous qui sommes les mécontents, nous pouvons trouver toute concession onéreuse. Mais l'intérêt national ne doit pas aller jusqu'à l'égoïsme, et nous ne devons pas chercher à poser comme un éternel sujet de discorde entre deux pouvoirs puissants.

Soyons certains d'une chose; c'est que le Canada sera le premier à souffrir de tout malentendu entre l'Angleterre et les Etats-Unis. Si la défiance et les récriminations passent à l'état normal, l'esprit de la nation américaine s'étudiera à inventer des entraves au commerce anglais. C'est le différend de 'l'Alabama,' qui a donné naissance à toutes ces tracasseries que nous rencontrons de la part des Américains, et comme chaque malice engendre un nouveau mécontentement, on peut comparer les difficultés actuelles à une avalanche qui ne fait que grossir dans sa marche.

Il est naturel que les Américains aient résolu d'exploiter l'Angleterre par le Canada, puisque nous sommes à leur portée. Les annexionnistes canadiens ont pris ces feintes pour de l'argent comptant. Parce que les Américains ont fait semblant de s'occuper du Canada, les politiciens, empressés de prendre leurs opérations pour la réalité, ont reçu ce réveil inespéré de l'annexion comme un événement providentiel.

Que le malentendu cesse, que les bonnes relations se rétablissent entre les deux pays et les pêcheurs en eau trouble auront perdu leur temps.

C'est la considération qui nous frappe d'avantage dans ce traité; le règlement des questions en litige tuera le mouvement annexionniste, parce que le mouvement annexionniste est greffé sur les difficultés existantes.

Mais en supposant que les concessions fussent énormes de notre part et qu'elles ne contribuassent qu'à aggraver les mécontentements des sujets coloniaux contre la mère-patrie, l'annexion recevrait un ralentissement décisif de la part de nos voisins. S'il y a quelque chose sur lequel nos voisins tentent, ce sont bien les pêcheries et l'usage de notre fleuve. Otons ces deux avantages et nous n'avons guère d'autres attraités aux yeux d'un pays, qui possède nos autres ressources. Si nos concessions sont aussi favorables aux Américains qu'on veut bien le dire, il est naturel de supposer qu'ils se contenteront de profiter des avantages naturels de notre pays sans porter les charges et les responsabilités de l'annexion.

Mais est-il bien vrai que l'abandon de nos pêcheries est un sacrifice considérable de la part du Canada. Pour arriver à une conclusion, il faut savoir ce que nous donnons.

Par le dernier rapport des pêcheries nous voyons qu'en 1869, ces champs d'exploitation ont donné les résultats suivants :—

	\$
Province de Québec	1,046,240
Nouveau-Brunswick	638,576
Nouvelle-Ecosse	2,501,570
Total	<u>\$4,186,486</u>

Si l'extension du privilège de la pêche à nos voisins avait pour résultat d'en chasser nos nationaux, nous aurions raison de nous alarmer; mais nous avons déjà eu onze années d'expérience et il faut croire que cette concession n'était pas absolument dangereuse ou nuisible, puisque depuis 1865 nos pêcheurs n'ont accompli aucun progrès considérable et qu'ils prospéraient sans le traité de réciprocité, comme ils ont prospéré après son abolition.

Nous n'avons point les statistiques complètes des provinces maritimes avant la Confédération. Nous serons forcé de circonscrire nos études comparatives au Bas-Canada; mais nous en connaissons assez pour assurer que les pêcheries de Québec se sont développées aussi promptement que les pêcheries maritimes. Voici donc le tableau du poisson pris dans les pêcheries du Bas-Canada.

	Valeur.		Valeur.
	\$		\$
1862 - - - - -	730,919	1866 - - - - -	835,013
1863 - - - - -	827,160	1867 - - - - -	070,622
1864 - - - - -	808,333	1868 - - - - -	627,296
1865 - - - - -	818,000	1869 - - - - -	1,016,240

Le terme moyen des trois dernières années a été de \$914,719, tandis que le terme moyen des trois années qui ont précédé l'abolition du traité a été de \$815,000. L'augmentation de 1862 à 1863 a été de \$96,241. Il n'est donc pas surprenant que celle de 1865 à 1864 ait pu être de \$99,000 par année. L'abolition du traité ne s'est donc pas fait sentir dans l'exploitation de cette branche.

Nous avons de ce fait une première preuve que l'admission des Américains ne nuisait pas à notre propre exploitation.

Il serait donc inexact de dire que cette clause du traité va nous dépouiller des avantages existants. En 1865, il y avait 6,800 pêcheurs. En 1869, il n'y en avait que 5,189.

Nous croyons franchement que l'abolition du système d'échange pour les pêcheries aurait eu pour effet de faire diminuer tous les ans le nombre des pêcheurs, au profit de trois ou quatre grandes maisons, comme celles de MM. Le Boutillier, Robin, etc., industriels jersais qui ont eu le talent de se bâtir des fortunes colossales. La chose est assez évidente. Le marché canadien est nécessairement limité et quelques centaines de pêcheurs pourraient l'approvisionner. Les pêcheurs sans capitaux ne peuvent compter que sur le bon plaisir des grands exploiters. Car, dans l'impossibilité de profiter du marché américain, ils ne peuvent, non plus, songer à préparer le poisson à grands frais pour l'exporter en Europe ou dans l'Amérique du Sud. Ceux qui profitent le plus de cet état de choses, ce sont des étrangers intelligents et les pêcheurs anglais. En 1856, sur 360 licences, il y avait 125 bâtiments canadiens, 135 bâtiments anglais, 88 américains et 12 français.

Veut-on savoir, maintenant, le profit que les Américains ont tiré des pêcheries sous le traité de réciprocité?

En voici le tableau officiel, préparé le 27 Juin, 1864, par M. Whitcher :

	No. Vais.	Tonnage.	Hommes	Valeur.
				\$
1852	260	18,200	3,400	294,000
1853	220	15,400	3,000	276,000
1854	234	18,380	3,220	280,000
1855	334	23,380	3,580	632,000
1856	476	36,320	6,600	1,260,700
1857	452	31,640	6,240	1,053,000
1858	453	31,710	6,170	634,000
1859	380	26,600	5,160	528,000
1860	370	25,900	4,980	459,000
1861	356	24,920	3,740	416,000
1862	274	19,180	3,230	267,000
1863	235	16,450	3,000	249,750

Il n'y a là rien d'exorbitant, et il ne faut pas s'imaginer que les Américains vont se jeter en affamés sur nos pêcheries. Ils ne manquent pas absolument de poisson.

M. Wells, le commissaire du revenu, dit dans son rapport de 1869 :

« Malheureusement les produits de nos pêcheries nationales n'ont jamais été énumérés d'une manière assez complète pour qu'il nous soit permis de donner une estimation exacte du revenu des pêcheries. Mais une récente inspection de certaines pêcheries justifie la conclusion que la valeur de tous les pêcheries du pays, y compris celles de mer, de lacs et de rivières, n'est pas moins que CENT MILLIONS DE PIASTRES par année.

Les pêcheries maritimes sont les moins productives. Elles ne donnent aux Américains que la valeur suivante :

PÊCHERIES DE BALEINE.

	\$
Huile de sperme - - - - -	2,733,641
Autre huile de baleine - - - - -	2,267,026
Ossements - - - - -	21,846
Total - - - - -	\$5,655,977

AUTRES.

	\$
Morue préparée - - - - -	1,532,650
Maquereau préparé - - - - -	1,177,894
Hareng préparé - - - - -	68,583
Autre poisson préparé - - - - -	69,379
Poisson frais - - - - -	247,925
Huiles - - - - -	148,415
Total - - - - -	\$3,214,846

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Le surplus de poisson maritime nécessaire à la consommation américaine se trouve indiqué par l'importation qui en est fait. Leur dernier rapport de commerce donne le tableau suivant :

	\$
Huile importée du Canada - - - - -	251,306
Poisson - - - - -	1,003,901
D'autres possessions britanniques - - - - -	136,236
	<u>\$1,391,443</u>
D'autres pays - - - - -	1,059,108
	<u>\$2,332,335</u>
Total - - - - -	

Il n'existe pas aux Etats-Unis un besoin si pressant de poisson de mer, que ce soit un appât pour la spéculation. Les Américains ne se précipiteront pas plus dans nos pêcheries qu'en 1860, et nos nationaux auront toujours l'avantage d'être sur les lieux et d'exploiter à moins de frais.

A mesure qu'ils expédieront par petites quantités sur le marché américain, ils déplaceront peu à peu le poisson d'eau douce et trouveront toujours à vendre leurs produits à des prix convenables.

A tout événement, les petits pêcheurs auront un marché à leur porte ; aujourd'hui ils n'en ont pas.

Nous pourrions faire valoir que la présence des Américains dans nos pêcheries se trouve sous un autre rapport plus avantageuse qu'on ne serait tenté de le croire. M. Arthur Harvey, dans son essai sur le traité de réciprocité auquel MM. Holton, Esdaile et Redpath ont décerné le premier prix dans un concours institué par le 'Trade Review,' dit à la page 16 : "L'on craignait pendant un temps que l'affluence de "vaisseaux pêcheurs américains ferait dommage à nos pêcheries et priverait les pêcheurs des provinces "de leurs moyens de support. Cette crainte n'a pas été réalisée, et toute atteinte qui a pu en résulter "a été plus que contrebalancée par l'augmentation d'énergie que la concurrence des Américains a appris "à leurs cousins à déployer. La preuve de cela, c'est que la valeur du poisson pris à Nouvelle-Ecosse et au "Nouveau-Brunswick, qui était de \$2,110,750 en 1850, a été de \$2,950,235 en 1860." (Près de \$100,000 d'augmentation par année.)

L'hon. M. Charles Fisher, du Nouveau-Brunswick, a déclaré solennellement la même chose dans un discours à Toronto.

L'une des clauses du traité dit qu'une commission internationale sera chargée d'assigner l'indemnité que les Etats-Unis devront payer au Canada, au cas où les pêcheries américaines seraient moins profitables que les pêcheries canadiennes.

Comme les pêcheries maritimes donnaient \$3,200,000 et les pêcheries canadiennes près de \$4,200,000, c'est-à-dire un surplus de \$2,000,000, il y aura certainement lieu à une indemnité.

Si l'on prend en considération que les Canadiens n'ont pas le moindre besoin des pêcheries américaines cette indemnité sera peut-être plus forte, ou peut-être ne tiendra-t-on compte que de la quantité approximative de poisson pris tous les ans par les Américains, soit \$1,000,000 par année. Comme il y aura compensation pour une partie de cette somme, par la quantité de poisson exportés par les Canadiens aux Etats-Unis, on pourrait réduire le surplus à 500,000 par année, ce qui serait bien le seul et réel avantage que nous donnons de fait aux Américains. Ce serait \$5,000,000 pour les dix années que doit durer le traité. Une indemnité en bloc pourra peut-être aller à quelques millions. Ce sera dans tous les cas beaucoup plus sûr que l'ancien système de licences, qui exigeait une dépense gratuite soit en capital ou en frais d'entretien des goëlettes de police de plusieurs cent milliers de piastres.

Voilà des données officielles qui doivent nous convaincre que le marché que nous sommes à la veille de faire pour dix années n'est pas aussi ruineux qu'on le dit. Nous ne sommes pas capable naturellement de trouver cela parfait, puisque nous serions mieux à exploiter tranquillement nos ressources. Mais comme il est certain que nous ne pouvons avoir le traité de réciprocité avec le niveau actuel de la taxation américaine et que nous pouvons renoncer à cette illusion, il n'y a que la valeur intrinsèque de la concession des pêcheries à envisager.

Ce qui nous console, c'est que si nous appartenons aux Etats-Unis la situation sera pire. Si nous étions indépendants, on n'y aurait pas mis autant de farine et l'on se serait tout simplement arrogé le droit d'aller pêcher, sans nous accorder de faveurs correspondantes.

Comme colonie anglaise, nous devons songer à tirer le meilleur parti de la situation. Il n'y a pas d'enthousiasme à y mettre ; mais il n'y a pas non plus matière à désespoir, parce qu'il ne s'agit que d'un traité de dix années. S'il s'agissait d'une concession à perpétuité, nous croyons que le souci de notre avenir devrait nous conseiller autre chose ; mais pour dix ans nous ne faisons pas réellement de sacrifice onéreux. Le droit de propriété nous reste pour le moment ; c'est le principal.

Enclosure 5 in No. 19.

EXTRACT.

May 24, 1871.

Just now some interest is felt concerning the quantity and value of the fish and oils imported from the Dominion to the United States. On referring to the last Report on "Commerce and Navigation," published by the Bureau of Statistics in Washington, we obtain some valuable information relative thereto. According to this authority the Americans imported from Canada during the years 1868, 1869, and 1870, the amounts, &c., given below :—

1868.

Articles.	Rate of Duty.	Quantity.	Value.	Amount of Duty.
Fish, &c. :—	\$ cts.		\$ cts.	\$ cts.
Mackerel - - - -	2 0 per bbl. -	30,686	280,195 93	61,376 30
Herrings - - - -	1 0 „ -	61,451	288,223 20	41,461 25
Salmon - - - -	3 0 „ -	6,173	88,016 18	18,820 50
All others in bbls. - - - -	1 50 „ -	4,214	31,834 0	6,323 22
All not in bbls. sold by weight	0 50 per 100 lbs.	6,333,808	189,660 95	31,669 94
			886,910 26	169,340 34

Sic.

1869.

Fish, &c. :—				
Mackerel - - - -	2 0 per bbl. -	27,468	306,695 57	54,937 75
Herrings - - - -	1 0 „ -	91,567	425,212 30	91,567 50
Salmon - - - -	3 0 „ -	8,454	110,591 0	25,364 25
All others in bbls. - - - -	1 50 „ -	9,732	65,538 95	14,598 0
All not in bbls. sold by weight	0 50 per 100 lbs.	8,943,318	287,934 45	44,716 59
			1,195,972 87	231,183 89

Sic.

1870.

Fish, &c. :—				
Mackerel - - - -	2 0 per bbl. -	28,480	291,527 50	56,960 75
Herrings - - - -	1 0 „ -	67,283	398,595 90	87,283 50
Salmon - - - -	3 0 „ -	10,619	137,054 50	31,859 30
All others in bbls. - - - -	1 50 „ -	9,960	69,796 92	14,940 19
All not in bbls. sold by weight	0 50 per 100 lbs.	7,209,130	263,981 63	36,045 60
			960,956 45	225,089 51

Sic.

Enclosure 6 in No. 19.

Enclosure 6
in No. 19.

GENERAL BUTLER'S SPEECH.

General Butler addressed the Committee on Federal Relations at the State House this forenoon on so much of the British treaty as relates to the fisheries. There was a large attendance in the Green Room. He was introduced to the Committee shortly after 11 o'clock by E. H. Derby, Esq.

General Butler then read a letter from him to General A. Ames, of which the following is an abstract :—

“ After briefly reciting the history of the fisheries as they now stand, he says :—In regard to the fishing by Americans in Canadian waters, I have grouped together these facts, which indeed are very familiar to you, in order that the exact extent of the subject on which the two countries are now treating may be kept in mind. We have never claimed any right to take fish in the rivers, as the salmon, shad, and herring, or shell-fish upon the shores of the provinces, so that the only subject which is touched by the provisions of the treaty, or which is ceded by Great Britain, is the right to take mackerel within the three-mile line of the provinces. Or, in other words, all that Great Britain yields to us is her right to the mackerel swimming in the sea within three miles of her shore—a matter which has accrued to her in fact since the ratification of any treaty save the Reciprocity Treaty of 1854, which has been abrogated. Therefore as the subject in dispute was not considered when the Treaty of 1818 was made, if now Great Britain claims that it is affected by that treaty it would seem to be our right to declare that treaty abrogated so far at least as this unconsidered matter goes—as not within its provisions. In so doing we should follow but well-known diplomatic precedents, and specially the example of Russia, which has within a year declared she would not be bound by the Treaty of 1856 in regard to her use of the Black Sea, because the circumstances affecting it had changed since the treaty, and England has acquiesced in that abrogation by Russia.

“ Great Britain now proposes to concede to us the right to fish within the three-mile line, with further permission to land upon the shore for the purpose of drying nets and curing fish, *provided* that in so doing we do not interfere with the rights of private property.

“ This privilege of using the shore is one of certainly not very considerable value, if for no other reason, because it would be difficult to find many portions of those shores which are not private property, and where exercising the privilege of hauling the seine or landing it and drying it, would not be an interference with the proprietary rights.

“ Eighty-five per cent. of the value of the fish taken, he said, consists in the use of the capital employed

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on this side of the water; so that the right attempted to be ceded to us only amounts to about \$7000 per annum. So far as Great Britain is concerned, it has cost her an immense amount of money to guard the "three-mile line" that heretofore has prevailed; in fact, it has already cost her over \$800,000 to guard the right of the value of \$7,000 per annum, which amount will be saved by the ratification of the treaty to the Imperial Government and its adjunct.

"We are, first, by the provisions of the treaty in exchange to permit, for this \$7,000, all British fishermen to fish in all our waters, for all kinds of fish (except shell-fish and river fish), and to land on our shores to cure their fish and dry their nets, from the 45th to the 39th parallel, or from Eastport to Delaware Bay. Now, mackerel first appear about Cape May in the spring. A thriving trade is done in catching them for the New York market and other markets, which we are to share with the British. The fish then follow up the coast during the summer to latitude about 50° in the British possessions; then returning, the fishing season ends some time in November, substantially in Massachusetts Bay. British fishermen are therefore to follow the fish, going and returning.

"In the waters of the British provinces there are no menhaden, which are the best fish for mackerel bait. It takes about one barrel of bait for every eight barrels of mackerel caught, and menhaden furnishes the best bait. This the British fishermen have always had to purchase of the United States. Menhaden catching forms a valuable branch of our fishing, as well for the oil as the bait. All this the English now buy of us, as they can get it nowhere else. Under the treaty, they can catch their bait on our shores for themselves. The privilege granted them of fishing in our waters is of itself alone worth more than all they concede to us.

"In opening our ports to British fish, free of duty, the treaty allows British fishermen to contend with ours in supplying our seaport cities with fresh fish. They may take the halibut from our waters, which is now a very large article of consumption, and bring it into our own ports in competition with our own fishermen. Not only that, but our whale fishermen and seal-oil fishermen are to have British competition all over the world by the opening of our ports free to them.

"It has been declared by some that this question of free importation of fish is a matter of small consequence. The amount yearly is much greater than any supposed money value in the 'Alabama' claim, the highest estimate of loss from which has been set at fourteen millions, while the value of our fisheries is over seventeen millions annually. Can a more inequitable bargain be stated?

"The treaty as it now stands will be substantially ruinous to our fishing interests. If adopted, it cannot be abrogated before twelve years, and that time will be sufficient to entirely destroy our business. It is claimed that it puts our fishermen in no worse position than they occupied during the Reciprocity Treaty from 1854 to 1865. That, however, is not so. Under the Reciprocity Treaty our fisheries were injured, it is true, but we supposed that our manufactures exported into Canada free of duty, and other advantages obtained through that treaty to the lumbering and other interests which were pursued in the forests of Canada, were an offer to compensate that loss.

"Now all is changed. There are no other matters of reciprocity to meet the wrong and loss done to the fishing interest. Besides, our tariff of duties during the pendency of the Reciprocity Treaty averaged twelve or fourteen per cent. only. Now the duties which the American fishermen have to pay upon every article, from the fish-hook to the anchor inclusive, are from thirty to forty per cent. When Canadian lumber came in free we could build our ships for about fifty-five to sixty dollars a ton, against forty to fifty dollars a ton, the cost of the Canadian vessel. Now our fishing vessels cost eighty dollars a ton against forty-five in Canada.

"The reduced wages paid to Canadian fisheries will tend to man American vessels by Canadian crews, so that the inevitable tendency will be to drive all American fishing vessels to be manned by Canadian crews, so that we shall be training up sailors for the British navy, to be taken out of our vessels in the event of war either between us or a neutral power, under the British right of search, which they have never abandoned, and about which we went to war in 1812.

"There is no immunity granted by the treaty for the seizures of American ships that have of late been made, neither does the protocol have any thought upon our fisheries on the north-west coast."

The General does not like the constitution of the Board of Arbitration as proposed by the treaty, and especially attacks the Emperor of Brazil as being at the head of the only nation retaining slavery, the chosen home and refuge of the recalcitrant rebels who fled for safety from, as they supposed, the impending halter after the surrender of Lee.

After generally attacking the provisions in the treaty regarding the 'Alabama' claims as inequitable, the General says:—

"There are two classes of claims, however, provided for in this treaty that a loyal American citizen can never consent to; and they may be put in as many treaties as Commissioners may choose to negotiate or the Senate to ratify; but I, as a Representative of the people, will never vote a dollar appropriation for them. And those claims are these: First, compensation for slaves owned by British subjects taken during the war. I, myself, enlisted such slaves, and took them from the possession of their British owners to fight the battles of America; and am I now to be called upon to pay for them? Yet they were property under the Constitution of the United States, so far as British subjects were concerned, and the proclamation of emancipation of President Lincoln, which took this class of property from British subjects, was an act of war; and under this article of the treaty I see no answer before a Commission to a claim for slaves when made in due form before them. I see by the protocol that the Commissioners there say that a British penal statute inflicts a penalty of fifty pounds upon a British subject for holding slaves, therefore no British subject can claim property in slaves under this treaty. That is simply a municipal statute affecting a British subject while in England. It cannot affect him here any more than any other municipal law of England can affect his action here. He cannot be tried here under that statute; he can be liable to no penalty here under that statute. He has a right, while owing local allegiance to us, to own all property that is legally to be owned by our laws, and he is to be protected by our laws in those rights. And this treaty is the supreme law of our land when we agree to it. There is a penalty of fifty pounds for any British subject owning a pack of cards which shall not be stamped in a specific way; but does anyone

presume that that penalty applies to a British subject while domiciled here? And why should not it apply as well to a penalty against owning slaves?

"He believes that the American side of the Commission has been clearly outgeneraled, but derives consolation from the conviction that the treaty, even when passed by the Senate, will never be ratified by the House of Representatives."

Mr. Kellogg, of the Committee, questioned General Butler as to the effect the eleven years' Reciprocity Treaty had upon the fisheries. Mr. Butler stated that during the first five years of its existence it worked exceedingly well, but during the last half of the endurance of the treaty it declined rapidly, the advance of the British fisheries being equally rapid. This was owing to the increase of mackerel in the British waters.

At the conclusion of General Butler's address, which occupied rather over an hour in delivery, Mr. E. H. Derby rose to address the Committee.

Mr. Derby regretted that the views of General Butler had not been sent before the Joint High Commission and the members of the United States' Senate, as he believed they were sound, and should receive the attention of all thoughtful men. He fully endorsed Mr. Butler's estimate of the immense value of the fisheries to a very large community in the country. The mackerel fishery alone was worth \$5,000,000 annually. The cod fishery was valued to the State of Massachusetts at \$3,000,000 per annum. There was another great branch of industry, and that was the supply of fish daily to the markets of the State. That was worth \$2,500,000, or \$3,000,000 a year, and the whale fishery was valued at least at \$6,500,000 annually. The total fishery was thus worth at least \$17,000,000—or equal to one-sixteenth of the entire productions of the State.

The language of the treaty, Mr. Derby contended, was to take away the sole protection of our fishermen in the home market and throw them into competition with the English and French fishermen, who had not so heavy duties to contend with, and who had every advantage given them over our own men. There was another and still greater consideration, and that was that we were sacrificing the great nursery of our navy for the paltry consideration of the pitiful line of three miles around some of the British Provinces. This line the British fishermen had no right to. Mr. Derby concluded with a reference to the injury the treaty would eventually work to the new city of Gloucester.

Mr. Atwood, of the Cape District, endorsed all that General Butler and Mr. Derby had said concerning the fishery question, and complimented both gentlemen upon their vast knowledge of the subject. He considered the three-mile line to be of very little value to our fishermen; in fact it gave an advantage to the British. He gave a history of the fisheries since the time he entered the business in 1820, and adverted to the fluctuations, &c., attending it. The treaty now before the United States' Senate gave the provincial fishermen the right to participate in all fisheries in common with us, from the 39th degree of latitude northward. The treaty would give the provincial fisheries an advantage over us with which we could not possibly compete. It would have an unequal bearing upon certain of the fishing towns. In conclusion he expressed the hope that the treaty now under consideration, so far as it referred to the fisheries, may not be ratified.

The hearing was then declared closed.

(Confidential.)

No. 20.

No. 20.

The LORD LISGAR to The EARL OF KIMBERLEY.

Government House, Ottawa, June 1, 1871.

(Registered June 15, 1871.)

MY LORD,

I HAVE the honour to forward several extracts from newspapers having reference to the fishery question, in continuation of those which I transmitted for your Lordship's information on the 25th May.*

2. The most important is No. 1, the leading article of the 'Globe,' which seeks to convert the topic into a party attack upon the Ministers, and forestall or decry every attempt they can possibly make to free themselves from the menaced unpopularity, and render the Treaty acceptable to the Canadian public.

3. The extracts taken from the 'Ottawa Times' are to be noted as written under ministerial inspiration, and giving the outline of the position which the Government mean to take.

4. Both the leading article, No. 2, and the letter signed "Ottawa," No. 3, were inspired by ministerial authority, if not actually written by Ministers themselves.

5. One of their body has gone down to stand for the representation of the city of Quebec in the Provincial parliament, and will, as I am informed, take occasion to make a somewhat fuller statement, but of the same import as that contained in these extracts.

6. I will duly forward a copy of this statement for your information as soon as I am furnished with it in an authentic shape.

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

The Earl of Kimberley,
&c. &c. &c.

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Enclosure 1
in No. 20.

Enclosure 1 in No. 20.

THE RETURNED COMMISSIONER.

The 'Globe,' Toronto, May 26, 1871.

Sir John A. Macdonald has returned to Ottawa, and the Senate has ratified the treaty he took part in framing. Whatever excuse or reason may have hitherto existed for silence on a subject of such supreme interest to the people of Canada, now exists no longer. Those on whose behalf the Premier was expected to act and speak in the conferences of the Commissioners require his explanations, if he has any to offer, and have a right to ask that they shall be given without delay. Sir John A. Macdonald went to Washington with no uncertainty as to the opinions and feelings of his fellow-countrymen upon the questions he was expected to discuss as their representative. The debate in the Canadian Parliament, prior to his departure—although, to avoid embarrassing the Commissioners, no resolution was passed—was in effect a declaration of the determination of the House that our undisputed rights should be maintained. Nothing has been better understood for the past five years than that, except in return for a large and liberal measure of reciprocity from the United States, Canada would concede nothing. Sir John has returned from Washington, having put his hand to an agreement to relinquish the sovereignty of the St. Lawrence for ever, and to ask the Dominion Parliament to concede absolutely, and for the meanest equivalents, the exclusive enjoyment of the noblest fisheries in the world.

So far as the country possesses information on the case before it, its judgment is one of unqualified condemnation. The quotations from Canadian newspapers which have appeared in our columns show plainly enough how, so far as the press can express popular sentiment, the treaty is regarded. The verdict on the facts before these representatives of the national will is unanimous. The surrender is complete; the terms are abominable. What has the Prime Minister to say in reply? The situation is critical and delicate. Delay is dangerous; for inferences are drawn and arguments founded on what may, after all, be susceptible of some explanation from one who has been behind the scenes, and who should, in his official capacity, have a policy of his own to enunciate. But has Sir John A. Macdonald a policy? If he has, it is at once for him to announce it.

We have all the more right to expect the Premier himself to speak out from the vague and unsatisfactory utterances of the ministerial organs. Their position is ludicrous and absurd enough. First we were bidden to wait Sir John's return before pronouncing upon the matter at all. Now we are generally advised that however bad the bargain, it might have been worse. Some assure us Sir John A. Macdonald will repudiate the work of his own hands; others, that we are to undergo the unutterable degradation of setting off our grievances under the treaty by begging for Great Britain's guarantee for our bonds to raise the money for the Pacific Railroad! Esau's folly is nothing to the madness of some of these bewildered satellites of the Minister; and it is with this rubbish that the people of Canada are treated so long as Sir John A. Macdonald is silent. The relations of Canada to the mother-country, and of both to the United States, are bound up in this matter, and under such circumstances to postpone any explanations that may allay anxiety or throw light upon the causes which may have led to such a result, would be not only foolish but criminal.

HIGH JOINT JUBILATIONS AT NEW YORK.

The British "High Joins" have sailed by the 'Cuba' for home, and before leaving the United States were entertained with all the liberality for which he is famous by Mr. Cyrus W. Field, at a banquet at Delmonico's. The genial promoter of the Atlantic cable was, no doubt, from his point of view, quite right in contributing his testimony in hospitable guise to the excellent bargain conceded by the British Commissioners to his own country. The Commissioners were there,—but not all. Sir John A. Macdonald was significantly absent. Perhaps he felt it would be a little too bold a challenge to accept the congratulations of the well-satisfied New Yorkers as a preliminary to facing the stern demand to give an account of his doings which awaited him in Canada. He could hardly have spoken without incurring the risk of committing himself to an extent he has hitherto, either in person or by his mystified organs, altogether avoided. His time, however, must soon come. "The Dominion of Canada, may it ever increase in prosperity," was among the toasts of the evening proposed by Mr. Field. "Sir John A. Macdonald had left to attend a meeting of the Cabinet at Ottawa," was the explanation given for the absence of the Canadian Commissioner, and the toast, we are told, was "not responded to." This was well. It would have been hard indeed for anyone worthy to respond to that toast to have done so without a protest that would have sent a jarring note through those jubilant strains of compliment and congratulation.

Earl de Grey regarded it as a good omen that the Commissioners had landed on the birthday of Washington, and were about to depart on the birthday of Queen Victoria. Their work had been a difficult and responsible one, but all had been animated by one feeling—a loyal and sincere desire for peace. None of them were ashamed of the treaty, although time did not allow him to enter into a discussion of its several provisions; but it had been the result of an honest endeavour to meet the just claims of both countries. It was a compromise marked by honesty and frankness. It embodied large improvements upon the principles of international law. It was the first important consecration of the principle that nations, like men, are bad judges of their own quarrels. He was confident it would lead to a long and intimate alliance, equally desirable for both peoples.

Sir Stafford Northcote, who responded to the toast, "Modern diplomacy, the peaceful settlement of international disputes," echoed the sentiments of his colleague, paying, as he did so, a high compliment to Sir Edward Thornton, the British Minister at Washington, as well as to Mr. Adams and Lord Lyons, who respectively represented Great Britain and the United States during the civil war. Lord Tenterden, who evidently has very little aptitude for speech-making, responded to the sentiment, "Blessed are the peacemakers," and in fluttering style said a few complimentary words.

Before the proceedings closed, Henry Ward Beecher gave utterance to a wish that, on the most practical grounds, we heartily reciprocate. "He was sorry," he said, "the Commissioners could not travel before they went home." We are not quite sure, from the context, that Mr. Beecher intended to suggest the desire that rises to our own lips; but it would really have been a great advantage to the Commissioners, and perhaps to the Government they have represented, if they had travelled a few hundred miles further than Delmonico's after leaving Washington. They were apparently in no particular hurry—not so pressed for time, surely, as to be unable to receive whatever congratulations might be due to them from the people whose interests, scarcely less than those of Great Britain herself, had been confided to their keeping. Sir Stafford Northcote, it is true, knew something of the Dominion, but Earl de Grey and Lord Tenterden have never, we believe, set foot in Canada. A trip by the New York Central and Great Western to Toronto, and thence by Allan's steamer next Saturday from Quebec, would have landed them at Liverpool but very little later than the 'Cuba' from New York; and they would have picked up on their road some information useful perhaps to both Canada and Great Britain. It is the almost entire want of information of Canadian opinion and interests that leads English politicians into blunders diplomatic and parliamentary. When such eminent personages cross the Atlantic, a visit to Canada before returning ought to be regarded here as something more than a compliment. Perhaps on this occasion the "High Joints" had some inkling that all was not quite smooth with respect to their doings on this side the lakes.

Enclosure 2 in No. 20.

Enclosure 2
in No. 20

THE TREATY OF WASHINGTON.

'Ottawa Times,' May 31, 1871.

It is not surprising that a general desire should be expressed for full explanations concerning the Treaty of Washington and its bearing upon the interests of the people of Canada. These explanations will doubtless be given whenever it is proper that they should be. At present, however, we understand that Sir John Macdonald considers the time for doing so has not arrived.

The result of the labours of the Joint High Commissioners, although ratified by the Government of the United States, has not yet received the sanction of Her Majesty. The treaty will be laid before her by Earl de Grey on his arrival in England, and until it is ratified the functions of the Commission still continue to exist. Until the treaty is disposed of, it would be obviously improper for any of Her Majesty's Commissioners to enter into any public discussion of the negotiations at Washington or their result.

We may confidently expect that the treaty will be ratified and discussed in the Imperial Parliament. Lord de Grey and Sir Stafford Northcote, in their respective Houses, will then have an opportunity of justifying the treaty from the Imperial point of view.

With the ratification of the treaty the powers and duties of the Commissioners will cease, and our Premier can then, without impropriety, make such explanations as he may deem necessary.

Meanwhile, the people of Canada may rest satisfied with the assurance that the reservation of the fishery articles for the approbation of our Legislature is not a mere formal one, and that it is quite open to the Parliament of the Dominion to deal with those articles in such a manner as it thinks is most likely to be advantageous to the people of this country. Neither the Government of Canada as a whole, nor Sir John Macdonald as the First Minister, are committed to the treaty, and they have taken care to reserve to themselves the right of the most complete freedom of action in the matter.

Enclosure 3 in No. 20.

Enclosure 3
in No. 20.

THE WASHINGTON TREATY.

'Ottawa Times,' May 31, 1871.

To the Editor of 'The Times.'

It must be remembered that Sir John A. Macdonald was an Imperial Commissioner, appointed by Great Britain, and not by the Dominion. Taking into consideration the respective qualifications of the gentlemen comprising the British portion of the Commission, and their knowledge of the several questions to be submitted to them, no doubt Sir John was selected on account of his intimate knowledge of the questions affecting the Dominion. And while the British Government *temporarily* assumed the right to dispose of our fisheries, the navigation of the St. Lawrence, &c., they did not attempt to exercise the full prerogative of the Crown, but left that portion of the treaty affecting the Dominion to be accepted or rejected by our Parliament.

The rejection of the articles affecting us, I take it, does not interfere with the other articles affecting Great Britain. If the latter is content to pay the 'Alabama' claims, what right have we to complain? Diplomacy describes a "considerable circle" before it comes to the point. There are "wheels within wheels." First, as a preliminary arrangement to an amicable settlement, the United States required an apology from Great Britain respecting the 'Alabama.' The latter would not apologize, but while denying any liability, was willing to place on record an expression of regret at the escape of the 'Alabama' and the damage done by her. So much conceded, rules were laid down for the guidance of neutrals in the future. Great Britain would not admit the rules so agreed upon to have formed part of international law at the time of the escape of the 'Alabama,' but for the sake of maintaining amicable relations with their "good friends," were willing the Commissioners should assume they did. We all know the vital importance of an amicable settlement of the 'Alabama' claims to Great Britain as well as to ourselves. It is not,

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therefore, too much to assume that, for the final settlement of the "vexed question," Great Britain should have urged her Canadian Commissioner, while striving for the best terms for the Dominion, to lay aside the Canadian for a time, and act in his capacity of British Commissioner, to throw in the fisheries and the navigation of the St. Lawrence as *bait*, and remain under a cloud for a while—because we all know that without the fisheries and the free use of the St. Lawrence the Senate would never have ratified the treaty. They were content with the qualified apology—they were sure of the payment of the 'Alabama' claims, and they readily swallowed the bait. When the treaty is ratified in England, and the obligations of secrecy removed, it will in all probability be found that Sir John is perfectly free as Premier of the Dominion to oppose the articles affecting us. England will be prepared to fulfil her share of the treaty, and carry out its provisions so far as they concern her, in good faith. If Canada rejects the articles affecting her, the United States cannot complain. They were parties to the original contract reserving that right to Canada. If I am correct, when the veil is lifted and the cloud removed, we will find that the temporary loss of popularity is but one of the penalties attached to secret diplomacy, and the sacrifice will appear in a brighter and truer light.

A great deal may be said in favour of the treaty, hard as it looks for us, but I am not disposed to consider the favourable points. I want reciprocity, and my impression is, to secure it we must hold fast to the fisheries, if not the navigation of the St. Lawrence also. In standing up for our rights, we need not fear an attempt to bully us by our neighbours, they will respect us the more for it now, and when we get the Pacific Railway completed, and the census shows ten millions of inhabitants in the Dominion, although ever anxious for the preservation of a good understanding and friendly intercourse with the United States, we can then afford to be more indifferent to their threats. When the 'Alabama' claims are settled, and when our neighbours find Great Britain has no intention of coercing the Dominion, but has thrown in the bait, leaving her boys to haul in the fish, they will "squirm considerable," and calculate their Commissioners were not quite as cute as they thought they were.

OTTAWA.

Referring to the thousand and one reports which have been circulated in reference to the Washington Treaty, the 'Montreal Gazette' says:—

"Our Ottawa correspondent will, we think, be found to have possessed much more accurate information than those of our contemporaries. So far from any decision having been absolutely reached on Friday, the Council, according to his statement, had a long sitting on Saturday, at which the subject was discussed, and in his despatch published yesterday we are assured that the members of the Cabinet are thoroughly in accord in reference to the treaty at Washington, and that their position in regard thereto will be satisfactory to the country. We have no doubt upon this point; and that journalists who have been conjuring up all kinds of embarrassments for them will find themselves much disappointed. To be in accord with reference to the treaty of Washington does not necessarily imply an unconditional surrender to its terms; a distinction which we fear some of our contemporaries are, unfortunately for themselves, overlooking."

Enclosure 4
in No. 20.

Enclosure 4 in No. 20.

THE WASHINGTON CAPITULATION.

The 'Globe,' Friday, May 21, 1871.

OPINIONS OF THE PRESS.

From the 'Almonte Gazette.'

Upon the whole it is a very pretty treaty—for the Americans—and one with which they *ought* to be satisfied, for a short time at least. It is just such as we might have expected a treaty negotiated at the American capital would be. The question naturally arises, will the Imperial Government accede to all its wonderfully liberal provisions? We are perfectly certain that it will not pass the Dominion Commons in its present form.

From the 'Kingston News.'

The feeling of hostility in Canada is rising to a high pitch of intensity. In the Maritime Provinces there is a great outcry, and throughout the country generally the feeling is common that Canada is called upon to sacrifice too much. Great Britain has yielded position after position in response to the demands of the American Commissioners on the 'Alabama' question, and the same spirit of willingness to sacrifice everything to effect a settlement has dictated a solution of the questions affecting Canada. It is believed that the Parliament of Canada will not sanction the provisions of the treaty so far as the interests of this country are concerned.

From the 'Port Dover New Dominion.'

The free navigation of the St. Lawrence, the rights of our fisheries, and the free use of our canals, are all given up, and what do we get in return? Not reciprocity, nor any other equivalent; but we pay by this means, we suppose, the 'Alabama' and other claims, committed through the avarice of the Messrs. Laird and others, who fitted out these cruisers. Not a word is said about our own claims against the American Government on account of the Fenian raids. It surely cannot be possible that this treaty in its present shape will be ratified by our own Parliament. This treaty is worse, if anything, than the famous Ashburton Treaty.

From the 'Montreal Gazette,' Chief Organ of the Ottawa Government.

Anything more humiliating than this it would be impossible to imagine. A frank avowal in the first instance that England had done wrong, and was liable for the consequences of the wrong, would at least have challenged respect. But this declaration that although she denied her wrong doing, she was willing to be adjudged as if she had done wrong, obtained from the British Commissioners after a months' haggling over the question, is painful evidence of how far Great Britain was prepared to go to secure the promise of peace and friendship. We can scarcely wonder, when the honour of the Empire was dragged in the mud, that Canadian interests received but scant consideration.

From the 'Brampton Times.'

The Americans have again and again wrested from Great Britain, without shedding a drop of blood, substantial advantages on land and sea, and have in every respect gained the mastery by force of sheer impudence, which set at defiance all moral or international law. The basis conceded on which the 'Alabama' question is to be definitely settled, is as dishonourable and humiliating to England as it is unjust and ungenerous to Canada; it is in fact a death-blow to the sentiment of British connection, and justifies the assertion that has been so strenuously combated in this country, that the fixed policy of England, long ago initiated, is to cut adrift her North American Colonies, and to withdraw her flag entirely from this continent, in humble submission to the Monroe doctrine of the United States.

From the 'Stratford Beacon.'

To use the old and familiar expression, the Washington Treaty is that of the jug-handle description—entirely on one side. We presume that the purpose of placing a Canadian on the Commission was to silence opposition from this quarter to the ratification of the treaty. But it will not have that effect. It is a very good thing, no doubt, for Great Britain to be able to arrive at an amicable arrangement of existing difficulties with the United States. But it is neither just nor honest to place the burdens of the strong upon the weak, and to make of Canada the vicarious sacrifice for the supposed sins of the whole people. Living side by side with a powerful nation which desires our absorption, and is constantly using pressure to accomplish that purpose, we have enough to do to hold our own, without having the weight of Great Britain thrown into the scale against us. But what is to be said of our representative on the Commission, who must have been wilfully blind to sanction an arrangement so unjust?

From the 'Ottawa Citizen.'

With respect to the fisheries, the most singular contention made use of by the Americans was that the United States desired to secure the use of the fisheries not for their commercial or intrinsic value, but for the purpose of removing a source of irritation. We presume that this profession of regard for good feeling and amicable relations must be accepted, but, at the same time, there are other ways in which the United States might show their desire to allay irritation. The best way to manifest that desire would be to exercise more respect for their neighbours' rights and property. The irritation alluded to is not produced by any illegal or unfriendly acts of Canada, but by the unscrupulous poaching propensities of American fishermen, and if the United States' Government would exercise the functions of its authority in checking the illegal and predatory habits of the people, the irritation would soon be allayed, and there would be no necessity for Joint High Commissions.

From the 'Petrolia Advertiser.'

Of all the parties, Canada has least grounds for satisfaction at the result. So far as at present appears the new treaty is to our disadvantage in every particular. The Americans get from Canada all the advantages they enjoyed under the old treaty of reciprocity. In return for these concessions, Canada gets the privilege of using American canals which have yet to be built; of fishing in American waters where there are no fish to catch; and of navigating certain alleged rivers in Seward's ice factory of Alaska, where there is not, and never will be, any trade to navigate for. It is true that a money payment in recognition of the greater value of Canadian than American fisheries is stipulated for; but simple indeed must be that individual who expects that Canada will get out of the cash-box of our respected Uncle Samuel a sum big enough to very largely enhance the wealth of this Dominion. Looked at from a Canadian standpoint, therefore, it would appear that Sir John A. Macdonald and his colleagues on the British side of the Joint High Commission can by no means be considered a success as treaty-makers.

From the 'Huntingdon Gleaner.'

Let this arrangement be carried out, and our existence as an independent people is doomed. The thin end of the wedge will be introduced, for if the Americans once acquire what is essentially a proprietary right to our waters without due compensation, claims to jurisdiction over our territory and interference with our laws will follow in time. We are sorry to say it, but the treaty looks very much as if Britain wished to purchase the goodwill of the United States at our expense. If it is carried out, then the Americans will have all the benefits they enjoyed under the Reciprocity Treaty, while we will have none; and the hope as to its renewal will have to be abandoned for ever. For the sake of peace we would sacrifice much, but we cannot counsel such a throwing away of our rights and most important interests as this treaty contemplates. If we were in favour of annexation we would advocate this treaty because it would place our people in such a disadvantageous position that for the sake of self-preservation they would be compelled to seek it. As we are not, we stand firmly to the opinion that it is the imperative duty of our Parliament to reject all the clauses which affect us. No doubt John A. Macdonald and his twin-brother Cartier will use their utmost endeavour to get the treaty ratified, but we rely on the patriotism and common sense of our members to withstand them, and to give both Britain and the States distinctly to understand that we are not going to give away valuable privileges without receiving an equivalent in return.

CANADA.

From the 'Merrickville Chronicle.'

Our Dominion representative, Sir John A. Macdonald, has acted very strangely in this matter ; he must have been fully satisfied that Canadian interests were completely ignored in the proposed treaty, yet continued to sit and act as one of the contracting parties. He surely does not hope to be able to induce the Parliament of Canada to endorse a measure that will to a very considerable extent injure our national prospects. We do not believe that the representatives of Canada, in Parliament assembled, will ever ratify a treaty so manifestly unfair in its suggestions. Canadian interests may be of little consequence to Great Britain, but John Bull will find that the Canucks appreciate their position and resources, and will not sacrifice their birthright for a mess of pottage.

From the 'St. Croix Courier.'

After a careful examination of the full text of the treaty, we are sorry to say that our worst fears in reference to the legislating away of our fisheries have been more than realized. It is not the first time we have been victimized by British diplomacy, but bad as the Ashburton Treaty was, this is actually worse. Our fisheries were the only valuable considerations we had to offer to the United States for reciprocal free trade. The fisheries belong to the Dominion, not to Great Britain, and it is unjust that the latter power should use them to aid in adjusting the 'Alabama' difficulty—for that is really what it amounts to. The American fishermen are to have free access to our fisheries, the export duty is to be taken off American lumber, and all the equivalent we receive is the free admission of our fish into the United States. This is a humiliating position to be placed in, and one from which we might have been free had we before this accepted the oft-given hint, and what we believe to be the heartfelt wish of Great Britain, and boldly declared our independence.

From the 'Gazette de St. Hyacinthe.'

Our fears have been realized. We have always been convinced that England would yield to all the demands of the United States, and the preliminary treaty which has just been concluded at Washington shows that our fears have been well founded. Without taking any account of our interests, and without manifesting the least regard for our rights, the English Commissioners, among whom figures the leader of the Canadian Government, have completely abandoned our fisheries to the Americans. They have also renounced the incontestable rights which we have to the free and exclusive navigation of the St. Lawrence, giving American seamen the use of our canals on payment of certain dues ; and, strange thing ! they have not demanded for Canadians the corresponding use of all the American canals, so that our neighbours can still shut the gates of the Saulte Ste. Marie Canal against us, though we have absolute need of it in order to maintain our connection with the North-West.

From the 'Montreal News.'

It is positively refreshing to read the manly and vigorous language in which the 'Halifax Chronicle' and 'St. John's Freeman' protest against the "immoral and unconstitutional violation of Provincial rights" by the strong hand. We are Colonists and British subjects, not fools, nor a pack of cowardly slaves, to "allow our property to be traded away without our consent." Such are the brave words of the 'Chronicle,' and they will find an echo in England. We have been nauseated with the whining puling strains of craven-hearted writers, who are seemingly afraid to call their souls their own, so abject is their fear of offending the United States, or damaging a Canadian Premier. We feel that the crisis is too momentous to consider the feelings of any individual, or remain silent when our national life is about being bartered away. We share none of the half-hearted terrors of those who speak with bated breath in presence of General Grant.

Enclosure 5 in No. 20.

Enclosure 5
in No. 20.

'Hamilton Evening Times' (Opposition Paper), May 27, 1871.

It has been urged by ministerial journals that it would be unfair to hold Sir John A. Macdonald personally responsible for the action of the High Commissioners of the fishery question, inasmuch as he could not be expected, single-handed, to bring all the other Commissioners to his views. If we can believe the London 'Times'—and it generally is able to speak correctly on the policy of the Imperial Government—the whole fishery question, on the British side, was practically left to the sole management of Sir John. That journal says:—"On such a matter as the fisheries' question, the rest of the English Commissioners "would be likely to defer to the judgment of the spokesman for Canada." If this were the case, then Sir John must be held to be the person responsible for the weak surrender of our rights. Had he been firm, the remaining English Commissioners would have stood by him, and this victory of Yankee diplomacy, at our expense, would not have had to be recorded. Even had 'The Times' not made this revelation, common sense would suggest that on all questions purely Canadian, Sir John must have held the position of leader of the English Commissioners ; otherwise, his being there at all would have been simply a farce. The deputation from England really knew almost nothing about the fisheries, and possibly cared less ; while they had opposed to them the American Commissioners, acquainted with all the details of the question, and eager to obtain whatever advantages they could in the negotiations. Sir John was the only person on the British side entitled to speak with authority, and if he did so, his colleagues were bound to follow his suggestions. That the result has, been what it has, must be held to be due either to the negligence or complicity of our own representative, unless, by his own explanations, he can show himself to have been more sinned against than sinning.

Enclosure 6 in No. 20.

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Enclosure 6
in No. 20.

It is evident from the tenor of some of the Despatches which we publish elsewhere that a strong opposition will manifest itself in the Lower House of Congress when the fishery clauses of the Treaty of Washington and the removal of the duty on Canadian fish come up for discussion next December. The Republicans have a large working majority which has never failed them on all material occasions ever since their accession to power under Mr. Lincoln in 1861, but several leading members of that majority, including such thorough-going Republicans as Generals Banks and Butler, so openly and so clamorously protest against the cession of the American markets and fisheries to Canada that their votes, if not that of many others, will certainly go with those of the steadily growing opposition. Fortunately for the Administration and its pledge in the treaty, many of the Democratic members who compose it are so thoroughly committed to tariff reform that their votes may be relied upon, and will more than counterbalance the bolt which may be safely expected upon this question from the ranks of the Republican party.

No. 21.

No. 21.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 118.)

Government House, Ottawa, June 7, 1871.

(Received 22nd June, 1871.)

(Answered, No. 452, 26th June, 1871, page 102.)

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 427,* of 25th May, 1871, forwarding a copy of a correspondence relating to the instructions issued for the protection of the fisheries, and in reply beg to enclose a copy of a Minute of Council which conveys the views of my Responsible Advisers on the subject.

* Page 98.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 21.

Enclosure in
No. 21.

THE COPY of a REPORT of a COMMITTEE of the HON. PRIVY COUNCIL to HIS EXCELLENCY the GOVERNOR-GENERAL, dated 7th June, 1871.

The Committee of Council have had before them the Despatch of the Right Honourable the Secretary of State for the Colonies to your Excellency, of the 25th of May last, enclosing copies of a correspondence with the Admiralty, from which it appears "that the instructions to the British naval officers employed in "the protection of the fisheries will be suspended until the action of the United States' Government with "respect to the Treaty of Washington is known."

The Committee cannot but express their surprise and regret at the step thus taken, and feel it to be their duty, in view of the grave consequences which may flow from it, to lose no time in requesting your Excellency to lay before Her Majesty's Government this their remonstrance.

Before the close of the last season, the Canadian Government was invited by Lord Kimberley to consider and arrange with Her Majesty's Government the instructions to be issued to the naval squadron and the Canadian marine police vessels for the season of 1871.

The Canadian Government met the views of the Government of England in this particular, and considering that they had the assurance that Her Majesty's naval squadron would continue during this season, as in the last, to aid in the protection of the fisheries, obtained from Parliament the necessary appropriation for the maintenance of their marine police, and received its approval of the continuance of the policy which had proved so successful last year.

The vessels have accordingly been fitted out and despatched to the fishing grounds, with instructions amended as agreed upon, and now, after all this has been done with the full knowledge and approbation of Her Majesty's Government, Canada finds that, without any previous notice or intimation, the promised support of Her Majesty's fleet is withdrawn, and the unarmed vessels of the Dominion left to vindicate the laws and protect the fisheries as best they can.

Although the Despatch states that the instructions are only suspended until the action of the United States' Government is known, it must be assumed that such suspension is to be continued in case of the ratification of the treaty by that Government. No reason is given for such suspension, and the Committee are at a loss to imagine one.

A mere reference to the treaty will show that the articles relating to the fisheries are only to take effect when the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other. It is not at all certain that such legislation will ever be obtained, or the fishery articles ever take effect, but it is certain that under no circumstances can the subject be ever submitted for consideration to Congress until next December at the earliest, and therefore during the whole of the present season there is no possibility of the articles relating to the fisheries coming into operation. Meanwhile all the present laws concerning the fisheries, both Imperial and Colonial, will be in full force, and the necessity for guarding the fishing grounds will continue.

In enforcing those laws the Canadian Government will in the future, as in the past, act without severity,

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and with all prudence and discretion, but it would be a breach of their duty, and a direct contravention of the expressed will of Parliament, to allow the laws to remain unenforced. Indeed, it is not in their power to do so, as any aggrieved fishermen may set the law in motion by taking legal proceedings against intruding foreigners.

The inaction or withdrawal of Her Majesty's naval force may therefore lead to disastrous consequences.

The American fishermen, who have been already incited, as is known to Her Majesty's Government, to take possession of the Canadian fishing grounds by force, will be thereby greatly encouraged to enter upon a course of lawless aggression. Understanding that they have nothing to fear from the interference of Her Majesty's ships of war, they will in all probability disregard the warnings of the Colonial officers, and invade the fishing grounds in large numbers and with the strong hand.

This would certainly lead to collisions, as the laws must be vindicated and the process of the Courts enforced.

So long as Her Majesty's fleet and the colonial authorities were acting in concert, no risk of resistance or collision was incurred. The moment the divergence of action is known, there is imminent hazard of resistance and collision occurring, and the Committee of Council cannot but feel that the responsibility for the consequences, whatever they may be, will not rest upon the Canadian Government.

The views now presented to your Excellency may not have engaged the attention of Lord Kimberley or the Secretary of State for Foreign Affairs, when the suggestion of the Lords of the Admiralty was sanctioned; and the Privy Council is not without hope that upon further consideration by Her Majesty's Government the suspension of the orders to the North American squadron may be annulled by telegram, and the amended instructions, as settled by the two Governments, allowed to govern the action of Her Majesty's ships as well as of the Canadian police vessels, until the several Legislatures which have to pronounce upon the fishery clauses of the Treaty of Washington shall have met and considered them.

(Certified) W. M. H. LEE,
Clerk, Privy Council, Canada.

No. 22.

No. 22.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 126)

Cacouna, July 5, 1871.

(Received 19th July, 1871.)

MY LORD,

(Answered, No. 476, 27th July, 1871, page 103.)

AT the request of the Privy Council of Canada, I have the honour to transmit, herewith, a copy of a joint Address adopted by the "Legislative Council and Assembly of the Province of New Brunswick on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington."

June 13.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 22.

Enclosure in
No. 22.

COPY of a REPORT of a COMMITTEE of the HONOURABLE PRIVY COUNCIL, dated 13th June, 1871.

The Committee of Council have had under consideration a communication from the Lieut.-Governor of New Brunswick, enclosing a joint Address from the Legislative Council and Assembly of that Province on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington, and they respectfully advise that a copy of the same be transmitted by your Excellency to the Right Honourable the Secretary of State for the Colonies for the information of Her Majesty's Government, as containing the views of the New Brunswick Legislature on that important question.

(Certified) W. M. H. LEE,
Clerk, Privy Council, Canada.

To His Excellency the Right Honourable BARON LISGAR, P.C., K.C.B., G.C.M.G., Governor-General of the Dominion of Canada, &c., &c., &c.

The humble Address of the Legislative Council and House of Assembly of the Province of New Brunswick.

May it please your Excellency,—

Having had under consideration certain provisions of the treaty signed at Washington on the 8th day of May instant by the respective Commissioners of Great Britain and the United States, we most respectfully submit that so far as the same relate to the fisheries, they are not satisfactory to the people of this province, inasmuch as while they contain no definition of the existing rights and duties of the subjects and citizens of Great Britain and the United States, and postponing all questions growing out of the exercise and enforcements of such rights and duties, they prematurely and without sufficient considerations of Canadian interests moving thereto, substitute for the protection to which the British fisherman is fully entitled by

public law, and which the recent enactments of the Parliament of Canada have largely secured, a policy of unlimited and dangerous concession.

The privileges accorded to the subjects of Great Britain by the 19th and 21st articles of the treaty are by no means an equivalent for the privileges conferred on the citizens of the United States by the 18th article: the reciprocal privilege of fishing in certain American waters is barren and delusive, and the mode of determining and accounting for the excess in value of the privileges accorded by the Government of the United States is erroneous in principle and impracticable in execution, and the considerations of advantage are too remote and uncertain.

We would respectfully submit that any treaty relating to the free use of the fisheries, and to the navigation of the rivers and canals of Canada, should at the same time make such further provisions for the regulation of commerce and navigation as would render the same reciprocally beneficial and satisfactory; and we therefore hope that the Parliament of Canada will, under existing circumstances, adhere to and carry out the policy of protection of the fishery rights of the Dominion recently adopted, and will refuse its assent to the articles of the said treaty relating to the fisheries.

We respectfully urge upon your Excellency in Council the consideration of the matters herein set forth, and request that your Excellency will be pleased to cause this Address to be laid before the Dominion Parliament at its next session.

(Signed) JOHN S. SAUNDERS,
President of the Legislative Council.

(Signed) E. A. VAIL,
Speaker, House of Assembly.

(Cap. 23 of 1871.)

No. 23.

No. 23.

AN ACT further to Amend the ACT respecting FISHING by FOREIGN VESSELS.

(Transmitted in Lord Lisgar's Despatch, No. 134, July 29, 1871.)

[Assented to April 14, 1871.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The fifth section of the Act *respecting fishing by foreign vessels*, passed in the thirty-first year of Her Majesty's reign, chapter sixty-one, is hereby repealed, and the following section is hereby enacted in its stead:

Preamble.

31 Vict., c. 61,
s. 5, repealed.

"5. Goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of such fishery officer, or customs officer, or other person as the Minister of Marine and Fisheries may from time to time direct, or retained by the officer making the seizure in his own custody, if so directed by the Minister, in either case to be secured and kept as other goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo seized are directed by the laws in force in the Province in which the seizure is made, to be secured and kept."

New section.
Custody of
vessels, &c.,
seized.

2. The sixth section of the said Act is hereby repealed, and the following section is hereby enacted in its stead.

Section 6
repealed.

"6. All goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo condemned as forfeited under this Act shall be sold by public auction, by direction of the officer having the custody thereof, under the provisions of the next preceding section of this Act, and under regulations to be from time to time made by the Governor in Council, and the proceeds of every such sale shall be subject to the control of the Minister of Marine and Fisheries, who shall first pay therefrom all necessary costs and expenses of custody and sale, and the Governor in Council may from time to time apportion three-fourths or less of the net remainder among the officers and crew of any Queen's ship or Canadian Government vessel, from on board of which the seizure was made, as he may think right, reserving for the Government, and paying over to the Receiver-General at least one-fourth of such net remainder, to form part of the Consolidated Revenue Fund of Canada; but the Governor in Council may, nevertheless, direct that any goods, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo seized and forfeited shall be destroyed, or be reserved for the public service."

New section.
Sale of goods,
vessels, &c.,
seized.

Appropriation
of proceeds.

Proviso.

3. This Act shall be construed as one with the Act hereby amended; and the sixth section of the said Act as contained in the second section of this Act shall apply to all goods, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo condemned under the said Act before the passing of this Act, and to the proceeds of the sale thereof, remaining to be applied and paid at the time of the passing of this Act.

Act to be
one with
amended Act.

CANADA.

No. 24.

No. 24.

The Lord LISGAR to The Earl of KIMBERLEY.

(No. 140.)

Cacouna, August 15, 1871.

(Received August 30, 1871.)

(Answered, No. 506 of September 8, 1871, page 104;
also by No. 516, September 20, 1871, page 104.)

MY LORD,

I HAVE the honour to enclose, for your Lordship's information, a letter from the Minister of Marine and Fisheries enclosing copies of certain depositions taken in connection with the recent seizure of the United States' fishing schooner 'Samuel Gilbert.'

August 10,
1871.

2. The seizure of the 'Samuel Gilbert' is the only seizure of a United States' fishing boat during this season by the Canadian cruisers of which I have received information up to this date.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in
No. 24.

Enclosure in No. 24.

FISHERIES DEPARTMENT to the GOVERNOR-GENERAL.

SIR,

Ottawa, August 10, 1871.

I have the honour, by direction of the Minister, to enclose for his Excellency's information, copies of certain depositions taken in connection with the recent seizure of the United States' fishing schooner 'Samuel Gilbert.'

The Secretary to
His Excellency the Governor-General, Ottawa.

I have, &c.
(Signed) W. F. WHITCHER,
for the Hon. Minister of Marine and Fisheries.

CANADA. PROVINCE OF QUEBEC.

I am commander of the schooner 'La Canadienne,' which vessel is fitted out by the Dominion of Canada, and kept in the Gulf of St. Lawrence for the protection of fisheries and fishermen, and to prevent illegal fishing by foreign vessels.

In the afternoon of 24th July, 1871, I saw the schooner 'Samuel Gilbert' anchored near Parrot Island, at about two miles north-west by west from the island, and about two miles and three quarters from the mainland. When I first noticed the said schooner 'Samuel Gilbert' one of her flats was alongside of her, and one of the crew was taking out from it fresh cod-fish and throwing it on the said schooner's deck. I called up the captain to show his colours, and upon his informing me he had no flag, I boarded her, and asked for the papers belonging to the said vessel, and from them I ascertained that the schooner 'Samuel Gilbert,' Captain Hanan, was from Gloucester, in the State of Massachusetts, one of the United States of America, being 51 tons burthen, with a crew of 11 men; she had a cargo of about 400 drafts of cod-fish salted in bulk, and a few casks of cod-oil. After these first investigations I told the captain of the 'Samuel Gilbert' that he had been fishing in contravention of the laws of the Dominion of Canada, which fact he acknowledged, alleging for excuse that he was under the impression that the provisions of the "Washington Treaty" were in force.

I then asked him where were his other flats or fishing-boats? He told me that two of the schooner's boats, with two men in each, were out fishing in the direction of the shore. To ascertain the fact I sent one of my boats, under the command of my secretary, in search of these boats, and remained myself on board of the 'Samuel Gilbert' to see that she did not escape.

About an hour after despatching my secretary I saw the two boats coming from the direction of the shore; they soon reached the 'Samuel Gilbert,' were half full of fresh cod-fish; had, too, in them the full complement of fishing gears necessary for taking cod-fish.

Shortly afterwards my secretary returned to the 'Samuel Gilbert,' and he and the crew of the boat he commanded informed me that they had met, about 500 yards from the shore, one of the flats coming back to the said 'Samuel Gilbert,' half full of fish freshly caught, and that they had seen the other flat at anchor, and the men in it fishing, holding their lines in the water and hauling them with fish caught in the hooks. My secretary informed me at the same time that it was upon his order that the two last American fishermen drew in the lines and returned to their schooner the 'Samuel Gilbert,' and that he, with the sailing master and both crews of 'La Canadienne's' boats, had measured the distance from the shore to the place where the two flats were anchored, and the depth of water at the same spot; that the distance between the two points was of 459 yards or thereabouts, and the depth of water on the fishing-place two fathoms and a half, and at about a mile and a half to the west of Sand Point, north shore of the Gulf of St. Lawrence.

The contravention being so very clear, I informed the captain of the 'Samuel Gilbert' that it was my duty to seize his schooner and everything belonging to it, and to consider the whole as seized. Neither the captain nor any of the crew made any show of resistance. I then took on board of 'La Canadienne'

part of the crew of the 'Samuel Gilbert,' and replaced them by some of my men under the command of one of my officers.

The two schooners set sail for Gaspé the same afternoon, from whence, after communication with the Hon. P. Mitchell, Minister of Marine and Fisheries, the two schooners were ordered to Quebec; Captain Hanan, his son, and two of his men, having refused to accompany their schooner to Quebec, were left behind.

(Signed) N. LAVOIE.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

CANADA. PROVINCE OF QUEBEC.

I am secretary to Commander Lavoie, on board the Dominion schooner 'La Canadienne.' On the afternoon of the 24th of July, 1871, while talking to Mr. Leblanc, the sailing master, I saw a small schooner a little ahead of us on our starboard bow. I looked at her with the telescope, and made her out to be the 'Samuel Gilbert,' of Gloucester. I immediately told the commander of this; he was then in his cabin, but came on deck immediately. This American schooner was at the time taking fresh codfish on board, which was being thrown on to her deck from one of her flats alongside.

Commander Lavoie then had a boat lowered, and I accompanied him on board the 'Samuel Gilbert.' I there noticed several men splitting and salting down the cod that was on deck.

The other boat from 'La Canadienne' having come alongside, Commander Lavoie gave me the order to go and ascertain whether there were any American flats fishing along the shore. I started, and after hailing several boats, came upon one of the 'Samuel Gilbert's' flats with two men in her and four lines out. I told our boat's crew to turn around and see for themselves if any fish were being hauled out of the water, and they noticed as well as myself both the fishermen catch several cod while we were rowing towards them. On coming up to them I asked them if they belonged to the 'Samuel Gilbert' (so as to make sure, as this flat had been pointed out to me by some other fishermen), and on getting an affirmative answer I told them to haul their lines in and go back to their own vessel. I was just returning when I saw the other flat rowing off, full of fresh cod; I put the same question to them, and gave them also the order to go back to the 'Samuel Gilbert.' It was then that I noticed the sailing master (Mr. Leblanc) coming towards us in the other boat; he asked me where I had seen the flat fishing, and I showed him. He sounded the place and found two and a half fathoms; he then gave the end of the log line to one of the men in my boat, asking me to remain where I was while he would row on towards shore to measure the distance. He found it to be about 450 yards; I ascertained this by having the line measured afterwards on board. This spot where the flat was fishing is about one or one and a half mile above Sand Point, on the north shore of the Gulf of St. Lawrence; the schooner herself was anchored about two miles from the land. I am quite certain about the spot on which the American flat was fishing, as there were two other flats belonging to Nova Scotia vessels anchored close to it, and which had not moved when we took the soundings and measured the distance to shore.

(Signed) FRÉD^{IC}. ED. GAUTIER.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

CANADA. PROVINCE OF QUEBEC.

I am the sailing master on board of the Government schooner 'La Canadienne.' In the afternoon of the 24th day of July, 1871, I saw the schooner 'Samuel Gilbert,' seized that day. When we came upon her, I noticed that the men of the schooner were loading fresh codfish from one of their flats then alongside. The 'Samuel Gilbert' was then at anchor about two miles north-west by west from Parrot Island, and two miles and three-quarters from the mainland, one mile west of Sand Point, on the north shore of the River St. Lawrence. I afterwards, under the instructions of Commander Lavoie, proceeded to measure the distance from the main shore to where two of the boats of the 'Samuel Gilbert' were fishing, as also the depth of water. The two boats had started to return to their schooner when I arrived there, but the place where they had been found at anchor fishing being pointed to me by Mr. Gautier, the secretary of 'La Canadienne,' I measured the distance from there to the shore of the main land, one mile west of Sand Point, on the north shore of the River St. Lawrence, and ascertained that it was 459 yards, and the depth of water I found by sounding to be two fathoms and a half.

(Signed) M. LEBLANC, Sailing Master.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER J.P.

CANADA. PROVINCE OF QUEBEC.

I am coxswain of Commander Lavoie's gig. I was called up from below at about 3 P.M. to get the boat ready and go on board a schooner anchored a little ahead of us. On reaching her I heard her name was the 'Samuel Gilbert,' of Gloucester. I noticed codfish being thrown on deck by two men in a flat on her port side.

Commander Lavoie told me to go for Mr. Leblanc, our sailing master, and tell him to go and sound at what distance any of her flats might be fishing.

We met Mr. Gautier, the secretary on 'La Canadienne,' and he showed us the place where one of the

CANADA. 'Samuel Gilbert's' flats had been fishing. I sounded with the ship's lead-line, and told Capt. Leblanc that I found bottom at two and a half fathoms.

I held the line that measured the distance from shore and found it to be three and two-thirds its length. I ascertained this by seeing the line measured afterwards on board.

(Signed) ACHILLE BOUCHER.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

CANADA. PROVINCE OF QUEBEC.

Je suis employé comme charpentier à bord de la goëlette de la Puissance 'La Canadienne.' Dans l'après-midi du vingt-quatre juillet, dans l'année mil huit cent soixante et onze j'ai vu la goëlette aujourd'hui saisie, nommé 'La Samuel Gilbert,' ancrée entre l'Île au Perroquet et la rive nord du Golfe St-Laurent à une distance d'à peu près deux milles et demi de la rive nord. Lorsque nous sommes venus à côté de la dite goëlette, j'ai vu une partie de l'équipage occupée à décharger de la morue fraîche d'un flat sur le pont.

J'étais dans la chaloupe que le Commandant Lavoie envoya à la recherche des deux autres flats appartenant à la dite goëlette. J'ai vu un flat ancré et les deux hommes qui la montaient pêcher. J'ai vu leurs lignes à l'eau et je les ai vu tirer du poisson. Sur l'ordre de Monsieur Gautier, le secrétaire de 'La Canadienne,' ces pêcheurs ont levé leurs lignes et se sont en allés à bord de leur goëlette; ils étaient à moitié chargés de morue fraîche. J'ai aidé à mesurer la distance qui se trouvait entre l'endroit où pêchaient ces Américains et la terre ferme. Nous avons trouvé que la distance entre la rive nord et la place où ils pêchaient était de quatre cent cinquante-neuf verges environ; cette distance a été mesurée avec la ligne du log de 'La Canadienne,' et il y avait à peu près trois fois et deux tiers la longueur de cette ligne.

Lorsque le capitaine Leblanc est arrivé avec les hommes de l'autre chaloupe de 'La Canadienne' pour mesurer la distance entre la rive nord et l'endroit où ils avaient été et mesurer la profondeur de l'eau, les flats étaient partis, mais l'autre chaloupe dans laquelle j'étais était restée auprès de l'endroit. J'ai vu les autres hommes sonder et ils ont trouvé le fond à deux brasses et demi, c'est notre chaloupe qui leur a indiqué la place.

(Signé) IGNACE FORTIN.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

CANADA. PROVINCE OF QUEBEC.

I am a sailor on board of the Dominion schooner 'La Canadienne.' I was on deck on the afternoon of the twenty-fourth day of July, One thousand eight hundred and seventy-one, and saw a schooner anchored a little ahead on our starboard bow between Parrot Island and the mainland, and was one of the boat's crew that first boarded her, I ascertained her to be the 'Sam Gilbert,' of Gloucester; I saw several men throwing fresh codfish on to the deck.

I was in the boat that sounded the place where the American fishing flat had been, and heard the coxswain tell the sailing master that he found bottom at two and a half fathoms of water. I was also in the same boat when it measured the distance from that place to the shore with the log-line, and noticed it to be three and two-thirds its length, or about four hundred and fifty yards. I ascertained this by seeing the line measured afterwards on board 'La Canadienne.'

(Signed) DAVID BEAULIEU.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

CANADA. PROVINCE OF QUEBEC.

I am a sailor on board the Dominion schooner 'La Canadienne.' In the afternoon of the twenty-fourth day of July, One thousand eight hundred and seventy-one, I saw the schooner 'Samuel Gilbert' anchored between Parrot Island and the north shore of the Gulf of St. Lawrence. When we came alongside of said schooner, I noticed that the men of the 'Samuel Gilbert' were loading fresh codfish from one of their flats then alongside. I was in the boat sent by Commander Lavoie in search of the other flats belonging to the 'Samuel Gilbert.' I saw one of the flats at anchor and the men in her in the act of fishing. I saw them catch and haul up codfish; upon the order of Mr. Gautier, the secretary on board 'La Canadienne,' these men drew up their lines and started for their schooner, their flat was then half full of fresh-caught codfish. I assisted in measuring the distance from where the two flats were anchored to the shore, and ascertained it to be about four hundred and fifty-nine yards. We measured the distance with the log-line, which is fifty-eight fathoms long, and the distance was about three and two-thirds the length of the line. When Captain Leblanc arrived with the men in the other boat to measure the distance between the shore and the place where the two flats had been fishing, they had returned on board their own schooner, but we all noticed particularly the spot and were able to indicate it. I saw the men in the other boat take the sounding and heard it was two and a half fathoms.

(Signed) TOM BROWN.

Sworn before me at Quebec, this 7th August, 1871.

(Signed) S. J. GLACKEMEYER, J.P.

No. 25.

CANADA.

No. 25.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 149.)

Cacouna, August 15, 1871.

(Received August 30, 1871.)

MY LORD,

WITH reference to your Lordship's Despatch, No. 444,* of the 17th June, which I duly referred to the Privy Council of the Dominion, I have the honour to transmit, herewith, the Report of a Committee of that body, containing their views on the subject of the Treaty of Washington, in so far as it affects the interests of Canada.

* Page 99.

July 28, 1871.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure in No. 25.

Enclosure
in No. 25.

Privy Council Chamber, Ottawa, Friday, July 28, 1871.

Present:—The Hon. Dr. Tupper, in the chair; the Hon. Sir John A. Macdonald, the Hon. Sir George Et. Cartier, the Hon. Mr. Tilley, the Hon. Mr. Mitchell, the Hon. Mr. Campbell, the Hon. Mr. Chapais, the Hon. Mr. Langevin, the Hon. Mr. Howe, the Hon. Sir Francis Hincks, the Hon. Mr. Dunkin, the Hon. Mr. Aikins.

To His Excellency the Right Hon. John, Baron LISGAR, G.C.B., G.C.M.G., P.C.,
Governor-General of Canada, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Committee of the Privy Council have had under their consideration the Earl of Kimberley's Despatch to your Excellency, dated the 17th June ult., transmitting copies of the Treaty signed at Washington on the 8th May last by the Joint High Commissioners, and which has since been ratified by Her Majesty and by the United States of America; of the instructions to Her Majesty's High Commissioners, and of the Protocols of the Conferences held by the Commission; and likewise the Earl of Kimberley's Despatch of the 20th of June ult., explaining the failure of Her Majesty's Government to obtain the consideration, by the United States' Commissioners, of the claims of Canada for the losses sustained owing to the Fenian raids of 1866 and 1870.

No. 444.

No. 445.

The Committee of the Privy Council have not failed to give their anxious consideration to the important subjects discussed in the Earl of Kimberley's Despatches, and they feel assured that they will consult the best interests of the Empire by stating frankly, for the information of Her Majesty's Government, the result of their deliberations, which they believe to be in accordance with public opinion in all parts of the Dominion.

The Committee of the Privy Council readily admit that Canada is deeply interested in the maintenance of cordial relations between the Republic of the United States and the British Empire, and they would therefore have been prepared without hesitation to recommend the Canadian Parliament to co-operate in procuring an amicable settlement of all differences likely to endanger the good understanding between the two countries. For such an object they would not have hesitated to recommend the concession of some valuable rights, which they have always claimed to enjoy under the Treaty of 1818, and for which, as the Earl of Kimberley observes, Her Majesty's Government have always contended, both Governments having acted on the interpretation given to the treaty in question by high legal authorities. The general dissatisfaction which the publication of the Treaty of Washington has produced in Canada, and which has been expressed with as much force in the agricultural districts of the west, as in the maritime provinces, arises chiefly from two causes.

1st. That the principal cause of difference between Canada and the United States has not been removed by the treaty, but remains a subject for anxiety.

2ndly. That a cession of territorial rights of great value has been made to the United States, not only without the previous assent of Canada, but contrary to the expressed wishes of the Canadian Government.

The Committee of the Privy Council will submit their views on both those points for the information of Her Majesty's Government, in the hope that by means of discussion a more satisfactory understanding between the two Governments may be arrived at. The Earl of Kimberley has referred to the rules laid down in Article 6 of the Treaty of Washington, as to the international duties of neutral Governments as being of special importance to the Dominion; but the Committee of the Privy Council, judging from past experience, are much more apprehensive of misunderstanding owing to the apparent difference of opinion between Canada and the United States as to the relative duties of friendly States in a time of peace. It is unnecessary to enter into any lengthened discussion of the conduct of the United States during the last six or seven years with reference to the organization of considerable numbers of the citizens of those States under the designation of Fenians. The views of the Canadian Government on this subject are in possession of Her Majesty's Government; and it appears from the Protocol of Conference between the High Commissioners that the British Commissioners presented the claims of the people of Canada, and were instructed to state that they were regarded by Her Majesty's Government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of 26th January last, as subjects for the consideration of the Joint High Commissioners. The Earl of Kimberley states that it was with much regret that Her Majesty's Government acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States; and the

CANADA.

Committee of the Privy Council, while fully participating in that regret, must add that the fact that this Fenian organization is still in full vigour, and that there seems no reason to hope that the United States' Government will perform its duty as a friendly neighbour any better in the future than in the past, leads them to entertain a just apprehension that the outstanding subject of difference with the United States is the one of all others which is of special importance to the Dominion. They must add, that they are not aware that during the existence of this Fenian organization, which for nearly seven years has been a cause of irritation and expense to the people of Canada, Her Majesty's Government have made any vigorous effort to induce the Government of the United States to perform its duty to a neighbouring people, who earnestly desire to live with them on terms of amity, and who during the civil war loyally performed all the duties of neutrals to the expressed satisfaction of the Government of the United States. On the contrary, while in the opinion of the Government and the entire people of Canada, the Government of the United States neglected, until much too late, to take the necessary measures to prevent the Fenian invasion of 1870, Her Majesty's Government hastened to acknowledge, by cable telegram, the prompt action of the President, and to thank him for it. The Committee of the Privy Council will only add, on this painful subject, that it is one on which the greatest unanimity exists among all classes of the people throughout the Dominion, and the failure of the High Commissioners to deal with it has been one cause of the prevailing dissatisfaction with the Treaty of Washington.

The Committee of the Privy Council will proceed to the consideration of the other subject of dissatisfaction in Canada, viz. the cession to the citizens of the United States of the right to the use of the inshore fisheries in common with the people of Canada. The Earl of Kimberley, after observing that the Canadian Government took the initiative in suggesting that a joint British and American Commission should be appointed, with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818, proceeds to state that "the causes of the difficulty lay deeper than any question of interpretation," that "the discussion of such points as the correct definition of bays could not lead to a friendly agreement with the United States," and that "it was necessary therefore to endeavour to find an equivalent which the United States might be willing to give in return for the fishery privileges."

In the foregoing opinion of the Earl of Kimberley the Committee of the Privy Council are unable to concur, and they cannot but regret that no opportunity was afforded them of communicating to Her Majesty's Government their views on a subject of so much importance to Canada, prior to the meeting of the Joint High Commission.

When the Canadian Government took the initiative of suggesting the appointment of a Joint British and American Commission they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent Despatch. Had such sentiments been expressed to the delegate appointed by the Canadian Government to confer with his Lordship a few months before the appointment of the Commission, it would at least have been in their power to have remonstrated against the cession of the inshore fisheries; and it would moreover have prevented any member of the Canadian Government from acting as a member of the Joint High Commission unless on the clear understanding that no such cession should be embodied in the treaty without their consent. The expediency of the cession of a common right to the inshore fisheries has been defended on the ground that such a sacrifice on the part of Canada should be made in the interests of peace. The Committee of the Privy Council, as they have already observed, would have been prepared to recommend any necessary concession for so desirable an object, but they must remind the Earl of Kimberley that the original proposition of Sir Edward Thornton, as appears by his letter of 26th January, was that "a friendly and complete understanding should be come to between the two Governments as to the extent of the rights which belong to the citizens of the United States and Her Majesty's subjects respectively, with reference to the fisheries on the coasts of Her Majesty's possessions in North America."

In his reply, dated 30th January last, Mr. Secretary Fish informs Sir Edward Thornton that the President instructs him to say that "he shares with Her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two Governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission."

In accordance with the explicit understanding thus arrived at between the two Governments, Earl Granville issued instructions to Her Majesty's High Commission, which, in the opinion of the Committee of the Privy Council, covered the whole ground of controversy.

The United States had never pretended to claim a right on the part of their citizens to fish within three marine miles of the coasts and bays, according to their limited definition of the latter term; and although the right to enjoy the use of the inshore fisheries might fairly have been made the subject of negotiation, with the view of ascertaining whether any proper equivalents could be found for such a concession, the United States was precluded by the original correspondence from insisting on it as a condition of the treaty. The abandonment of the exclusive right to the inshore fisheries, without adequate compensation, was not therefore necessary in order to come to a satisfactory understanding on the points really at issue.

The Committee of the Privy Council forbear from entering into a controversial discussion as to the expediency of trying to influence the United States to adopt a more liberal commercial policy. They must, however, disclaim most emphatically the imputation of desiring to imperil the peace of the whole Empire in order to force the American Government to change its commercial policy. They have for a considerable time back ceased to urge the United States to alter their commercial policy, but they are of opinion that when Canada is asked to surrender her inshore fisheries to foreigners, she is fairly entitled to name the proper equivalent. The Committee of the Privy Council may observe, that the opposition of the Government of the United States to reciprocal free trade in the products of the two countries was just as strong for some years prior to 1854 as it has been since the termination of the Reciprocity Treaty, and that the Treaty of 1854 was obtained chiefly by the vigorous protection of the fisheries which preceded it; and that but for the conciliatory policy on the subject of the fisheries, which Her Majesty's Government induced Canada to adopt after the abrogation of the Treaty of 1854 by the United States, it is not improbable that there would have been no difficulty in obtaining its renewal. The Committee of the

Privy Council have adverted to the policy of Her Majesty's Government, because the Earl of Kimberley has stated that there is no difference in principle between a money payment and "the system of licences calculated at so many dollars a ton, which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty." Reference to the correspondence will prove that the licence system was reluctantly adopted by the Canadian Government as a substitute for the still more objectionable policy pressed upon it by Her Majesty's Government, it having been clearly understood that the arrangement was of a temporary character. In his Despatch of the 3rd March, 1866, Mr. Secretary Cardwell observed: "Her Majesty's Government do not feel disinclined to allow the United States for the season of 1866 the freedom of fishing granted to them in 1854, on the distinct understanding that unless some satisfactory arrangements between the two countries be made during the course of the year this privilege will cease, and all concessions made in the Treaty of 1854 will be liable to be withdrawn." The principle of a money payment for the concession of territorial rights has ever been most repugnant to the feelings of the Canadian people, and has only been entertained in deference to the wishes of the Imperial Government. What the Canadians were willing under the circumstances to accept as an equivalent was the concession of certain commercial advantages, and it has therefore been most unsatisfactory to them that Her Majesty's Government should have consented to cede the use of the inshore fisheries to foreigners for considerations which are deemed wholly inadequate. The Committee of the Privy Council need not enlarge further on the objectionable features of the treaty as it bears on Canadian interests. These are admitted by many, who think that Canada should make sacrifices for the general interests of the Empire. The people of Canada, on the other hand, seem to be unable to comprehend that there is any existing necessity for the cession of the right to use their inshore fisheries without adequate compensation. They have failed to discover that in the settlement of the so-called 'Alabama' claims, which was the most important question in dispute between the two nations, England gained such advantages as to be required to make further concessions at the expense of Canada, nor is there anything in the Earl of Kimberley's Despatch to support such a view of the question. The other parts of the treaty are equally, if not more advantageous to the United States than to Canada, and the fishery question must, consequently, be considered on its own merits; and if so considered, no reason has yet been advanced to induce Canada to cede her inshore fisheries for what Her Majesty's Government have admitted to be an inadequate consideration. Having thus stated their views on the two chief objections to the late Treaty of Washington, the Committee of the Privy Council will proceed to the consideration of the correspondence between Sir Edward Thornton and Mr. Fish, transmitted in the Earl of Kimberley's Despatch of the 17th of June, and of his Lordship's remarks thereon. This subject has already been under the consideration of the Committee of the Privy Council, and a Report, dated the 7th June, embodying their views on the subject, was transmitted to the Earl of Kimberley by your Excellency. In his Despatch of 26th June, acknowledging the receipt of that Report, the Earl of Kimberley refers to his Despatch of the 17th of that month, and "trusts that the Canadian Government will, on mature consideration, accede to the proposal of the United States' Government on this subject." The Committee of the Privy Council in expressing their adherence to their Report of the 7th of June, must add, that the inapplicability of the precedent of 1854, under which the action of the Canadian Parliament was anticipated by the Government, to the circumstances now existing appears to them manifest. The Treaty of 1854 was negotiated with the concurrence of the Provincial Governments represented at Washington, and met with the general approbation of the people; whereas the fishery clauses of the late treaty were adopted against the advice of the Canadian Government, and have been generally disapproved of in all parts of the Dominion.

There can hardly be a doubt that any action on the part of the Canadian Government in anticipation of the decision of Parliament would increase the discontent which now exists. The Committee of the Privy Council request that your Excellency will communicate to the Earl of Kimberley the views which they entertain on the subject of the Treaty of Washington in so far as it affects the interests of the Dominion.

(Signed) Wm. H. LEE,
Clerk Privy Council, Canada.

No. 26.

No. 26.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 163.)

Quebec, September 13, 1871.

(Received September 28, 1871.)

(Answered, No. 527, October 3, 1871, page 105.)

MY LORD,

I HAVE the honour to transmit to your Lordship copies of depositions made in connection with the seizure of the United States' fishing schooner the 'Franklin S. Schenck,' by the Canadian marine police vessel the 'New England.'

I have forwarded copies of these depositions to Her Majesty's Chargé d'Affaires at Washington.

The Earl of Kimberley,
&c. &c. &c.

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

CANADA.

Enclosures
in No. 26.

Enclosures in No. 26.

I, the undersigned, Notary Public and Registrar for the County of Bonaventure, do hereby certify to all to whom it may concern, to have accompanied Captain Browne, of the marine police vessel 'New England,' on the 17th August instant, and assisted him to make inquiries amongst the fishermen and residents of this place, and also amongst the shipping lying in the roadstead of Paspébiac, with reference to the fishing nets belonging to the schooner 'Franklin S. Schenck,' captured on the morning of the 16th for a breach of the fishery laws. Several residents of this place other than those who have sworn before me have stated that they saw the skiffs belonging to the 'Franklin S. Schenck' in the locality where the nets seized were laid, both on the evening of the 15th August and morning of the 16th instant; and Captain Truyant, of the brigantine 'Century,' said he saw nets passed from the 'F. S. Schenck' into her skiffs on the evening of 15th instant. Everybody denies having heard that a person of this place had anything to do with the nets in question.

Given under my hand at Paspébiac this eighteenth day of August, One thousand eight hundred and seventy-one.

(Signed) J. G. LeBEL, N. P. and Registrar.

DISTRICT OF GASPÉ, COUNTY OF BONAVENTURE.

Before Joseph G. LeBel, Esquire, one of Her Majesty's Justices of the Peace for the District of Gaspé, residing at New Carlisle, in the County of Bonaventure, came and appeared Daniel Marshall Browne, Fishery Officer, in command of the Canadian marine police vessel called the 'New England,' being duly sworn, doth depose and say, that on the sixteenth day of August, in the year of our Lord One thousand eight hundred and seventy-one, about 6 A.M., I anchored in the roadstead of Paspébiac. Then and there being anchored, saw two or three skiffs or flats leaving the United States' schooner called the 'Franklin S. Schenck,' of Rock Port, port of Gloucester. I then immediately sent a boat to ascertain the nationality of the said schooner, and as my boat was returning, another skiff, belonging to the same vessel, went to where the first-mentioned skiffs were engaged at the time examining nets laid close to the shore, when they all immediately returned to their vessel in a great hurry, the said skiffs being all painted white. I then boarded the said schooner, and charged the master, Alden B. Grimes, with having his nets set within the prohibited limits. He replied that he had no nets set, and said that his nets were ashore to be repaired. I then went towards the nets and examined them, and found the name of 'F. S. Schenck' on two of the buoys or floaters of said nets. I then returned to the schooner the 'F. S. Schenck.' I then charged the Captain again of having his nets set close to shore, which he again denied. I then told him that I saw the name of his vessel on the buoys, to which he replied that the buoys may have gone adrift. I told him that it was useless for him to say such a thing, as the buoys were fast to the nets. He then admitted that the nets were his, and said that he had got into a scrape, and should have to get out of it the best way he could, and added that a man he had met on the beach of Paspébiac on the evening before had laid the nets, with one of his men (the Captain's), with the understanding that the fish caught was to be purchased from him, the said shore-man, by the said Captain. I then asked who the shore-man in question was, and where he could be found, to which the Captain replied he did not know the man's name or where he was living. I then seized the said schooner, for violation of the fishery laws, she having her nets set within three marine miles from the shore. I then had the distance of the nets from the shore measured twice by means of a line, and found the first measurement of the distance to be two hundred and ninety-three (293) fathoms, and the second measurement two hundred and eighty-four (284) fathoms. The nets were in five and a half fathoms of water. On the nets being afterwards got up by my crew, one of them was found to be all in a bunch, indicating that it had been thrown over in a hurry; there were between two and three dozens of herrings and mackerel in the nets. There were no other white skiffs in the Bay of Paspébiac at the time, like those of the captured vessel. I have, in company with Mr. Joseph G. LeBel, Attorney Public and Registrar of the County of Bonaventure, made every inquiry among the fishermen of Paspébiac, who all say they have no knowledge of a resident of the place having assisted to lay down the American's nets, nor had they heard it mentioned. I have also, in company with Mr. J. G. LeBel, made inquiries amongst the shipping lying in Paspébiac, and learn from people on board that skiffs were passing from the 'Franklin S. Schenck' to the locality where the nets were set, both on the evening of the fifteenth instant and morning of the sixteenth instant, and also that nets were passed from the schooner into the skiffs in the evening of the fifteenth instant. I wish to repeat that I distinctly saw skiffs from the 'F. S. Schenck' examining nets laid close inshore. Saith no more, and has signed.

(Signed) D. M. BROWNE,
Fishery Officer in command Marine Police
Vessel 'New England.'

Sworn before me, this 18th August, 1871, at Paspébiac.

(Signed) J. G. LeBEL, J.P.

DISTRICT OF GASPÉ, IN THE COUNTY OF BONAVENTURE.

Before Joseph G. LeBel, one of Her Majesty's Justices of the Peace for the District of Gaspé, residing at New Carlisle, in the County of Bonaventure, came and appeared Richard Stapleton, second officer of the marine police vessel 'New England,' who, being duly sworn, doth depose and say, that on the sixteenth day of August, in the year of our Lord One thousand eight hundred and seventy-one, about 6 o'clock A.M.,

the 'New England,' anchored in Paspebiac roads, then and there being shortly anchored, saw two skiffs painted white leaving the United States' schooner called the 'Franklin S. Schenck,' of Rockport, port of Gloucester. A boat was sent by the fishery officer in command of the 'New England' to ascertain the nationality of said schooner 'Franklin S. Schenck,' which being reported as belonging to United States, the commander of the 'New England' immediately boarded her. In the meantime another skiff was sent from the said United States' schooner to where the before-mentioned skiffs were employed examining nets, when all the skiffs returned to the 'Franklin S. Schenck' in a great hurry. The commander of 'New England' went from the schooner to where the skiffs had been, and shortly afterwards returned to her and seized her. A net-buoy was afterwards placed in my charge, having the name 'F. S. Schenck' marked on it. I heard the master of the captured vessel say that he was having his nets mended on shore, and that one of the shore-men said he would fish the nets and sell the bait to him, the said master; the master at the same time said he did not know the man's name, or where he lived, or anything about him. I assisted to measure the distance of the nets from the shore at the second measurement, and found the distance to be two hundred and eighty-four fathoms; they were in five and one-half ($5\frac{1}{2}$) fathoms of water. The master of the captured vessel and one of the crew were present at the measurement. When the nets were brought on board the capture I was in charge of her. The master remarked "the nets were his, and he would have them yet, as he hoped the Government would deal lightly with him." There were no other white skiffs in the Bay of Paspebiac at the time like those belonging to the captured vessel. Says no more, and has signed.

(Signed) RICHARD STAPLETON.

Sworn before me, this 17th day of August, 1871, at Paspebiac.

(Signed) J. G. LEBEL, J.P.

DISTRICT OF GASPÉ. COUNTY OF BONAVENTURE.

Before Jos. G. LeBel, Esq., one of Her Majesty's Justices of the Peace for the District of Gaspé, came and appeared George England, carpenter of the Canadian marine police vessel called the 'New England,' and Christopher Stevens and William McFarlon, both seamen on board said police vessel, who, being severally sworn, do depose and say, that on the 16th day of August, in the year of our Lord 1871, about 6 A.M., we anchored with the said police vessel in the roadstead of Paspebiac. Then and there being so anchored, saw two or three skiffs or flats leaving the United States' schooner called the 'Franklin S. Schenck,' of Rockport, port of Gloucester.

The captain, Daniel Marshall Browne, of the said marine vessel called the 'New England,' sent a boat immediately to ascertain the nationality of the said schooner, which was reported as belonging to the United States. As the boat was returning another skiff belonging to the said schooner the 'F. S. Schenck' went to where the first-mentioned skiffs were engaged at the time examining nets laid close to the shore, when they all immediately returned to their vessel in a great hurry, the said skiffs being all painted white. We then boarded the said schooner, and the fishery officer in command of the Canadian marine police vessel called the 'New England' aforesaid, charged the master, Alden B. Grimes, of the said schooner called the 'F. S. Schenck,' with having his nets set within the prohibited limits, and to which he replied that he had no nets set, and said that his nets were on shore to be repaired. We then went towards where the nets were set and examined them, found the name of 'F. S. Schenck' on two of the buoys or flutters of said nets. We then returned to the vessel, the 'F. S. Schenck,' and again the said fishery officer in command of the Canadian marine police vessel called the 'New England' aforesaid, charged the said captain of the same of having his nets set close to the shore, which he again denied. The said fishery officer aforesaid then told him that he saw the name of his schooner on the buoys, to which he, the said captain of the 'F. S. Schenck,' replied that the buoys may have gone adrift. Again told him that it was useless for him to say such a thing, as the buoys were fast to the nets. He then admitted that the nets were his, and said that he had got into a scrape, and should have to get out of it the best way he could, and added that a man he had met on the beach of Paspebiac on the evening before had laid the nets with one of his men (the captain's), with the understanding that the fish caught was to be purchased from him, the said shore-man, by the said captain. The said fishery officer aforesaid asked him, the said captain, who the shore-man in question was and where he could be found, to which the said captain replied he did not know the man's name or where he was living. The said commander then seized the said schooner for the violation of the fishery laws, she having her nets set within three marine miles from the shore. The said commander aforesaid had the distance of the nets from the shore measured twice by means of a line. The aforesaid deponent, George England, saw the distance of the nets from the shore measured twice, and states that the first measurement showed the nets to be two hundred and ninety-three fathoms (293) from the shore, and the second measurement to be two hundred and eighty-four (284) fathoms. Christopher Stevens, another of the aforesaid deponents, saw the distance measured on the second occasion, and states the nets to be two hundred and eighty-four fathoms (284) from the shore. The said nets were in five and a half fathoms of water. On the nets being afterwards got up by Christopher Stevens, he states there was between two and three dozens of herring and mackerel; he the said Christopher Stevens also states that one of the nets was all in a bunch, indicating that it had been thrown over in a hurry.

And the above three deponents further say, that there was not at the time any other skiffs or flats in the Bay of Paspebiac like those owned by the captured schooner. Say no more, and have signed.

(Signed) GEORGE ENGLAND, × his mark.
CHRISTOPHER STEVENS,
WM. MCFARLON.

Sworn before me this 17th day of August, 1871, at Paspebiac.

(Signed) J. G. LEBEL, J.P.

CANADA.

DISTRICT OF GASPÉ. COUNTY OF BONAVENTURE.

Before Joseph G. LeBel, Esq., one of Her Majesty's Justices of the Peace for the District of Gaspé, residing at New Carlisle, in the County of Bonaventure, came and appeared Thomas Whalen, seaman of the Canadian marine police vessel called the 'New England,' who, being duly sworn, doth depose and say, that on the 16th day of August, in the year of our Lord 1871, being with the said vessel 'New England' in Paspebiac Bay, he assisted to measure the distance from shore of nets belonging to the United States' schooner, the 'Franklin S. Schenck,' shortly before seized by the fishery officer in command of the 'New England,' and found the said nets to be 284 fathoms from the land. He heard master of the said schooner say that the nets in question belonged to his vessel. He also saw the name 'F. S. Schenck' on two of the buoys of net. Says no more, and has signed.

(Signed) THOMAS WHALEN.

Sworn before me at Paspebiac, this 17th day of August, 1871.

(Signed) J. G. LEBEL, J.P.

DISTRICT OF GASPÉ. COUNTY OF BONAVENTURE.

Before Joseph G. LeBel, Esq., one of Her Majesty's Justices of the Peace for the District of Gaspé, residing at New Carlisle, in the County of Bonaventure, came and appeared Hugh McDonald, seaman of the Canadian marine police vessel called the 'New England,' who, being duly sworn, doth depose and say, that on the 16th day of August, in the year of our Lord 1871, being with the said vessel 'New England' in Paspebiac Bay, he assisted at the first measurement of the distance from the shore of nets belonging to the schooner 'Franklin S. Schenck,' captured shortly before by the fishery officer in command of the 'New England,' and found the distance of the said nets from the shore to be 293 fathoms. He saw the name of 'F. S. Schenck' on the buoys of nets. Says no more, and has signed.

(Signed) HUGH McDONALD.

Sworn before me at Paspebiac, this 17th day of August, 1871.

(Signed) J. G. LEBEL, J.P.

PROVINCE DE QUEBEC, DISTRICT DE GASPÉ. COMTÉ DE BONAVENTURE.

Par devant Joseph G. LeBel, écuyer, un des juges de paix de sa Majesté pour le district de Gaspé sus-dit, est comparu personnellement Sieur Didas Gaumond, pêcheur de Paspebiac, comté sus-dit :—

Lequel après serment prêté sur les Saints Evangiles, dépose et dit, qu'hier vers cinq heures et demie du matin, j'étais sur mes rets tendus dans le "Road Stead" de Paspebiac sus-dit, pendant que j'étais alors sur mes dits rets à les lever et les mettre dans mon flat, je voyais deux skives (skiffs) ou flats Américains, peints en blanc, avec deux hommes par chaque dits flats, au lieu où les rets des dits Américains étaient tendus. J'avais vu les mêmes flats peu de temps auparavant laisser le bord d'une goëlette Américaine qui était entrée dans le Baie de Paspebiac, et se rendre au lieu où leurs rets étaient tendus à une distance d'environ cinq arpents du rivage.

J'ai vu les hommes des sus-dits deux flats parler longtemps avec un homme de Messrs. Le Boutillier frères, qui était aussi dans un flat au même lieu à lever ses rets; je n'ai pas entendu leur conversation, mais bien des hommes qui étaient dans l'un des dits flats Américains du nommé Charles Collins, un Jersais de naissance, m'a dit ce matin qu'ils avaient offert mercredi matin le 16 du courant, leurs rets au nombre de quatre avec les bouées et les cables pour rien, à ceux qui voudraient les mettre à terre de suite, afin d'éviter qu'elles fussent saisies par le cutter de la Marine Canadienne qui arrivait alors dans le Baie de Paspebiac, et m'a dit aussi que c'était bien malheureux pour un pauvre homme comme lui de voir son bâtiment saisi pour l'amour de quelques poissons qu'ils auraient pris la veille.

Le dit déposant dit encore qu'il ne connaît pas d'autres flats dans Paspebiac ressemblants aux sus-dits deux flats Américains, et que les flats en question étaient et appartenant absolument à la goëlette saisie le seize du courant par le capitaine Browne du cutter du Gouvernement Canadien. Ne dit rien de plus et a signé.

(Signed) DIDAS GAUMOND.

Assermenté devant moi à Paspebiac ce 17 Août, 1871.

(Signed) J. G. LEBEL, J.P.

Par devant Joseph G. LeBel, écuyer, un des juges de paix de sa Majesté pour le district de Gaspé, résidant à New Carlisle, comté de Bonaventure, est comparu personnellement Mr. Simeon Loisel, marchand, de Paspebiac, lequel après serment prêté sur les Saints Evangiles, dépose et dit, qu'hier au soir trois des hommes de l'équipage de la goëlette Américaine appelée 'Le Schenck,' saisie hier matin parle capitaine Browne du cutter 'New England,' employée comme protecteur de pêcheries du Golfe St. Laurent, &c.; l'un d'eux, un Jersey, du nom de Chas. Collins, parlant bon français, m'a dit que le capitaine du 'Schenck' leur ordonna de tendre leurs rets dans le "Road Stead" de Paspebiac pour du hareng et maquereau, qu'il n'y avait pas de danger, qu'aucune goëlette du Gouvernement était en vue. Nous les avons tendus le 15 du courant au soir, de grand matin le lendemain vers six heures ils ont aperçu la goëlette du Gouvernement, capitaine Browne, et auparavant qu'ils ont pu avoir le temps de lever leurs

aits rets, le capitaine les avait saisies, ayant connu le nom de leur bâtiment sur les bouées de leurs rets. Le déposant dit de plus qu'il ne croit pas qu'aucun des Français pêcheurs de Paspebiac ait tendu les sus-dits rets en son propre nom, pour ensuite leur rendre aux dits Américains le poisson qu'il aurait pû prendre dans les dits rets—si tel était les cas, j'en aurais eu connaissance ou entendu parler. Ne dit rien de plus et a signé.

CANADA.

(Signed) SIMEON LOISEL.

Assermenté devant moi à Paspebiac ce 17 jour du mois d'Août. 1871.

(Signed) J. G. LEBEL, J.P.

Par devant Joseph G. LeBel, écuyer, un des juges de paix de sa Majesté pour le district de Gaspé, résidant à New Carlisle, dans le comté de Bonaventure, est comparu personnellement Germain Blais, pêcheur de Paspebiac, dans le dit comté de Bonaventure: Lequel, après serment sur les Saints Evangiles, dépose et dit, que le quinze du présent mois d'août vers six heures et demie de l'après, j'étais à tendre mes rets dans le "Road Stead" de Paspebiac avec d'autres pêcheurs de l'endroit, là et lors étant, j'ai vu de mes propres yeux deux flats blancs, "White Dorys," appartenant à l'une de deux goëlettes Américaines mouillées dans le même Road, naviguées par deux ou trois hommes (chaque) qui ont tendus des rets à environ deux ou trois cent brasses du rivage, ou au plus trois acres du dit rivage. J'ai vu les mêmes embarcations le lendemain matin vers six heures, avec le même nombre d'hommes, lever les mêmes rets, et dans lesquelles parassant avoir beaucoup de hareng ou maquereau dedans. J'étais alors à environ deux arpents de ces mêmes embarcations quand on levait les dits rets. Je suis certain que l'autre goëlette Américaine ancrée dans le dit "Road Stead," qui n'a pas de "White Dorys," du moins j'en ai pas vu lui appartenant.

Je connais tous les Français pêcheurs et autres de Paspebiac, et je n'ai pas vu un seul flat de l'endroit près ou aidant aux sus-dits Américains à tendre leurs rets; s'il y en avait quelqu'un j'en aurais eu connaissance et j'en aurais entendu parler. Le dit déposant dit avoir vu les dits pêcheurs Américains tirer leurs rets de l'eau le matin de seize du courant, dans lesquelles il y paraissait avoir beaucoup de hareng ou maquereau et de démailler et les mettre tous ensemble dans leurs embarcations: ne dit rien de plus et a déclaré ne savoir signer.

(Signed) GERMAIN BLAIS, sa marque x.

Assermenté devant moi ce 17 d'Août, 1871.

(Signed) J. G. LEBEL, J.P.

No. 27.

(No. 173.)

No. 27.

The LORD LISGAR to The EARL of KIMBERLEY.

Government House, Ottawa, October 4, 1871.

(Received, October 17, 1871.)

MY LORD,

(Answered, No. 540, October 21, 1871, page 105.)

I HAVE the honour to transmit, herewith, a copy of the depositions of the seizing officer in connection with the seizure of the United States' schooner 'Edward A. Horton,' for violating the fishery laws of the Dominion of Canada.

I have forwarded a copy of the depositions to Her Majesty's Chargé d'Affaires at Washington.

I have, &c.,

(Signed) LISGAR,

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 27.

Enclosure
in No. 27.

DOMINION OF CANADA, PROVINCE OF NOVA SCOTIA, GUYSBOROUGH: to wit.

I, James Alexander Tory, of Guysborough, in the County of Guysborough, Esq., Commander of the Government schooner 'Sweepstakes,' do make oath and say as follows:—

I left Port Hood, in the Island of Cape Breton, in and with the said schooner 'Sweepstakes,' on Friday morning the 1st of September instant, and stood across into Antigonish Bay, in the Province of Nova Scotia. On arriving in said bay, I saw a number of fishing vessels under the land on the southern side of Cape George. Among the number I thought one was an American, and I was therefore induced to work towards her. I discovered that she was an American fishing schooner. She was then off Morristown Chapel, which bore west by south, and within a mile of the shore. She had been so for about two hours previous. When I was about a mile distant from said schooner, the said schooner made sail and ran from the shore, and was within about a mile and a half from the said shore, when I compelled her to heave to. I then boarded her, and found her to be the American fishing schooner 'Edward A. Horton,' of Gloucester, Massachusetts, in the United States of America, and commanded by Captain William H. Gray. Previous to her making off the shore as aforesaid, the said schooner was lying to in the position for fishing. When I boarded her, I asked the captain what he was doing there. He said he had been fishing. I asked him the quantity he had caught there. He said about half a barrel a man. I then

CANADA.

asked him the number of his men. He said 15. I asked him to show me the fish. He went forward and took the covers off several barrels, and I saw the fish. They were mackerel. They were newly split, had just been salted, and with the blood fresh upon them. The captain and a number of his crew then admitted their violation of the law in the manner aforesaid, and begged to be released. They also said that they had left the Strait of Canso the day before, had fished at the place where I found them, on the previous evening, had anchored there for the night, and had fished there all that morning. The time of my boarding the said schooner was between 11 and 12 A.M. of the said first day of September instant. I therefore seized the said schooner for the reasons and under the circumstances hereinbefore stated, and sent her to the Port of Guysborough, where, in company with the 'Sweepstakes' under my command, she arrived on the afternoon of the 2nd inst., and was by me placed in the custody of James Marshall, Esq., Collector of Customs there, on this the 4th day of September instant.

(Signed) JAMES S. TORY.

Sworn at Guysborough, in the County of Guysborough, this 4th day of September, A.D. 1871, before me.

(Signed) WILLIAM G. SCOTT, J.P.,
and Commissioner for taking Affidavits in the Supreme Court.

DOMINION OF CANADA, PROVINCE OF NOVA SCOTIA, GUYSBOROUGH: to wit.

I, Edward Nangle, of Halifax, in the Province of Nova Scotia, second mate of the Government schooner 'Sweepstakes,' commanded by James Alexander Tory, Esq., do make oath and say, that I have heard read the affidavit of the said James Alexander Tory, hereunto prefixed, and that the statements therein contained, up to the statement of the heaving to of said American schooner 'Edward A. Horton' therein mentioned, are to my personal knowledge correct and true. And in addition thereto I make oath and say that I distinctly saw the crew of the said American schooner throwing bait before she made sail off the shore as in said affidavit mentioned, and before she was brought to by the said Government schooner 'Sweepstakes.' I was not on board of the said American schooner at the time of her seizure, nor before her arrival at the port of Guysborough, and cannot therefore testify as to what occurred on board of her on that occasion, but when at port Mulgrave, on the day of and after her seizure, the captain of the said American schooner stated to me that the fishing for which he was seized was the first occasion on which he had fished inshore and within the limits during the present summer. The remaining statements in the affidavit of the said James Alexander Tory as to the said schooner having been brought to the port of Guysborough and placed in the custody of the Collector of the Customs there, are also true and correct.

(Signed) EDWARD NANGLE.

Sworn at Guysborough, in the County of Guysborough, this 5th day of September, A.D. 1871, before me.

(Signed) WILLIAM G. SCOTT, J.P.,
and Commissioner for taking Affidavits in the Supreme Court.

DOMINION OF CANADA, PROVINCE OF NOVA SCOTIA, GUYSBOROUGH: to wit.

We, Alexander Walsh and Michael Keating the younger, both of the County of Guysborough, seamen on board of the Government schooner 'Sweepstakes,' commanded by Captain James Alexander Tory, do make oath and say for ourselves respectively as follows:—

That we have heard read the affidavit of the said James Alexander Tory, hereunto prefixed, and that the same is, to our respective personal knowledge, true and correct in every particular, excepting such part thereof as relates to the bearing of Morristown Chapel from the American schooner 'Edward A. Horton,' in said affidavit mentioned, as to which fact we have no personal knowledge, in consequence of not having noticed the position of said chapel from the compass, and excepting also such part of said affidavit as refers to the acknowledgment on the part of the master and crew of said American schooner as to their having fished on the same ground on the evening previous to the seizure. We, the deponents, have, however, since the seizure, severally heard some of the crew of said American schooner acknowledge that they had on the occasion in question violated the law by fishing on the ground where the said schooner was seized, and within the limits and under the circumstances stated in the said affidavit of the said James Alexander Tory.

(Signed) ALEXANDER WALSH.
MICHAEL KEATING.

Sworn at Guysborough, in the County of Guysborough, this 5th day of September, A.D. 1871, before me, by the said deponents, viz. Alexander Walsh and Michael Keating the younger.

(Signed) WILLIAM G. SCOTT, J.P.,
and Commissioner for taking Affidavits in the Supreme Court.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, January 6, 1871.

WITH reference to your Lordship's secret Despatch of the 16th of November (which I have caused to be marked "Confidential" in this Department), enclosing a statement drawn up in the department of the Minister of Customs respecting the admission to Canadian ports of American fishing vessels, I have the honour to enclose, for your information, a copy of a Memorandum prepared in the office of the Commissioners of Customs relating to the treatment of French fishing vessels in British waters under the regulations founded on the Convention with France signed at Paris in August, 1839.

The regulations will be found in the 6th vol. of Hertslet, page 429.

I have, &c.,

(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

Enclosure in No. 1.

Enclosure in
No. 1.

MEMO.

Custom House, December 12, 1870.

It appears that by the 85th Article of the Regulations founded on the 9th Article of the Convention with France, dated and signed at Paris, 2nd August, 1839, fishing boats are not allowed to approach within three miles of the coasts of this country, except under the circumstances detailed in the four clauses attached to this regulation. And by the 86th Regulation it is provided, that whenever in any of these cases of exception such vessels shall have occasion to sail or anchor within these limits, the masters of such vessels shall immediately hoist a blue flag at the mast-head so long as they shall remain within these limits, and shall not be hauled down until the boats are actually outside these limits; that they are not to use the port for the greater convenience of their fishing operations, either in proceeding from thence to their lawful fishery or in returning thereunto after fishing.

These regulations appear to aim at the prevention of fishing vessels from hovering on our coasts without a pretence of trade, rather than to prevent them from coming into our ports as ordinary traders to sell their fish; certainly there is no direct prohibition in terms forbidding them, unless they be deemed to be included in this three mile restriction. However this may be, there is a distinction in the occupation and employment of fishing vessels as such, and vessels carrying fish as traders, and the difficulty is to determine when the change of occupation takes place, and when the one resolves itself into the other. In small ports a vessel after fishing (when it would be strictly a fishing vessel) would become its own carrier and take up the part of a trading vessel and carry its fish into port, reporting at the Custom House in due form. In large ports a fish-carrying vessel would be employed to attend the fishery and collect the catch and bring the cargo into port, reporting also at the Custom House. Such is a practical result in this country as between fishing and fish-carrying vessels.

The Customs Laws Amendment Act, 9th July, 1842, first allowed fish of foreign taking to be imported in vessels that had been cleared out regularly at some foreign port, thus creating a distinction between fishing vessels and vessels carrying fish. By the Customs Consolidation Act, 1853, all prohibitions on the importation of foreign fish were repealed, that is to say, the former Act had been repealed and no restriction re-enacted. It then became lawful under Customs law in this country for a foreign fishing vessel to bring her fish to a British port, the only difference being that such foreign fishing vessel is required to make a report, whilst a British fishing vessel with fish of British taking is exempt.

Fish, therefore, of foreign taking still fall under the general law of Customs relating to foreign goods imported, by which the port or place from whence the goods are brought is required to be inserted in the master's report of his vessel on arrival in this country. It is clear, however, that fish brought to this country from a fishery do not come from any place other than the sea where it was caught, and which could not be strictly designated as a place within the meaning of the Customs law. The practice, therefore, of the masters of all vessels bringing fish from foreign fisheries is to insert in their Report the name of the place on the foreign coast opposite or nearest to that part of the sea where the fish was caught; and as this sufficiently indicates the course of the voyage to this country, anything further has not been enforced since the repeal of the special requirement on this point in the Act referred to.

When there is no coast or place to indicate this, such as in the whale fisheries, we are driven to accept the only thing which can be given, viz. a Report from the South Sea Fishery, &c.

CANADA.

No. 2.

No. 2.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, January 13, 1871.

* Vide Papers
printed Con-
fidentially,
Feb., 1871,
page 10.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 292,* of the 15th December, forwarding a revised list of vessels seized by Imperial and Canadian cruisers for violation of the Fishery and Revenue Laws during the past season.

In this Despatch your Lordship has referred to a previous Despatch which is marked "Secret." I think it convenient to observe, as far as practicable, the rule that, as no public Despatch should refer to a "Confidential" one, so no "Confidential" Despatch should refer to a "Secret" one. References of this kind are found inconvenient when it becomes necessary to publish or communicate the Despatches in which they are made.

The Lord Lisgar,
&c. &c. &c.

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

No. 3.

No. 3.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, January 16, 1871.

I HAVE received from the Board of Admiralty a copy of a Despatch, dated the 22nd of November last, from the Vice-Admiral in command on the North American station, respecting the protection of the fisheries, and forwarding the Reports of the naval officers in command of H.M.'s ships engaged in this service during the past season.

I understand that the Vice-Admiral has forwarded to you copies of these documents, and I should be glad to be made acquainted with the views of your Responsible Advisers upon the points raised in the papers so far as they relate to the exclusion of United States' fishing vessels from Canadian waters.

You will observe that Admiral Fanshawe reports in favour of the admission of United States' fishing vessels into the ports for the purposes of trade.

The Lord Lisgar,
&c. &c. &c.

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

No. 4.

No. 4.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, January 24, 1871.

† Page 5.

IN one of the Confidential Minutes transmitted in your Despatch of the 28th December last,† which I have elsewhere informed you will receive the careful attention of Her Majesty's Government, there is a misapprehension which I ought at once to correct.

I am stated to have admitted to Mr. Campbell "that the Canadians might reasonably expect that the state of things anterior to the Reciprocity Treaty should be reverted "to."

This is not exactly what I said to Mr. Campbell. In answer, I think, to a suggestion of Mr. Campbell that the fishery question, or part of it, should be referred to a Mixed Commission, I expressed the opinion that we had then no reason to expect a renewal of the Reciprocity Treaty. I agreed with Mr. Campbell that the time had come when the Canadians might fairly expect Her Majesty's Government to take up the Fishery Question definitively, and either to revert to the state of things immediately anterior to the Reciprocity Treaty, or to come to some distinct arrangement with the United States on the subject.

The Lord Lisgar,
&c. &c. &c.

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

No. 5.

CANADA

No. 5.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, January 26, 1871.

I HAVE received your two Confidential Despatches of 28th of December,* the one enclosing two Minutes of your Privy Council relating to the recent Message of the President of the United States: the other transmitting a Report from the Minister of Marine and Fisheries.

* Pages 5 and 13.

On the Minutes of Council I will at present make no remark, except to assure you that they will receive from Her Majesty's Government that careful attention which is due to the importance of the subject and the cogent and temperate language in which they are couched.

The intercourse between the British and Canadian Governments has hitherto been so frank and cordial that it has been unnecessary for my predecessors or myself to pay much attention to the mode of conducting correspondence.

Mr. Mitchell's Report, however, which by the advice of the Canadian Privy Council is transmitted as containing their views, makes it, I think, unavoidable that I should now do so.

It is often convenient to send home Departmental Reports or Memoranda for information, giving the Government to which they are sent the opportunity of observing on any objectionable point, without imposing the necessity of doing so.

It also frequently occurs that questions which arise between Departments of the British and Canadian Governments will be most conveniently disposed of by such reports or memoranda drawn up in one of the departments concerned, and transmitted through the Canadian Privy Council, the Governor-General, and the Secretary of State, to the other. This mode of proceeding has the advantage (among others) that it does not entangle the two Governments in the numerous details which encumber Departmental discussions.

But when a question of importance is at issue between the two Governments its discussion by way of Departmental Reports is apt to involve the very disadvantages which, in the case of subordinate questions, that mode of treatment avoids. It tends to introduce official details and personal controversy into the discussion of questions of principle and policy.

And the Minutes of your Privy Council, which I have just received, illustrate the broader spirit and more measured tone in which a document is framed when the Government of such a country as Canada renders itself explicitly responsible for every phrase of it.

I think it greatly for the convenience and advantage of both Governments that, without discontinuing, as regards matters of detail and of minor importance, the transmission of Reports and Memoranda, questions emanating from individual departments, of general policy, should only be treated by Minutes of the Privy Council or First Minister of Canada on the one side, and Despatches from the Secretary of State on the other, addressed, of course, in both cases, to the Governor-General. I accordingly receive the Report now forwarded to me as merely sent me for information. And I wish it clearly to be understood that no inference is to be drawn from the omission of myself or of any of my predecessors to notice any of the statements or arguments contained in that or any other Departmental Report.

There is one point, however, of so much consequence in Mr. Mitchell's Report, that it is necessary that I should not pass it over without notice. Mr. Mitchell states, and it appears that the Canadian Government adopts his opinion, that Mr. Cardwell's instructions, originally issued for the fishing season of 1866, expired with the termination of that season, or, at latest, on the abolition of the licence system for which, among other things, those instructions provided. I think it right to say, explicitly, that this is not the view of Her Majesty's Government.

Her Majesty's ships can only be employed in the protection of the Canadian fisheries under arrangements approved by Her Majesty's Government, and no such arrangements subsist except those embodied in Mr. Cardwell's instructions, as from time to time modified with the consent of this Government.

I need hardly say, however, that on this and all other points any representation or request proceeding from the Privy Council of the Dominion will receive the fullest consideration from Her Majesty's Government.

The Lord Lisgar,
&c. &c. &c.

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

CANADA.

No. 6.

No. 6.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, February 1, 1871.

As the Canadian fisheries will, probably, before long form a subject of discussion between the Governments of England and the United States, it is very necessary that Her Majesty's Government should be in a position to do full justice to the case of Canada.

With this view I requested you in my Despatch (Confidential) of the 12th October, 1870,* to furnish me with precise information as to the practice which was pursued previous to the conclusion of the Reciprocity Treaty, in respect to the admission of United States' fishing vessels into the ports of British North America, that is to say, of Canada, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island.

* Vide Papers printed Confidentially Jan., 1871, page 91.

In your Confidential Despatch, of 19th November, 1870,† you enclosed a Confidential Report on the subject from the Minister of Marine and Fisheries, and I have since seen an apparently semi-official pamphlet, entitled 'A Review of President Grant's Message,' which repeats Mr. Mitchell's statements relating to the same subject.

† Vide Papers printed Confidentially Feb., 1871, page 5.

The evidences alleged in these documents appear to be as follows:—

1. Earl Bathurst's Despatch to Vice-Admiral Keats, of 17th June, 1815.
2. Rear-Admiral Milne's Despatch, of 12th May, 1817.
3. "Numerous seizures made under those instructions in 1817."
4. The seizures of the 'Nabby,' 'Washington,' 'Java,' 'Independence,' 'Magnolia,' 'Hart,' 'Papineau,' and 'Mary,' for hovering near shore, being in harbour without lawful cause, purchasing bait ashore, &c.
5. The letter of the Provincial Secretary of Nova Scotia, of 28th August, 1852.
6. "A number of judicial decisions" in the Province of Nova Scotia, between 1832 and 1853.

Mr. Mitchell also states that between 1817 and 1854, American vessels were "arrested and detained," (among other reasons) for anchoring or hovering in shore without cause, purchasing bait, landing and transshipping fish, selling goods, and buying supplies.

It is of course extremely necessary that Her Majesty's Government should not be led to use, in controversy with the United States, any statement or argument which will not bear examination, and I therefore think it best to state, in some detail, the points in which the information furnished appears insufficient.

1. As the Treaty of 1818 was so plainly the inauguration of new relations on this subject, I do not think that much stress can be laid on the letters of Lord Bathurst and Rear-Admiral Milne.

2. The same consideration applies to the seizures alleged by Mr. Mitchell to have been made in 1817, which moreover appear, by the Nova Scotia journals, to which Mr. Mitchell refers, not to have been supported by the Courts of Justice to which they were referred.

3. Of the vessels specifically alleged by Mr. Mitchell to have been seized, it would seem (if I am to rely on the same Nova Scotia journals) that four, viz. the 'Java,' 'Independence,' 'Papineau,' and 'Mary,' were seized, not for trading or intrusion on British waters, but for fishing. The ground of condemnation in the other cases is not stated.

4. The instructions issued by the Provincial Secretary of Nova Scotia on the 28th August, 1852, are directly to the purpose. But it is observable that the correspondence which led to those instructions shows the existence, in some degree, of the practice which the instructions prohibit, and it would be desirable to show whether these instructions remained a dead letter, or were practically enforced, and, if enforced, whether they were met by any protest on the part of the United States.

The practical enforcement may possibly be established by the "number of judicial decisions" stated in the "defence" (p. 33.) to have been given in the Province of Nova Scotia, but these cases are not stated.

It is also to be observed that the information given, so far as it is pertinent, only relates to Nova Scotia.

Lastly, I observe that the mere fact that vessels were "arrested" or "detained" is of little avail, as such detention is evidently justified by the Imperial and Colonial laws, in order that they may be searched, for the purpose of preventing and punishing fishing or smuggling.

I should be glad to receive:—

1. Such extracts from the proceedings of Courts of Justice referred to as would prove that those Courts had not merely supported the Government vessels in detaining

vessels in order to ascertain whether they had fished in prohibited waters, or had prepared to commit that offence, nor in seizing them for having so fished or prepared to fish, but that the Courts had held the purchase of bait or supplies, the transshipment of fish, the engagement of sailors, or other similar transactions, to authorize the forfeiture of the vessel concerned in them, or the forcible interference of Government officers to prevent such transactions.

2. Instances of cases in which transactions of this kind had been in fact prevented by authority, with such information as would show whether the Government or the fishermen of the United States protested against this exercise of authority, or acquiesced in it.

And, 3. Such information as would show whether this interference was effected or acquiesced in on the ground that the fishing-vessels were absolutely prohibited by the Treaty from engaging in such transactions, or on the ground that the particular fishing vessels thus treated had not fulfilled the conditions required from other vessels in order to make such transactions lawful.

Thus much with regard to Nova Scotia.

I should be glad to receive from you such corresponding information as you are able to supply respecting Canada and New Brunswick, and in particular any relevant extracts from the records of the Vice-Admiralty Courts.

To the Governors of Newfoundland and Prince Edward Island I shall apply direct on the subject.

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

The Lord Lisgar,
&c. &c. &c.

No. 7.

No. 7.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, February 16, 1871.

YOU have already been informed by Telegram of the views of Her Majesty's Government upon the Fishery Questions, but I think it will be convenient, with reference to the pending negotiations, that a somewhat fuller statement of those views should now be placed on record.

It would not be possible for Her Majesty's Government to pledge themselves to any foregone conclusion upon any particular point connected with these negotiations, but they have anxiously considered the questions which concern Canada, and they feel confident that the Canadian Government will agree with them that a satisfactory termination of the difficulties which have arisen with the United States can only be attained by taking as broad and liberal a view as is consistent with the just rights and real interests of the Dominion.

As at present advised, Her Majesty's Government are of opinion that the right of Canada to exclude Americans from fishing in the waters within the limits of three marine miles of the coast is beyond dispute, and can only be ceded for an adequate consideration.

Should this consideration take the form of a money payment, it appears to Her Majesty's Government that such an arrangement would be more likely to work well than if any conditions were annexed to the exercise of the privilege of fishing within the Canadian waters.

The presence of a considerable number of cruisers would always be necessary to secure the performance of such conditions, and the enforcement of penalties for the non-observance of them would be certain to lead to disputes with the United States.

With respect to the question, What is a bay or creek, within the meaning of the first Article of the Treaty of 1818, Her Majesty's Government adhere to the interpretation which they have hitherto maintained of that Article; but they consider that the difference which has arisen with the United States on this point might be a fit subject for compromise.

The exclusion of American fishermen from resorting to Canadian ports, "except for the purpose of shelter and of repairing damages therein, of 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 George 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,

CANADA.

and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects.

In conclusion I have to state that Her Majesty fully appreciates the loyal and prompt manner in which the Canadian Government have assented to the appointment of the Commission which is about to sit at Washington. The high character and recognized ability of the British Commissioners afford ample security that the interests of Canada will be carefully protected during the forthcoming negotiations.

The Lord Lisgar,
&c. &c. &c.

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

No. 8.

No. 8.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, March 9, 1871.

• Pages 5
and 13.

I REFERRED to the Secretary of State for Foreign Affairs, copies of your two Confidential Despatches of the 28th December,* having reference to the question of the Canadian Fisheries.

Lord Granville has informed me in reply that, in his opinion, it would be impossible at present to deal with the matter which is now being discussed at Washington.

I conclude that Sir J. Macdonald will have taken with him to Washington all the papers connected with this question.

No. 9.

The Lord Lisgar,
&c. &c. &c.

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

No. 9.

The EARL OF KIMBERLEY to The LORD LISGAR.

TELEGRAM.

March 11, 1871.

No. 10.

We never had any intention whatever of selling the inshore fisheries of Canada without her consent.

No. 10.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, March 17, 1871.

† Page 30.

‡ Page 25.

I HAVE the honour to acknowledge the receipt of your Confidential Despatch of the 23rd of February,† enclosing a Report of a Committee of the Canadian Privy Council referring to the Minute forwarded in your Despatch, No. 44,‡ of the 20th of that month, as containing the views of the Canadian Government on the Reports of the Naval officers respecting the fisheries for the year 1870.

The Lord Lisgar,
&c. &c. &c.

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

No. 11.

No. 11.

THE EARL OF KIMBERLEY to The LORD LISGAR.

(No. 374.)

MY LORD,

Downing Street, March 17, 1871.

IN answer to your telegram received on the 10th instant, stating that in the opinion of your Government the Canadian fisheries cannot be sold without the consent of the Dominion, I have already informed your Lordship by telegraph that Her Majesty's Government never had any intention of advising Her Majesty to part with those fisheries without such consent.

When the Reciprocity Treaty was concluded, the Acts of the Nova Scotian and New Brunswick Legislatures relating to the fisheries were suspended by Acts of those Legis-

latures, and the fishery rights of Canada are now under the protection of a Canadian Act of Parliament, the repeal of which would be necessary in case of the cession of those rights to any Foreign Power.

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 Treaty rights may depend not only on the literal construction of the Treaty, but on the moderation and reasonableness with which those rights are asserted.

The Lord Lisgar,
&c. &c. &c.

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

No. 12.

No. 12.

(No. 375.) The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD, Downing Street, March 18, 1871.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 44,* of the 20th of February, forwarding a Report of a Committee of the Canadian Privy Council on the reports of the Naval Officers on the Canadian fisheries for the year 1870, and on the question of the admission of United States' fishing vessels to Canadian ports for purposes of trade.

I have forwarded a copy of your Despatch and of its enclosure to the Secretary of State for Foreign Affairs, in order that it may be communicated to the High Commissioners sitting at Washington.

The Lord Lisgar,
&c. &c. &c.

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

No. 13.

No. 13.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD, Downing Street, April 10, 1871.

I HAVE the honour to acknowledge your Confidential Despatch of the 16th March,† enclosing copies of a Report of your Privy Council and of a Memorandum of the Minister of Marine and Fisheries in respect to the information with which, by my Despatch of the 1st February,‡ I desired to be furnished.

From the tenor of Mr. Mitchell's Memorandum, I am inclined to think that some misapprehension exists as to the exact point upon which I sought for information, and I fear that your Government may be incurring unnecessary trouble and expense in procuring copies of evidence and depositions which would, in the result, throw little light upon the particular question as to which the evidence appeared to me insufficient.

With a view of preventing this labour and expense, I think it desirable to restate very briefly the particular part of the Canadian fishery questions upon which additional information is sought.

The object is to ascertain what was the practice which prevailed prior to the Reciprocity Treaty in respect of the admission of United States' fishing vessels into the ports of British North America, and what precise evidence can be obtained to show:—

1st. That the Courts had held the purchase of bait or supplies, the transshipment of fish, the engagement of sailors, or other similar transactions, to authorize the forfeiture of the vessel concerned in them, or the forcible interference of Government officers to prevent such transactions; and, 2nd, instances of cases in which transactions of this kind had been in fact prevented by authority, and whether such exercise of authority had been protested against or acquiesced in by the Government or fishermen of the United States.

It would be unnecessary for this purpose to take copies of evidence, depositions, and judgments in all cases of detention and seizure of foreign vessels "for violation of the "fishery rights," as proposed by Mr. Mitchell, as these would include cases where vessels had been seized and tried, not for trading or intrusion in British ports, but for fishing or preparing to fish.

The Lord Lisgar,
&c. &c. &c.

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

CANADA.

No. 14.

No. 14.

(No. 389.)

The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD,

Downing Street, April 12, 1871.

* Page 30.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 54,* of the 2nd of March, forwarding a copy of a Report of the Canadian Privy Council, approving a draft of special instructions to the Commanders of the Canadian cruisers for the approaching fishery season.

These instructions follow very nearly the amended instructions of last year, and the only point on which I think it necessary at present to observe is the exclusion of United States' fishing vessels from entering Canadian bays or harbours for purposes of trade.

† Vide Papers
printed con-
fidentially,
Jan., 1871,
page 92.

Your Government are aware that the United States' Government have remonstrated against this exclusion, and that Admiral Fanshawe was informed, as stated in my Despatch to you of October 12th,† that the transshipment of fish, and obtaining supplies by American fishing vessels, could not be regarded as a "substantial invasion of British rights," such as was contemplated by the Imperial Instructions of 1866, and that unless there was some further ground of interference than the Convention of 1818, and the consequent enactments of 59 Geo. III., cap. 38 (Imperial), and 6 Vict., cap. 14 (Prince Edward Island), he was not to prevent United States' fishermen from entering British bays for such purposes. You are also aware that the Admiral has since reported that the suppression of illegal fishing is not materially facilitated by the prohibition of trade.

If the negotiations at Washington should be still pending when the fishery season commences, the enforcement of this exclusion might seriously endanger their success, and I cannot therefore doubt that your Advisers will agree with Her Majesty's Government in the necessity of at all events suspending that part of the instructions to which I have referred until the result of the negotiations is known.

I abstain from entering now upon the question of the validity of the American objections and the expediency of enforcing the exclusion, as it is obvious that it is impossible to determine finally, at the present moment, what course should be pursued in the event of the negotiations not coming to a satisfactory issue.

The Lord Lisgar,
&c. &c. &c.

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

No. 15.

No. 15.

(No. 427.)

The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD,

Downing Street May 25, 1871.

‡ Page 50.

I AM glad to learn from your Lordship's Despatch, No. 99,‡ of the 4th instant, forwarding a copy of a Minute of the Privy Council of Canada, together with an amended copy of the Instructions issued to the officers in command of the Government vessels engaged in the protection of the fisheries, that those instructions have been altered in the manner suggested in my Despatch, No. 389,§ of the 12th of April.

§ Supra.

Admiralty,
May 12, 1871,
page 128.
Col. Office,
May 24, 1871,
page 129.

I enclose copies of a correspondence with the Admiralty, from which your Lordship will see that the Instructions to the British naval officers employed in the protection of the fisheries will be suspended until the action of the United States' Government, with respect to the Treaty of Washington, is known.

The Lord Lisgar,
&c. &c. &c.

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

No. 16.

No. 16.

(No. 437.)

The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD,

Downing Street, June 7, 1871.

|| Supra.

WITH reference to that part of my Despatch, No. 427,|| of the 25th of May, which related to the suspension of Instructions to the British naval officers employed in the protection of the North American fisheries, I have the honour to transmit to you, for your information, a copy of a letter from the Board of Admiralty on this subject.

Admiralty,
June 1, 1871,
page 129.

The Lord Lisgar,
&c. &c. &c.

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

No. 17.

CANADA.

No. 17.

(No. 442.) The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD,

Downing Street, June 15, 1871.

WITH reference to my Despatches, Nos. 427 * and 437,* of the 25th of May and 7th inst., respecting the suspension of instructions to the British naval officers employed in the protection of the fisheries, I have the honour to transmit to you, for your information, the enclosed copies of a further correspondence which has taken place with the Board of Admiralty on this subject.

* Page 98.

Admiralty,
June 6, 1871,
page 129.
Col. Office to
Admiralty,
June 10, 1871,
page 130.
Col. Office to
Admiralty,
June 12, 1871,
page 131.

The Lord Lisgar,
&c. &c. &c.

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

No. 18.

No. 18.

(No. 444.) The EARL OF KIMBERLEY to The LORD LISGAR.

MY LORD,

Downing Street, June 17, 1871.

I HAVE the honour to enclose, herewith, copies of the Treaty signed at Washington on May 8th by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States, and of the instructions to Her Majesty's High Commissioners, and Protocols of the conferences held by the Commission.†

† These Parliamentary Papers are attached to the end of this Correspondence.

The Dominion is, from its geographical position as the immediate neighbour of the United States, so peculiarly interested in the maintenance of cordial relations between that Republic and the British Empire, that it must be a source of satisfaction to the Canadian Government that Her Majesty has been able to conclude a Treaty for the amicable settlement of differences which might have seriously endangered the good understanding between the two countries.

Moreover the rules laid down in Article 6 as to the international duties of neutral Governments are of special importance to the Dominion, which carries on such an extensive and increasing maritime commerce, and possesses such a considerable merchant navy.

But independently of the advantages which Canada must derive from the removal of the causes of difference with the United States, arising out of occurrences during the civil war, Her Majesty's Government believe that the settlement which has been arrived at of the questions directly affecting British North America cannot fail to be beneficial to the Dominion. I need not refer to the well-known history of the Fishery Question further than to observe that ever since the termination by the British Government, in consequence of the war of 1812, of the liberty enjoyed under the Treaty of 1783 by American citizens of fishing in the territorial waters of the British Colonies, and the renunciation by the United States in the Treaty of 1818 of all claim to that liberty, this question has, in different forms, been the subject of controversy with the United States. Her Majesty's Government have always contended for the rights of the Colonies, and they have employed the British naval forces in the protection of the Colonial Fisheries; but they could not overlook the angry feelings to which this controversy has given rise, and the constant risk that in the enforcement of the exclusion of American fishermen from the Colonial waters a collision might take place which might lead to the most serious consequences, and they would have been wanting in their duty if they had not availed themselves of the opportunity presented by the late negotiation to remove a cause of perpetual irritation and danger to the relations of this country and the Dominion with the United States.

The Canadian Government itself took the initiative in suggesting that a joint British and American Commission should be appointed with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818; but it was certain that however desirable it might be, in default of any complete settlement, to appoint such a Commission, the causes of the difficulty lay deeper than any question of interpretation, and the mere discussion of such points as the correct definition of bays could not lead to a really friendly agreement with the United States. It was necessary, therefore, to endeavour to find an equivalent which the United States might be willing to give in return for the fishery privileges, and which Great Britain, having regard both to Imperial and Colonial interests, could properly accept. Her Majesty's Government are well aware that the arrangement which would have been most agreeable to Canada was the conclusion of a Treaty similar to the Reciprocity Treaty of 1854, and a proposal to this effect was pressed upon the United States' Commissioners, as you will find in the 36th protocol of the

CANADA.

Conferences. This proposal was, however, declined, the United States' Commissioners stating "that they could hold out no hope that the Congress of the United States would give its consent to such a tariff arrangement as was proposed, or to any extended plan of reciprocal free admission of the products of the two countries." The United States' Commissioners did, indeed, propose that coal, salt, and fish should be reciprocally admitted free, and lumber after the 1st of July, 1874; but it is evident that, looked at as a tariff arrangement, this was a most inadequate offer, as will be seen at once when it is compared with the long list of articles admitted free under the Reciprocity Treaty. Moreover it is obvious from the frank avowal of the United States' Commissioners that they only made this offer because one branch of Congress had recently, more than once, expressed itself in favour of the abolition of duties on coal and salt, and because Congress had partially removed the duty from lumber, and the tendency of legislation in the United States was towards the reduction of taxation and of duties, so that to have ceded the fishery rights in return for these concessions would have been to exchange them for commercial arrangements which there is reason to believe may, before long, be made without any such cession, to the mutual advantage of both the Dominion and the United States; and Her Majesty's Government are bound to add that whilst, in deference to the strong wishes of the Dominion Government, they used their best efforts to obtain a renewal in principle of the Reciprocity Treaty, they are convinced that the establishment of free-trade between the Dominion and the United States is not likely to be promoted by making admission to the fisheries dependent upon the conclusion of such a Treaty, and that the repeal by Congress of duties upon Canadian produce on the ground that a protective tariff is injurious to the country which imposes it, would place the commercial relations of the two countries on a far more secure and lasting basis than the stipulations of a Convention framed upon a system of reciprocity. Looking, therefore, to all the circumstances, Her Majesty's Government found it their duty to deal separately with the fisheries, and to endeavour to find some other equivalent; and the reciprocal concession of free fishery with free import of fish and fish oil, together with the payment of such a sum of money as may fairly represent the excess of value of the Colonial over the American concession, seems to them to be an equitable solution of the difficulty. It is perfectly true that the right of fishery on the United States' coasts, conceded under Article 19, is far less valuable than the right of fishery in colonial waters, conceded under Article 18 to the United States, but on the other hand it cannot be denied that it is most important to the colonial fishermen to obtain free access to the American market for their fish and for fish oil, and the balance of advantage on the side of the United States will be duly redressed by the arbitrators under Article 22. In some respects a direct money payment is, perhaps, a more distinct recognition of the rights of the Colonies than a tariff concession, and there does not seem to be any difference in principle between the admission of American fishermen for a term of years in consideration of the payment of a sum of money in gross, and their admission under the system of licences calculated at so many dollars per ton, which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty. In the latter case it must be observed the use of the fisheries was granted without any tariff concession whatever on the part of the United States, even as to the importation of fish.

Canada could not reasonably expect that this country should, for an indefinite period, incur the constant risk of serious misunderstanding with the United States, imperilling, perhaps, the peace of the whole Empire, in order to endeavour to force the American Government to change its commercial policy; and Her Majesty's Government are confident that when the Treaty is considered as a whole, the Canadian people will see that their interests have been carefully borne in mind, and that the advantages which they will derive from its provisions are commensurate with the concessions which they are called upon to make. There cannot be a question as to the great importance to Canada of the right to convey goods in bond through the United States, which has been secured to her by Article 29, and the free navigation of Lake Michigan under Article 28, and the power of transshipping goods under Article 30, are valuable privileges which must not be overlooked in forming an estimate of the advantages which Canada will obtain. Her Majesty's Government have no doubt that the Canadian Government will readily secure to the citizens of the United States, in accordance with Article 27, the use of the Canadian canals, as by the liberal policy of the Dominion those canals are already opened to them on equal terms with British subjects, and they would urge upon the Dominion Parliament and the Legislature of New Brunswick that it will be most advisable to make the arrangement as to duties on lumber floated down the St. John River, upon which the execution of Article 30 as to the transshipment of goods is made contingent.

The freedom to navigate the St. Lawrence, which is assured to the United States by Article 26, has long existed in fact, and its recognition by Treaty cannot be prejudicial to the Dominion, which moreover obtains in return the free use of certain rivers on the Pacific side of the continent.

I must not omit to notice that by Article 34 the dispute as to the Island of St. Juan is to be submitted to arbitration, and provision has thus happily been made for the amicable termination of a long-standing and difficult controversy, at a time when, in consequence of the union of British Columbia with the Dominion, this boundary question has become matter of interest to the whole Confederation of British Provinces.

I have thus gone through those parts of the Treaty which immediately touch the Dominion, but a question of much moment remains as to the course which should be taken during the present fishing season, pending the enactment by the respective Legislatures of the laws necessary to bring the fishery articles into operation.

I find that on the conclusion of the Reciprocity Treaty in June, 1854, and previous to its ratification, the then American Secretary of State, Mr. Marcy, expressed the hope of his Government that American fishermen would not be molested if they should at once attempt to use the privileges granted by that Treaty. A Despatch was therefore addressed to the Governors of the North American Colonies, recommending that the wish of the United States' Government should be acceded to, and that the American fishermen should be immediately admitted to the Colonial fisheries. The result was that the various Colonial Governments at once admitted the American fishermen to the fisheries, although the Legislative acts necessary to give effect to the Treaty were not passed till late in the autumn. It is evidently most desirable that a similar course should be pursued on the present occasion; and you will perceive from the Notes which have passed between Sir E. Thornton and Mr. Fish, copies of which I enclose, that the United States' Government have made an application similar to that which they made in 1854, and that Her Majesty's Government have engaged to recommend to the Colonial Governments that it should be acceded to. Her Majesty's Government are, of course, aware that the Colonial Governments have no power to set aside the fishery statutes by their own authority; but it is entirely within their power to take no active steps to enforce those statutes, and to suspend the instructions to the Colonial cruisers to exclude American citizens from the fisheries, just as it is in the power of Her Majesty's Government to suspend the action of Her Majesty's cruisers although the Imperial Fishery Statute is still in force.

Foreign Office,
May 26, and
enclosures,
page 115.

Her Majesty's Government have no desire whatever to attempt to interfere with the entire right of the Colonial Legislatures to refuse to pass the Acts necessary to give effect to the Treaty, though they would deeply deplore that a course which they believe would be most impolitic should be taken; but, on the other hand, they have too much confidence in the wisdom of those free Assemblies to anticipate any such result, and they are confident that the Canadian Government would be as desirous as Her Majesty's Government that no untoward collision should occur during the present season which might prejudice the fair consideration of the Treaty, both by the American Congress and the Colonial Parliaments, and that on a full consideration of the circumstances, they will see that the responsibility of incurring the risk of such a collision would be far heavier than that of removing, so far as they have the power, the obstacles to the provisional enjoyment by American citizens of the privileges which it is intended by the Treaty to secure to them for a longer time.

I cannot conclude this Despatch without expressing the gratification which it has given Her Majesty's Government to have had the valuable assistance of Sir J. Macdonald in the negotiation of this Treaty. Whatever view may be taken in Canada of the merits of the Treaty, it must be an unqualified cause of satisfaction to the Canadians to know that they were represented by a statesman holding so distinguished a position in the Canadian Government, and so well able, from his knowledge and experience, to put forward, with the greatest force and authority, the arguments best suited to promote the claims and interests of the Dominion.

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

The Lord Lisgar,
&c. &c.

No. 19.

CANADA.

No. 19.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 445.)

MY LORD,

Downing Street, June 20, 1871.

IN accordance with the strong wish expressed by the Dominion Government, that a representation should be made to the United States with reference to the losses inflicted on Canada by the Fenian raids, Her Majesty's Government instructed the British High Commissioners to bring the claims arising out of those raids before the Joint High Commission.

* Page 99.

Your Lordship will observe from the Protocols of Conferences, copies of which were transmitted to you in my Despatch, No. 444*, of the 17th inst., that the American Commissioners declined to entertain the proposal made by the British Commissioners to include these claims in the Treaty.

Her Majesty's Government were well aware of the serious difficulties in the way of settling this question, and they could not, therefore, feel surprised at this result. At the same time it was with much regret that they acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States.

But it seemed to them evident that the British Commissioners were right in thinking that there was no reasonable probability that by further pressing the point, an agreement would be come to upon it with the American Commissioners, and when the choice lay between the settlement of all the other differences between the two countries on terms which Her Majesty's Government believed to be honourable to both, and beneficial alike to Canada and the rest of the Empire, and the frustration of all hope of bringing the negotiations to a satisfactory issue, they could not hesitate as to the course which it was their duty to take.

The Lord Lisgar,
&c. &c. &c.

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

No. 20.

No. 20.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 452.)

MY LORD,

Downing Street, June 26, 1871.

† Page 77.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 118,† of the 7th instant, forwarding a copy of a Report of a Committee of the Privy Council respecting the suspension of instructions to the British naval officers employed in the protection of the North American fisheries.

‡ Page 99.

Your Lordship will have learnt from the further correspondence with the Admiralty enclosed in my Despatch, No. 442,‡ of the 15th instant, that Her Majesty's cruisers will assist in maintaining order at the fisheries, and will protect the Colonial revenue vessels from being interfered with by any armed force; but as my Despatch of the 17th of this month, No. 444,§ will have placed the Canadian Government fully in possession of the views of Her Majesty's Government as to the provisional admission of United States' citizens to the fisheries during the present season, and as I trust that the Canadian Government will, on mature consideration, accede to the proposal of the United States' Government on this subject, it is not necessary that I should pursue this matter further at the present moment.

§ Page 99.

The Lord Lisgar,
&c. &c. &c.

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

No. 21.

No. 21.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 461.)

MY LORD,

Downing Street, July 6, 1871.

¶ Page 99.
Vide enclosure to Admiralty letter of July 1, 1871, page 132.

WITH reference to my Despatch, No. 442||, of the 15th of June, enclosing copies of a correspondence with the Board of Admiralty respecting the instructions to the officers in command of Her Majesty's ships engaged in the protection of the North American fisheries, I have the honour to transmit to you, for your information, a copy

of a Despatch received through the Admiralty from Vice-Admiral Fanshawe, reporting the orders given by him on this subject.

CANADA.

The Lord Lisgar,
&c. &c. &c.

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

No. 22.

No. 22.

The EARL OF KIMBERLEY to The LORD LISGAR.

(Confidential.)

MY LORD,

Downing Street, July 20, 1871.

I HAVE to acknowledge your Lordship's Confidential Despatch of 25th May,* forwarding various extracts from newspapers, as conveying a general view of the present state of feeling and opinion in the Dominion of Canada, with regard to the Treaty of Washington.

* Page 53.

The Lord Lisgar,
&c. &c. &c.

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

No. 23.

No. 23.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 470.)

MY LORD,

Downing Street, July 20, 1871.

WITH reference to the correspondence which has passed respecting the Canadian fisheries, I transmit to your Lordship a copy of a Despatch which has been communicated to me by Earl Granville, from Her Majesty's Minister at Washington, enclosing a copy of a note from Mr. Fish, with a copy of the reply which was returned to it.

Vide Foreign Office letter, July 12, 1871, page 118.

Lord Granville has approved Sir E. Thornton's proceedings in this matter.

The Lord Lisgar,
&c. &c. &c.

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

No. 24.

No. 24.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 476.)

MY LORD,

Downing Street, July 27, 1871.

I HAVE to acknowledge your Lordship's Despatch, No. 126,† of 5th inst., forwarding, at the request of the Privy Council of Canada, a copy of a joint Address, adopted by the Legislative Council and Assembly of New Brunswick, on the subject of the proposed concession of fishing rights to the citizens of the United States, under the Treaty of Washington.

† Page 78.

The Lord Lisgar,
&c. &c. &c.

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

No. 25.

No. 25.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 503.)

MY LORD,

Downing Street, September 3, 1871.

I HAVE the honour to transmit to your Lordship, for your information, copies of Despatches, dated the 14th and 25th of July, which I have received from the Governor of Newfoundland, and from the Lieutenant-Governor of Prince Edward Island, apprising me that their Governments have acceded to the wishes of Her Majesty's Government that United States' fishermen should be admitted during the present season to the provisional use of the privileges granted to them by the Treaty of Washington so far as concerns those Islands, together with copies of the answers which I have returned to those Despatches.

Governor, No. 55, July 14, 1871, Newfoundland, page 148.

Governor, No. 59, July 25, 1871, Prince Edward Island, page 181.

Sec. of State, No. 38, Sept. 3, 1871, Newfoundland, page 156.

Sec. of State, No. 52, Sept. 3, 1871, Prince Edward Island, page 191.

The Lord Lisgar,
&c. &c. &c.

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

CANADA.

No. 26.

No. 26.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 504.)

MY LORD,

Downing Street, September 5, 1871.

* Page 103.

Foreign Office,
August 31,
vide p. 164,
(Newfound-
land Corre-
spondence.)

WITH reference to my Despatch of the 3rd inst.,* forwarding copies of a correspondence between the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island and myself relating to the Treaty of Washington and to the Fisheries, I have the honour to transmit to you, for your information, a copy of a letter from the Foreign Office on certain points raised in that correspondence.

I have communicated a copy of the Foreign Office letter to the Governor of Newfoundland and to the Lieutenant-Governor of Prince Edward Island.

The Lord Lisgar,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 27.

No. 27.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 506.)

MY LORD,

Downing Street, September 8, 1871.

† Page 80.

Foreign
Office, Aug.
22, 1871,
page 120.
Col. Office,
Aug. 29, 1871,
page 120.
Foreign
Office, Sept.
2, 1871,
page 121.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 140,† of the 15th of August, respecting the seizure of the United States' vessel 'Samuel Gilbert,' by a Canadian cruiser, for an infraction of the fishery laws, and I transmit to you, for your information, copies of a correspondence on this subject between this Office and the Foreign Office.

The Lord Lisgar,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 28.

No. 28.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 516.)

MY LORD,

Downing Street, September 20, 1871.

‡ Page 80.

Foreign
Office, Sept.
14, 1871,
page 121.

WITH reference to your Despatch, No. 140,‡ of August 15, respecting the seizure of the 'Samuel Gilbert,' I transmit, herewith, for your Lordship's information, a copy of a letter which I have received from the Foreign Office on this subject.

Her Majesty's Government have learnt with much regret that the Canadian Government have thought it necessary to proceed during the present season to the actual seizure of an United States' vessel for infringement of the fishery regulations, and they trust that, considering the not improbable misapprehension of the master of the 'Samuel Gilbert,' as to the provisional admission of United States' fisherman to the privileges accorded by the Treaty of Washington, and the importance of avoiding causes of irritation pending the ratification of the clauses of that Treaty which await the consent of Congress and the Dominion Parliament, the Canadian Government will not press for the condemnation of this vessel.

You will observe that Her Majesty's Chargé d'Affaires has been directed to request that instructions may be given by the United States' Government with a view to restrain United States' vessels from illegal fishing in Canadian waters.

The Lord Lisgar,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 29.

CANADA.

The EARL OF KIMBERLEY to The LORD LISGAR.

No. 29.

(No. 527.)

MY LORD,

Downing Street, October 3, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 163,* of the 13th of September, forwarding copies of depositions made with respect to the seizure of the United States' fishing schooner 'Franklin S. Schenck' by the Canadian Marine Police vessel the 'New England.'

* Page 85.

By my Despatch, No. 516,† of the 20th September, you were made aware of the views of Her Majesty's Government with respect to the seizure of United States' fishing vessels for infringement of the fishery regulations during the present season.

† Page 104.

I have, &c.,

(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

No. 30.

No. 30.

(Confidential.) The LORD LISGAR to The EARL OF KIMBERLEY.

MY LORD,

Downing Street, October 4, 1871.

WITH reference to my Despatch, No. 516,‡ of the 20th September, I have the honour to transmit to you, for your information, a copy of a Despatch received through the Foreign Office from Her Majesty's Chargé d'Affaires at Washington reporting conversations he had had with Mr. Secretary Fish and Mr. Bancroft Davis as to the seizure of American vessels for violation of the Canadian fishery laws.

‡ Page 104.
Foreign Office, confidential, Sept. 27, 1871, page 122.

The suggestion made by Mr. Fish, and reported in the last paragraph of Mr. Pakenham's Despatch, seems to me well worthy the attention of the Canadian Government.

I may observe that I do not understand the allusion made to the case of the 'Lizzie A. Tarr,' as it appears from the revised list enclosed in your Despatch, No. 292,§ of the 15th December last, that that vessel was seized and sold last year.

§ Vide p. 10 Confidential Paper, Feb., 1871.

I have, &c.,

(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

No. 31.

No. 31.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 540.)

MY LORD,

Downing Street, October 21, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 173,|| of the 4th inst., forwarding depositions in the case of the seizure of the United States' schooner 'Edward A. Horton' by the Canadian Government schooner 'Sweepstakes' for violation of the fishery laws of the Dominion.

|| Page 89.

By my Despatch, No. 516,¶ of the 20th September, you were made aware of the views of Her Majesty's Government with respect to the seizure of United States' fishing vessels for infringement of the fishery regulations during the present season.

¶ Page 104.

I have, &c.,

(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

No. 32.

No. 32.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 546.)

MY LORD,

Downing Street, November 2, 1871.

WITH reference to my Despatch, No. 516,** of the 20th September, respecting the case of the 'Samuel Gilbert,' I have the honour to transmit to you, herewith, for your information, copies of a Despatch and of its enclosures received through the Foreign Office from Her Majesty's Chargé d'Affaires at Washington with respect to the illegal fishing by United States' vessels in Canadian waters.

** Page 104.

Foreign Office, October 26, 1871, page 124.

I have, &c.,

(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

CANADA.

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND
THE FOREIGN OFFICE.

No. 1.

No. 1.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, January 6, 1871.

No. 293.
December 20,
1870,
page 3.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Governor-General of Canada, enclosing copies of a correspondence between Sir E. Thornton and himself on the subject of the seizure of the United States' schooner 'Granada' by the Canadian police vessel 'Ida E,' for an infraction of the Customs laws of the Dominion.

The Right. Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 2.

No. 2.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, January 7, 1871.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a Despatch from Sir E. Thornton, enclosing a printed copy of a Petition recently presented to the United States' Congress relative to the capture of American fishing vessels on the coast of Canada during the late fishing season.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ARTHUR OTWAY.

Enclosure in
No. 2.

Enclosure in No. 2.

MY LORD,

Washington, December 19, 1870.

I have the honour to enclose three printed copies of a Petition to Congress, signed, as it is stated, by 2,000 citizens of Gloucester, Massachusetts, relative to the capture of their fishing vessels on the coast of Canada during the late fishing season. The Petition was presented to the House of Representatives on the 13th inst., by General B. F. Butler, a member from Massachusetts, and was referred to the Committee on Foreign Relations.

The petitioners refrain from acknowledging that the principal seizures were made on account of violations of the Treaty of 1818 with regard to the inshore fisheries, which they had been previously warned to respect by circulars from the Treasury Department of the United States.

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

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

AGGRESSIONS UPON AMERICAN FISHERMEN.

Mr. Butler, of Massachusetts.—I desire to present the petition of 2,000 citizens of Gloucester, Massachusetts, for relief against the seizure of their fishing vessels by the Canadian authorities. I present it, not under the rules, in order to bring it to the attention of the country. I ask that it be read.

No objection being made, the petition was read, as follows :

To the Honourable Senate and House of Representatives in Congress assembled:

This Memorial respectfully represents that owing to the coercive principle adopted by the Dominion of Canada, whereby the Treaty of 1818 is made the basis of arbitrary laws and regulations, the fishing interests of the United States, being the most vulnerable point, have been subjected to outrage, directed with a view to accomplish the following results:—

To obtain satisfaction for alleged Fenian raids: to force the United States to renew the Reciprocity Treaty: to drive American fishermen from their waters, thereby reducing the number of fishing vessels, weakening the marine power of the United States, and making a monopoly of the fishing business in the hands of the Canadians to supply our markets.

To this end they have captured American fishing vessels, broken up their voyages, and confiscated their fares. They have declared absolute non-intercourse with the fishermen of the United States, refusing the right to buy stores or supplies at any of their ports, driving them from their harbours where they had sought shelter, refusing the landing or bonding of American fish or mackerel for

CANADA.

export to the United States. They have seized mackerel saved from vessels wrecked on their coasts, refused supplies to disabled vessels, and harassed the fishermen in a manner peculiar to British authority.

Your memorialists would therefore pray that a non-intercourse Act be passed, similar in its effects to that of Canada, whereby the same treatment may be applied to all vessels hailing from the British provinces as that suffered by American fishermen: also, for an Act prohibiting the importation of English or Canadian fish or mackerel, so long as American vessels are prohibited from taking fish and mackerel in so-called British waters: also, that transportation in bond of merchandize for Canada through American territory be prohibited until Canadian ports are opened for transportation in bond of American fish, mackerel, or other merchandise to and from the United States: also, that the United States demand full and complete indemnity for vessels and cargoes captured, and for all detentions and outrages committed on fishing vessels and their crews by British armed vessels.

Mr. Butler, of Massachusetts.—I move that this petition be referred to the Committee on Foreign Affairs.

The motion was agreed to; and the petition was referred accordingly.

No. 3.

No. 3.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, January 7, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor-General of Canada, enclosing a revised list of vessels seized by Imperial and Canadian cruisers for violation of the fishery and revenue laws during the past season.

A copy of this Despatch has also been communicated to the Admiralty.

I am, &c.,

(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

No. 292.
December 15,
1870.
Vide Papers
printed con-
fidentially,
Feb., 1871,
page 10.

No. 4.

No. 4.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, January 20, 1871.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from Mr. Thomas Hughes, applying on the part of the Anglo-American Committee, who are preparing a statement of the Canadian fisheries question, for a copy of the instructions given to British officers in command of vessels of war in the Canadian waters.

Lord Kimberley will be glad to be informed whether, in Lord Granville's opinion, these instructions can be properly communicated to the Anglo-American Committee.

I am, &c.,

(Signed) H. T. HOLLAND

The Under Secretary of State,
Foreign Office.

January 11,
1871.

Enclosure in No. 4.

Enclosure in
No. 4.

MY LORD,

Athenæum Club, January 11, 1871.

On the part of the Anglo-American Committee, who are preparing a statement of the Canadian fisheries question, I have to request that we may be furnished with a copy of the instructions given to British officers in command of vessels of war in the Canadian waters.

I have, &c.,

(Signed) THOS. HUGHES.

No. 5.

No. 5.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, January 30, 1871.

WITH reference to previous correspondence respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Governor-General of Canada, enclosing copies of two Minutes of the Privy Council of the Dominion having reference to the recent message of the President of the United States to Congress.

I am also to enclose a copy of another Despatch from the Governor-General, forwarding a Report concurred in by the Committee of the Privy Council, and drawn up by the Honourable the Minister of Marine and Fisheries, respecting the protection of the

Governor,
confidential.
December 28,
1870, page 5.

Governor,
confidential.
December 28,
1870, page 13.

CANADA.

fisheries, together with copies of two Despatches addressed to the Governor-General relating to these documents.

Secretary of State to Governor, confidential, Jan. 24, 1871, page 92.

Secretary of State to Governor, confidential, Jan. 26, 1871, page 93.

Lord Kimberley desires me to request that you will move Lord Granville to inform him of his views with respect to the two Minutes of Council respecting the President's Message.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 6.

The FOREIGN OFFICE to the COLONIAL OFFICE.

No. 6.

SIR,

Foreign Office, February 1, 1871.

* Page 107.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 20th ultimo,* enclosing a copy of a letter from Mr. Thomas Hughes, applying, on behalf of the Anglo-American Committee, for a copy of the instructions given to British officers in command of Her Majesty's vessels of war in Canadian waters.

January 26, 1871.

I am to request that you will inform the Earl of Kimberley that Lord Granville communicated your letter to the Lords Commissioners of the Admiralty; and in now transmitting to you copies of a letter, and of its enclosure, which have been received from their Lordships in reply, I am to request that you will state to Lord Kimberley that Lord Granville will leave it to his Lordship to decide whether Mr. Hughes' application should be acceded to.

The Under Secretary of State,
Colonial Office.

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

Enclosure in No. 6.

Enclosure in No. 6.

SIR,

Admiralty, January 26, 1871.

Admiralty, January 23, 1871, page 125.

I have laid before my Lords Commissioners of the Admiralty your letter of the 23rd instant, forwarding a copy of a letter from the Colonial Office relative to an application on the part of the Anglo-American Committee for a copy of the instructions given to the officers in command of Her Majesty's ships engaged in the protection of the Canadian Fisheries, and I am commanded by their Lordships to transmit herewith, for the information of Earl Granville, a copy of a reply already given to the Colonial Office on this subject.

The Right Hon. E. Hammond.

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

No. 7.

No. 7.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, February 7, 1871.

Governor, No. 17, January 18, 1871, page 19.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, copies of two Despatches, with their enclosures, which have been received from the Governor-General of Canada.

No. 19, January 19, 1871, page 22.

The first, enclosing a telegram from the Commander of the 'Water Lily,' in which he reports the capture of the United States' fishing vessel 'Perseverance,' for having fished within three marine miles of the shore.

The second, reporting the seizure and condemnation of the United States' schooner 'Romp' for the same cause.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 8.

No. 8.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, February 9, 1871.

† Page 106.

Governor, No. 18, January 19, 1871, page 19.

WITH reference to my letter of the 6th ultimo,† enclosing a copy of a Despatch from the Governor-General of Canada, enclosing correspondence respecting the seizure of the United States' schooner 'Granada' by the Canadian Police Vessel 'Ida E.' for an infraction of the Customs laws of the Dominion, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further Despatch from the Governor-General on this subject.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 9.

CANADA.

The COLONIAL OFFICE to the FOREIGN OFFICE.

No. 9.

SIR, Downing Street, February 17, 1871.
 WITH reference to the Despatch from the Governor-General of Canada, No. 17,* of the 18th of January, a copy of which was enclosed in my letter of the 7th inst., I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further Despatch from Lord Lisgar respecting the seizure of the American fishing schooner 'Perseverance,' for an infraction of the fishery laws of the Dominion.

* Page 19.

Governor,
No. 25,
January 24,
1871, page 24.

I am, &c.,
 (Signed) H. T. HOLLAND.
 The Right Hon. E. Hammond,
 &c. &c. &c.

No. 10.

No. 10.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, February 20, 1871.
 I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch which his Lordship has addressed to the Governor-General of Canada with reference to the question of the Canadian fisheries.

Confidential,
February 16,
1871, page 95.

Lord Kimberley would suggest that a copy of this Despatch should be communicated to the High Commissioners who have recently proceeded to Washington.

I am, &c.,
 (Signed) H. T. HOLLAND.
 The Right Hon. E. Hammond,
 &c. &c. &c.

No. 11.

No. 11.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, February 20, 1871.
 WITH reference to my letter of the 9th instant † respecting the seizure of the United States' schooner 'Granada' by the Canadian Police Vessel 'Ida E.,' I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further Despatch from the Governor-General of Canada on the subject.

† Page 108.

Governor,
No. 34,
February 2,
1871, page 25.

I am, &c.,
 (Signed) H. T. HOLLAND
 The Right Hon. E. Hammond,
 &c. &c. &c.

No. 12.

No. 12.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, February 23, 1871.
 I AM directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that, in accordance with his Lordship's suggestion, a copy of the Confidential Despatch to Lord Lisgar, enclosed in your letter of the 20th instant, ‡ will be forwarded to the High Commissioners at Washington by the mail of Saturday next.

‡ Supra.

I am, &c.,
 (Signed) ENFIELD.
 The Under Secretary of State,
 Colonial Office.

No. 13.

No. 13.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, March 3, 1871.
 WITH reference to your letter of the 30th January, § and to your subsequent letters containing various communications from the Canadian Government respecting the Fishery question, I am directed by Earl Granville to state to you, for the information of the Earl of Kimberley, that his Lordship is of opinion that it would be impossible, at present, to deal with the matter which is now being discussed at Washington.

§ Page 107.

I am to add that his Lordship concludes that Sir J. Macdonald will have taken with him to Washington all the papers connected with this question.

I am, &c.,
 (Signed) E. HAMMOND.
 The Under Secretary of State,
 Colonial Office.

CANADA.

No. 14.

No. 14.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, March 9, 1871.

WITH reference to previous correspondence respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from the Board of Admiralty in answer to a reference made to that Department requesting information as to whether the instructions issued to the naval officers between the date of the Convention of 1818 and of the ratification of the Reciprocity Treaty in 1854, threw any light upon the practice which prevailed between those dates with respect to the admission of United States' fishing vessels to the ports of the North American Colonies for the purposes of trading, transshipping fish, &c.

Lord Kimberley would suggest that the Admiralty letter and its enclosures should be communicated to the High Commissioners at Washington.

I am desired to take this opportunity of enclosing, with reference to my letter of the 17th December,* a copy of a confidential Despatch addressed to the Governor-General of Canada on this subject on the 1st of last month.

I am, &c.,

(Signed) H. T. HOLLAND.

The Right Hon. E. Hammond.

&c. &c. &c.

No. 15.

Admiralty,
February 25,
1871,
page 126.

* Vide Papers
printed confi-
dentially,
Feb., 1871,
page 42.
Confidential,
February 1,
1871, page 94.

Governor,
No. 44,
Feb. 20, 1871,
page 25.
Sec. of State to
Governor, in
reply, No. 375,
March 18,
1871, page 97.
Confidential,
Prince Edwd.
Island, Feb.
17, 1871,
page 169.
Sec. of State to
Governor, in
reply, confi-
dential, March
17, 1871,
page 189.
Telegram,
Lord Lisgar to
Sec. of State,
received
March 10,
1871, page 33.
Telegram to
Lord Lisgar,
March 11,
1871, page 96.
To Governor,
March 17,
1871, No. 374,
page 96.

(Confidential.)

No. 15.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, March 18, 1871.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the enclosed copies of the correspondence mentioned in the margin, having reference to the Canadian fisheries, which Lord Kimberley would suggest should be forwarded to the High Commissioners sitting at Washington.

I am, &c.,

(Signed) FREDERIC ROGERS.

The Right Hon. E. Hammond.

&c. &c. &c.

No. 16.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, March 21, 1871.

WITH reference to my letter of the 22nd of December last,† I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, two Despatches from Her Majesty's Minister at Washington, in original to be returned, relative to the case of the British schooner 'Bessie,' together with a copy of a Despatch which his Lordship has addressed to Sir E. Thornton in reply to the latter Despatch.

I am, &c.,

(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

Enclosures in No. 16.

No. 16.

† Vide Papers
printed confi-
dentially,
Feb., 1871,
page 42.

Nos. 91, 92,
No. 84.

Enclosures in
No. 16.

From Consul
Murray, Mar.
2, 1871.

Mr. A. Rogers
to Consul
Murray, Feb.
24, 1871.

Consul
Murray to
Mr. A. Rogers,
Mar. 1, 1871.

Sir E. Thorn-
ton to Mr.
Murray, Mar.
6, 1871.

(No. 91.)

MY LORD,

Washington, March 6, 1871.

With reference to my Despatches, Nos. 453, 460, and 477 of last year, I have the honour to enclose copies of a letter and of its enclosures which I have received from Her Majesty's Consul at Portland, relative to the case of a British schooner, 'Bessie.' Mr. Murray forwards a letter addressed to him by a part owner of the vessel, claiming compensation for the detention of the vessel and the ill-treatment of the crew. In his reply, Mr. Murray points out that the detention was brought about by the illegal conduct of the master of the 'Bessie.'

In my answer to Mr. Murray, copy of which is also enclosed, I have approved of the answer given by him.

I have not yet received any answer to the note which I addressed to Mr. Fish, relative to the seizure of the 'Bessie' in British waters. I have since then spoken to him about it, when he informed me that he had directed that inquiries and a report should be made upon the matter.

I have, &c.,

(Signed) EDWD. THORNTON.

Earl Granville, K.G.,

&c. &c. &c.

(No. 1.)

SIR,

Her Majesty's Consulate, Portland, March 2, 1871.

I have the honour to transmit to you herewith a copy of correspondence I have had with Mr. Alexander Rogers, of New Brunswick, part owner of the schooner 'Bessie,' on the subject of compensation claimed by the owners for the detention of the vessel, and for a fine and expenses imposed upon Captain Bacon by the United States' authorities, for having carried off a revenue officer who had been placed on board the 'Bessie' at East Port, in consequence of a charge of smuggling butter having been preferred against him.

I reported this case in my Despatches, Nos. 10, 11, 12, and 13 of last year.

I trust that my reply to Mr. Bacon may meet with your approval.

Sir E. Thornton, K.C.B.,
&c. &c. &c.

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

RESPECTED SIR,

Hopewell Hill, Albert County, New Brunswick, February 24, 1871.

I would beg to inquire what action you have taken in reference to the matter of the schooner 'Bessie,' which came under your notice in October last. Captain Bacon says that he gave you a statement of the affair which happened at East Port, and also of the brutal manner in which he and the crew were treated at the time of the capture in British waters. Will we have to submit to the imposition of having the vessel detained 16 days, expenses to the amount of about \$700, and the captain fined \$300, and treated in a manner unbecoming any civilized nation?

Is there any prospect of us recovering a compensation through you, or should we put the matter before the Dominion Government? Any information you may give us will be thankfully received by your humble servant.

— Murray, Esq.,
&c. &c. &c.

(Signed) ALEX. ROGERS,
part owner of schooner 'Bessie.'

SIR,

British Consulate, Portland, March 1, 1871.

I have to acknowledge the receipt of your communication dated the 24th ultimo, requesting to be informed what action I have taken in reference to the matter of the schooner 'Bessie,' and whether there is any prospect of your recovering compensation for the detention of your vessel at East Port, the expenses you had been put to by the fine and costs imposed upon Captain Bacon by the United States' authorities, and the treatment experienced by the captain and crew of the 'Bessie' at the time of their capture in British waters.

In reply, I beg to state that the case was duly reported by me at the time to Sir E. Thornton, Her Majesty's Minister at Washington, to whom I forwarded the statement of Captain Bacon to which you allude.

As from the tenor of your observations you appear to be under some misconception of the true nature of the case, I beg to recall to you that Captain Bacon was convicted of one of the most serious offences that can be committed against the revenue laws of any country—that of carrying off a revenue officer placed on board, and in charge of a vessel detained by the authorities on a charge of smuggling, and which rendered him and his vessel liable to the heaviest penalties. As there can be no doubt about these facts, I do not see the grounds upon which any compensation could be awarded you for the detention of your vessel which the criminal conduct of your own captain originated.

As to the capture of the 'Bessie' in British waters by an American steamer, that, I presume, is a question that entirely rests between the two Governments, and upon which I am not now called upon to offer any opinion.

The charges of ill-treatment of the captain and crew of the 'Bessie' at the time of their capture by the steamer is not unfounded, as it was an uncalled for and reprehensible proceeding on the part of the men employed by the deputy collector of Customs, but some allowance must be made for the natural irritation felt by them at the very high-handed conduct of Captain Bacon in carrying off their Government officer. I happen to know, however, that the rough conduct was taken into consideration by the United States' district Attorney, and by the United States' Commissioner when imposing the fine of \$300 on Captain Bacon, and which they thought was very moderate in view of the serious nature of his offence.

Mr. Alexr. Rogers.

I have, &c.,
(Signed) HENRY JOHN MURRAY.

(No. 92.)

MY LORD,

Washington, March 7, 1871.

With reference to my Despatch, No. 91, of yesterday's date, I have the honour to enclose copy of a note from Mr. Fish, in which he declares that the trespass committed by United States' authorities upon British waters in the case of the capture of the British schooner 'Bessie,' was not authorized, and cannot be approved by the United States' Government, and expresses his regret at the occurrence.

In the presence of this declaration, and considering the improper conduct of the master of the 'Bessie,' I shall not, unless otherwise instructed by your Lordship, make any further remonstrance, or any demand for compensation for the owners.

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

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

March 6.

CANADA.

SIR,

Department of State, Washington, March 6, 1871

With reference to the case of the schooner 'Bessie,' of St. John, New Brunswick, which was the subject of your note to this Department of 7th November last, I have to state that, pursuant to the request therein contained, careful inquiry has been made, the result of which leads to the impression at least, that that vessel was, as alleged, seized in British waters.

It is presumed, however to be unnecessary to say that such a proceeding was not authorized by this Government. The 'Bessie,' while under seizure by the Custom House at Eastport, with a custodian on board, set sail and escaped. The deputy collector, impelled perhaps by a sense of his accountability for the escape, chartered a steamer, which went in quest of the 'Bessie,' and overtook her at a point within British waters. There is nothing, however, to show that the commander of the steamer had any directions to make the seizure beyond the jurisdiction of the United States. Indeed it is presumed that he must have been quite unaware that he was trespassing on British jurisdiction. No such trespass was authorized or can be approved by this Government, even if it were merely accidental; I am consequently directed to express my regret at the occurrence.

Sir Edward Thornton, K.C.B.,
&c. &c. &c.

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

(No. 2.)

SIR,

Washington, March 6, 1871.

I have to acknowledge the receipt of your Despatch, No. 1, of the 2nd instant, and of its enclosures, and I have to convey to you my approval of the answer which you have addressed to Mr. Alexander Rogers, part owner of the schooner 'Bessie,' on the subject of compensation claimed by the owners for the detention of the vessel, and for a fine and expenses imposed upon the master of the 'Bessie' by the United States' authorities.

Henry J. Murray, Esq.,
&c. &c. &c.
Portland.

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

(No. 84.)

SIR,

Foreign Office, March 21, 1871.

I have received your Despatch, No. 92, of the 7th instant, enclosing a copy of a note you have received from Mr. Fish in regard to the case of the British schooner 'Bessie.'

In reply I have to express to you the satisfaction of Her Majesty's Government at the conclusion which has been arrived at by the United States' Government in this case, and to acquaint you that Her Majesty's Government approve your intention of letting the matter drop.

Sir E. Thornton, K.C.B.,
&c. &c. &c.

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

No. 17.

No. 17.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, March 24, 1871.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Governor-General of Canada, forwarding a copy of a Report of the Canadian Privy Council approving a draft of special instructions to the commanders of the Canadian cruisers for the approaching fishery season.

I am also to enclose the draft of a Despatch which, with Lord Granville's concurrence Lord Kimberley proposes to address to the Governor-General in reply.

The Despatch from the Secretary of State, No. 198, of the 27th of July,* referred to by the Governor-General, was communicated to you in my letter of the 25th July last.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 54, March
2, 1871,
page 80.
To Governor,
in reply,
April 12, 1871,
(No. 389),
page 98.

* Vide Papers
printed confi-
dentially,
Jan., 1871,
page 86.

No. 18.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, April 6, 1871.

IN reply to your letter of the 24th ultimo,* I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs in the proposed Despatch to Lord Lisgar, the draft of which was enclosed in your above-mentioned letter, in regard to the Report of the Canadian Privy Council as to the special instructions given to the Commanders of the Canadian cruisers for the approaching fishery season.

* Page 112.

The Under Secretary of State,
Colonial Office.

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

No. 19.

No. 19.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 9, 1871.

I AM directed by Earl Granville to transmit to you a copy of a telegraphic Despatch which has been received from Sir Edward Thornton, respecting the proposal of the United States' Government with reference to the carrying out of the stipulations as regards fisheries, of the Treaty which has been signed by the Joint High Commissioners, and I am to request that you will move the Earl of Kimberley to inform Lord Granville whether he has any objection to a compliance with this proposal.

The Under Secretary of State,
Colonial Office.

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

Enclosures in No. 19.

Enclosure in
No. 19.

TELEGRAM from SIR E. THORNTON.

(Decipher).

Washington, May 8, 1871.
(Received 9th May, 1871.)

"The United States' Government desire that the stipulations with respect to the fisheries, contained in the treaty signed to-day, should be carried out during the season now imminent. Fish therefore proposes to send me a note of the following tenor, which has been read and acquiesced in by all Her Majesty's Commissioners including Sir John Macdonald.

"As several articles of the treaty which was signed on the 8th instant relating to the admission of citizens of the United States to fish within the territorial waters of Her Britannic Majesty on the coasts of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place; and as it seems to be in accordance with the interest of both Governments in furtherance of the objects and spirit of the treaty that the citizens of the United States should have the enjoyment of that liberty during the present season, I am directed by the President to express to your Lordship his hope that Her Majesty's Government will be prepared in the event of the ratification of the treaty to make on their own behalf, and to urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to render for the season referred to, within their respective jurisdictions, such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the treaty.

"As the admission into the United States free of duty, of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets the views of the British Government; recommend and urge upon Congress at their next Session that any duties which may have been collected on or after the of July next on fish-oil and fish (excepting fish of the inland lakes, and of the rivers falling into the same, and except fish preserved in oil), the produce of the fisheries of the Dominion of Canada and of Prince Edward Island, shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British possessions of fish-oil and fish (with the like exception), being the produce of the fisheries of the United States."

May I take for Her Majesty's Government the engagement indicated in the above note? Please answer as soon as possible, because Fish wishes to submit his note and the answer to the Senate with the treaty on Wednesday.

CANADA.

No. 20.

No. 20.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, May 18, 1871.

Admiralty,
May 12, 1871,
page 128.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from the Board of Admiralty respecting the instructions to be issued to the Imperial officers employed in the protection of the North American fisheries during the approaching fishery season.

Lord Kimberley desires me to request you to inform Earl Granville that he concurs with the Lords Commissioners of the Admiralty in thinking that, for the present, these instructions must be suspended, but that he would be glad to be favoured with his Lordship's opinion upon the questions raised by the Admiralty letter.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 21.

No. 21.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 19, 1871.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 18th instant, enclosing copies of the instructions which it is proposed to address to the British naval officers employed in the protection of the North American fisheries during the approaching fishing season; and, in reply, I am to acquaint you, for the information of the Earl of Kimberley, that Lord Granville concurs with his Lordship in thinking that these instructions should be suspended until the action of the United States' Government as regards the Treaty which has been recently signed at Washington is known.

The Under Secretary of State,
Colonial Office.

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

No. 22.

No. 22.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, May 24, 1871.

* Page 112.

Governor,
No. 99,
May 4, 1871,
page 50.

WITH reference to Sir Frederic Rogers' letter of the 24th of March,* enclosing the draft of a Despatch to the Governor-General of Canada respecting the special instructions proposed to be issued by the Canadian Government to the Commanders of the Government vessels engaged in the protection of the fisheries during the approaching season, I am directed by the Earl of Kimberley to transmit to you a copy of the reply received from Lord Lisgar enclosing a minute of his Privy Council, together with an amended copy of instructions which have been altered with the view to the admission of United States' fishing vessels to Canadian ports for purposes of trade, in pursuance of the wishes of Her Majesty's Government.

Sec. of State,
May 25, 1871,
page 38.

I am also to enclose the draft of a Despatch to Lord Lisgar for Lord Granville's concurrence: you will observe that Lord Kimberley proposes to communicate to the Canadian Government the correspondence with the Admiralty as to the suspension of the instructions to the British naval officers employed in the protection of the fisheries until the action of the United States' Government with respect to the Treaty of Washington is known.

Lord Kimberley would be glad to be favoured with an immediate reply, as the mail for Canada is despatched to-morrow.

The Right Hon. E. Hammond,
&c. &c. &c.

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

No. 23.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 25, 1871.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 24th instant,* together with its enclosures in regard to the suspension of the instructions to British naval officers employed in the protection of the fisheries until the action of the United States' Government respecting the Treaty of Washington is known; and I am to acquaint you, for the information of the Earl of Kimberley, that Lord Granville concurs in the Despatch which his Lordship proposes to address to Lord Lisgar on the subject.

* Page 114.

I am to return, as requested, the original enclosures which accompanied your letter; and I am to add that Lord Granville would be glad to be furnished with copies, if possible, for transmission to Her Majesty's Minister at Washington.

The Under Secretary of State,
Colonial Office.

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

No. 24.

No. 24.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 26, 1871.

I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Sir E. Thornton, enclosing copies of his correspondence with Mr. Fish relative to the immediate application of the stipulations of the Fishery Treaty pending its ratification.

No. 155.

The Under Secretary of State,
Colonial Office.

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

Enclosures in No. 24.

Enclosure 1
in No. 24.

(No. 155.)

MY LORD,

Washington, May 12, 1871.

With reference to my Despatches, Nos. 146 and 147 of the 8th instant, I have the honour to enclose copy of a note addressed to me by Mr. Fish, expressing the hope entertained by the Government of the United States that Her Majesty's Government will urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland to consent that American fishermen should be allowed to fish in the waters of the above Colonies during the coming season.

Your Lordship will observe that at the beginning of the second paragraph of the draft of the note which I forwarded in my Despatch, No. 146, the following words have been added:—"The Government of the United States would be prepared at the same time to admit British subjects to the right of fishing in the waters of the United States specified in the treaty; but"

I also enclose copy of my answer to Mr. Fish, and hope your Lordship will find that his note, with the addition above mentioned, and my answer, are in accordance with the terms of your Lordship's telegram of 9th inst., transmitted through Earl de Grey.

His Lordship has seen both the enclosed notes, and approves of their contents.

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

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

SIR,

Department of State, Washington, May 8, 1871.

As several articles of the treaty which has been signed this day, relating to the admission of citizens of the United States to fish within the territorial waters of Her Britannic Majesty on the coasts of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place, and as it seems to be in accordance with the interests of both Governments, in furtherance of the objects and spirit of the treaty, that the citizens of the United States should have the enjoyment of that liberty during the present season, I am directed by the President to express to you his hope that Her Majesty's Government will be prepared, in the event of the ratification of the treaty, to make on their own behalf, and to urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to make for the season referred to within their respective jurisdictions such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the treaty. The Government of the United States would be prepared at the same time to admit British subjects to the right of fishing in the waters of the United States, specified in the treaty; but as the admission into the United States free of duty of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets

Enclosure 2
in No. 24.

CANADA.

with the views of the British Government, recommend and urge upon Congress at their next session, that any duties which may have been collected on and after the 1st day of July next, on fish-oil and fish (except fish of the inland lakes and of the rivers falling into the same, and except fish preserved in oil), the produce of the fisheries of the Dominion of Canada and of Prince Edward Island, shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British possessions of fish-oil and fish (with the like exception), being the produce of the fisheries of the United States.

Sir E. Thornton, K.C.B.,
&c. &c. &c.

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

Enclosure 3
in No. 24.

SIR,

I have the honour to acknowledge the receipt of your note of yesterday's date, and to inform you in reply that I have been authorized by Earl Granville to state that in the event of the ratification of the treaty signed yesterday, Her Majesty's Government will be prepared to recommend to the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, that the provisional arrangement proposed in your note above mentioned, with regard to the right of fishing by United States' citizens on the coasts of those British possessions and by British subjects in the waters of the United States described in Article XIX. of the Treaty, shall take effect during the coming season, on the understanding that the ultimate decision of this question must rest with the above-mentioned Colonial Governments, who would be asked to grant the immediate and certain right of fishing within the territorial waters of those Colonies, whilst the return of the import duties on fish from the 1st of July next promised by the United States is prospective and contingent on the action of Congress.

The Hon. Hamilton Fish,
&c. &c. &c.

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

No. 25.

No. 25.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 31, 1871.

I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Her Majesty's Minister at Washington, respecting the wishes of the United States' High Commissioners that the provisions of the Treaty recently concluded by them and Her Majesty's Commissioners might, so far as they related to the Canadian fisheries, come into operation on the opening of the approaching fishing season.

The Under Secretary of State,
Colonial Office.

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

Enclosure in
No. 25.

(No. 147.)

Enclosure in No. 25.

MY LORD,

Washington, May 8, 1871.

Frequently during the negotiation which has been this day brought to a happy conclusion by the signature of a treaty, the United States' High Commissioners have expressed their hope that the provisions of the treaty, whatever they might be, so far as they related to the Canadian fisheries, might go into operation on the opening of the fishing season which is now imminent. During the last week, and as soon as it became certain that a treaty would be signed, Mr. Fish has suggested that he should address me a note on the subject, setting forth the hope entertained by his Government. The terms of this note were discussed with Mr. Fish by Lord de Grey, who also gave his valuable assistance in inducing Sir J. Macdonald to acquiesce in them. Mr. Fish, however, found it impossible to agree to the remission of the duties upon fish imported into the United States, as such a measure was beyond the power of the Executive, and appertained solely to Congress. He however offered to engage that an application should be made to that body on the opening of next session for the repayment of those duties on fish which might have been paid after the 1st of July next, provided that a similar engagement were taken by the Canadian Government; and he therefore proposed to address a note to me in the form which I had the honour this day to telegraph to your Lordship, in the hope that you would authorize me to state that Her Majesty's Government were prepared to take the steps indicated therein. It has been considered and acquiesced in by all my colleagues of the British Commission, including Sir J. Macdonald.

Mr. Fish is extremely anxious that copies of a note couched in such terms, and of the answer which he hopes I may be instructed to give him should accompany the treaty on its submission to the Senate on the 10th instant; he thinks that they will contribute to its obtaining the sanction of the Senate, and that without them it will be considered that there still remains a difficulty for the removal of which no provision has been made.

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

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

No. 26.

CANADA.
No. 26.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, June 5, 1871.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 31st of May,* respecting the wishes of the United States' Government that the provisions of the Treaty recently concluded at Washington, so far as they relate to the North American fisheries, might come into operation on the opening of the approaching fishing season.

* Page 116.

Lord Kimberley proposes, if Lord Granville should concur, to defer making a communication on this subject to the Canadian Government until the Treaty has been ratified by the Queen as well as by the United States' Government.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 27.

No. 27.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, June 7, 1871.

I HAVE laid before Earl Granville your letter of the 5th instant respecting the North American fisheries, and I am in reply to request that you will suggest to the Earl of Kimberley whether some confidential communication might not be made to the Government of the Dominion of Canada with reference to the Notes exchanged between Sir Edward Thornton and Mr. Fish with regard to the immediate admission of American fishermen to the inshore fisheries on the coasts of Canada, Prince Edward Island, and Newfoundland.

The Under Secretary of State,
Colonial Office.

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

No. 28.

No. 28.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, June 12, 1871.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter which, with his Lordship's concurrence, he proposes to address to the Board of Admiralty on the subject of the course to be pursued by the British naval officers on the North American station, in regard to the Canadian fisheries.

Colonial Office
to Admiralty,
June 12, 1871,
page 131.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 29.

No. 29.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, June 12, 1871.

IN reply to your letter of this day's date, enclosing a copy of one which it is proposed to address to the Board of Admiralty respecting the course to be pursued by the British naval officers on the North American station as to Canadian fisheries, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs in that letter.

The Under Secretary of State,
Colonial Office.

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

CANADA.

No. 30.

No. 30.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, June 23, 1871.

Sec. of State,
No. 444,
June 17, 1871,
page 99.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch which his Lordship has addressed to the Governor-General of Canada, conveying to him the views of Her Majesty's Government with respect to some of the provisions of the Treaty recently signed at Washington.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 31.

No. 31.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, June 24, 1871.

IN reply to your letter of the 23rd instant, respecting the suspension of the instructions to the British naval officers in regard to Canadian fisheries, I am directed to acquaint you, for the information of the Earl of Kimberley, that Earl Granville concurs in the proposed Despatch to the Governor-General of Canada upon this subject, and that copies of your letter, and of its enclosures, will be sent to Sir E. Thornton by this day's mail.

The Under Secretary of State,
Colonial Office.

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

No. 32.

No. 32.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, July 8, 1871.

* Page 117.

WITH reference to my letter of the 12th of June* and to previous correspondence respecting the instructions to the British naval officers on the North American station with regard to the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch,† received through the Admiralty, from Vice-Admiral Fanshawe, reporting the orders given by him on this subject.

† Vide enclosures to Admiralty letter July 1, 1871, page 131.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 33.

No. 33.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, July 12, 1871.

No. 213.

WITH reference to previous correspondence in regard to the Canadian fisheries, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Her Majesty's Minister at Washington enclosing a copy of a note which he has addressed to Mr. Secretary Fish upon this subject; and I am to add that Lord Granville has approved Sir Edward Thornton's proceedings in this matter.

The Under Secretary of State,
Colonial Office.

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

Enclosure 1 in
No. 33.

Enclosure 1 in No. 33.

MY LORD,

Washington, June 26, 1871.

I have the honour to enclose copy of a note which I have received from Mr. Fish, in which he intimates that much anxiety is felt by American fishermen lest they should be exposed, while fishing in the neighbourhood of the Canadian provinces, to the same "annoyances," as he is pleased to call them, to which they were subjected last year.

When I verbally expressed my regret to him that he should have sent me this note, which, in view of

the liberal instructions which had been given to the commanders of Her Majesty's and the Canadian cruisers, I assured him was quite unnecessary, he told me that he had received a multitude of letters upon the subject from persons interested in the fisheries who had suffered great losses during the last fishing season, and who now expressed their fears that they would not be allowed to enter Canadian ports nor to fish in bays. He added that, in reply, he had pointed out to the writers of these letters that the advantages promised by the treaty of the 8th ultimo could not be enjoyed until action should have been taken by the Canadian Parliament, and that the Treaty of 1818 must still be the rule of their conduct, although he hoped that Her Majesty's and the Canadian authorities would put a liberal interpretation upon its provisions.

Although I have not been authorized to communicate to Mr. Fish the nature of the instructions which had been given upon this subject to the commanders of Her Majesty's and the Dominion vessels, I have thought that under the circumstances there would be no objection to my doing so, and I have therefore forwarded to him the note of which a copy is enclosed. Your Lordship will perceive that I have also suggested the expediency of American fishermen not encroaching upon Canadian waters.

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

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

CANADA.

Enclosure 2 in No. 33.

Enclosure 2
in No. 33.

SIR,

Department of State, Washington, June 24, 1871.

Much anxiety is expressed and made known to this department on the part of those concerned in the mackerel fishery near the coasts of the British provinces, the season for which is about to open. Though aware that they cannot yet, technically, claim the privileges and immunities promised to them in the Treaty of Washington, they were in hopes that through the forbearance of Her Majesty's authorities, and those of the Colonies, they might no longer be subjected to the annoyances to which they have hitherto been liable. You are aware that I have had reason to share in those hopes. Believing as I firmly do that if they should be disappointed, much irritation would be occasioned which it is desirable should be avoided; and apprehending that the legislation on the part of the United States stipulated for in the treaty might otherwise, at least, be retarded, I pray you again to move the respective Imperial or Colonial authorities, that nothing practicable or reasonable may be omitted which might tend to the result desired.

If you should think favourably of this request, you will pardon me for adding that it is highly important that it should be complied with as soon as may be convenient.

Sir E. Thornton, K.C.B.,
&c. &c. &c.

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

Enclosure 3 in No. 33.

Enclosure 3
in No. 33.

SIR,

Washington, June 26, 1871.

I have the honour to acknowledge the receipt of your note of the 24th instant, and to assure you that as far as the action of Her Majesty's naval officers or those of the Canadian Government is concerned, there is no cause for anxiety to citizens of the United States engaged in the fisheries in the neighbourhood of the British provinces, so long as they may respect the laws upon the subject now in force. The tenor of the instructions issued to those officers both by Her Majesty's Government and by that of the Dominion are of the most liberal nature, and though they continue to hold the opinion that under the Treaty of 1818 United States' fishermen are prohibited from frequenting colonial ports and harbours for any other purposes but for shelter, repairing damages, purchasing wood, and obtaining water, such prohibition will not be enforced during the present season, and they will be allowed to enter Canadian ports for the purposes of trade, and of transshipping fish and procuring supplies; nor will they be prevented from fishing outside of the three-mile limit in bays the mouth of which is more than six miles outside.

It is to be hoped, however, that citizens of the United States will on their part contribute to the prevention of untimely collisions by refraining from encroaching for the purpose of fishing upon those waters from which, by the Treaty of 1818, and by the laws of Great Britain and Canada, they are excluded, until the legislation for ensuring to them the privileges and immunities agreed upon by the treaty of the 8th ult. shall have been carried out.

The Hon. Hamilton Fish,
&c. &c. &c.

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

No. 34.

No. 34.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, July 27, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor-General of Canada, forwarding a copy of a joint Address adopted by the Legislative Council and Assembly of New Brunswick, on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) H. T. HOLLAND.

Governor,
No. 126,
July 5, 1871,
page 78.

CANADA.

No. 35.

No. 35.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, August 22, 1871.

No. 10,
Aug. 1, 1871.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a Despatch, and of its enclosures, from Mr. Pakenham in regard to the seizure of the United States' vessel 'Samuel Gilbert' by a Dominion cutter for infraction of the fishery laws.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ODO RUSSELL.

Enclosure in
No. 35.

Enclosure in No. 35.

(No. 10.)

MY LORD,

Washington, August 1, 1871.

On the 29th ultimo I waited on Mr. Fish, at his request, and he put into my hands a telegram, whereof a copy is enclosed, announcing the seizure of the American schooner 'Samuel Gilbert,' of Gloucester, by a Dominion cutter for an infringement of the fishery laws.

Mr. Fish said that on the next meeting of Congress a violent attack was expected to be made on the Government with reference to the Fishery Articles of the Treaty of May 8; and he thought that seizures similar to the present one would probably serve to revive the ill-feelings so happily allayed, and he appeared to think that a relaxation of the stringency of the fishery regulations—at any rate for the present—would not be inexpedient.

The same afternoon I telegraphed to the Governor-General of the Dominion a copy of Mr. Fish's telegram, and ventured to append thereto a recommendation of the case to his Excellency's favourable consideration.

Copy of my telegram is enclosed, but as yet I have received no answer to it.

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

I have, &c.,
(Signed) F. PAKENHAM.

TELEGRAM.

Schooner 'Samuel Gilbert,' of Gloucester, now here, seized by Dominion cutter for fishing inshore. Gaspé, Quebec.
Captain hopes Government will intercede, having erred through mistake.

Hon. Hamilton Fish,
&c. &c. &c.

GEO. H. HOLT,
United States' Consul.

Mr. Fish has received the following telegram :—

Washington, July 28, 1871.

Schooner 'Samuel Gilbert,' of Gloucester, now here, seized by Dominion cutter for fishing inshore. Gaspé, Quebec.
Captain hopes Government will intercede, having erred through mistake.

GEO. H. HOLT, United States' Consul.

I venture to recommend this case to your Excellency's favourable consideration.

His Excellency Lord Lisgar,
&c. &c. &c.

F. PAKENHAM.

No. 36.

No. 36.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, August 29, 1871.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 22nd inst.,* enclosing a copy of a Despatch from Mr. Pakenham in regard to the seizure of the United States' vessel 'Samuel Gilbert' by a Canadian cutter for infraction of the fishery laws.

* Supra.

Lord Kimberley thinks that Mr. Pakenham might be informed that Her Majesty's Government approve of the telegram which he addressed on this subject to the Governor-General of Canada on 28th of July.

CANADA.

I am, &c.,
 (Signed) ROBERT G. W. HERBERT.
 The Under Secretary of State,
 Foreign Office.

No. 37.

No. 37.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, September 2, 1871.
 IN reply to your letter of the 29th ultimo,* I am directed by Earl Granville to acquaint you, for the information of the Secretary of State for the Colonies, that his Lordship has approved Mr. Pakenham's proceedings in the case of the 'Samuel Gilbert.'

* Page 120.

I am, &c.,
 (Signed) ODO RUSSELL.
 The Under Secretary of State,
 Colonial Office.

No. 38.

No. 38.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, September 4, 1871.
 WITH reference to your letter of the 22nd,† and to the reply from this office of the 29th ultimo‡ respecting the seizure of the United States' vessel 'Samuel Gilbert' by a Canadian cruiser for infraction of the fishery laws, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch, and of its enclosures, from the Governor-General of Canada on this subject.

† Page 120.
 No. 149,
 Aug. 15, 1871,
 page 80.

I am, &c.,
 (Signed) H. T. HOLLAND.
 The Under Secretary of State,
 Foreign Office.

No. 39.

No. 39.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, September 8, 1871.
 WITH reference to my letter of the 23rd of June,‡ enclosing a copy of a Despatch addressed by the Earl of Kimberley to the Governor-General of Canada, respecting certain provisions of the Treaty of Washington, I am directed by his Lordship to transmit to you, for the information of Earl Granville, a copy of a Despatch received from Lord Lisgar in reply.

‡ Page 118.
 No. 149,
 Aug. 15, 1871,
 page 83.

Lord Granville will perceive from the Minute of the Privy Council, forwarded by the Governor-General, that the Canadian Government decline to admit United States' fishermen to the provisional enjoyment during the present season of the privileges granted by the Treaty.

I am, &c.,
 (Signed) H. T. HOLLAND.
 The Right Hon. E. Hammond,
 &c. &c. &c.

No. 40.

No. 40.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, September 14, 1871.
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 4th inst.,§ enclosing copies of a Despatch, and of its enclosures, from the Governor-General of Canada respecting the case of the 'Samuel Gilbert'; and I am to request

§ Supra.

CANADA.

that you will state to the Earl of Kimberley, that as Lord Granville presumes, from the depositions taken in the case, that the 'Samuel Gilbert' will be sent for trial, his Lordship would suggest that such instructions as may be in the power of the Secretary of State should be given for the vessel to be leniently dealt with.

No. 56.

I am to enclose, for Lord Kimberley's information, a copy of a Despatch which Lord Granville has addressed to Her Majesty's Chargé d'Affaires at Washington, in forwarding to him a copy of your above-mentioned letter of the 4th inst.

The Under Secretary of State,
Colonial Office.

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

Enclosure in
No. 40.

Enclosure in No. 40.

(No. 56.)

SIR,

Foreign Office, September 14, 1871.

With reference to my Despatch, No. 23, of the 19th ult., I transmit herewith, for your information, a copy of a letter from the Colonial Office, enclosing a copy of a Despatch from the Governor-General of Canada, respecting the case of the 'Samuel Gilbert.' I also enclose a copy of a letter, which I have caused to be addressed to the Colonial Office, in reply; and I have to instruct you to request Mr. Secretary Fish to give such instructions as he may think necessary, with a view to restrain the United States' vessels from illegal fishing in Canadian waters.

Hon. F. J. Pakenham,
&c. &c. &c.

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

No. 41.

No. 41.

The COLONIAL OFFICE to the FOREIGN OFFICE.

(Immediate.)

SIR,

Downing Street, September 18, 1871.

WITH reference to your letter of the 14th inst.,* I am directed by the Earl of Kimberley to transmit to you a copy of a Despatch which he proposes, if Earl Granville concurs, to address to the Governor-General of Canada, on the subject of the seizure of the 'Samuel Gilbert.'

* Page 121.

No. 516,
Sept. 20, 1871,
page 104.

The Under Secretary of State,
Foreign Office.

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

No. 42.

No. 42.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, September 19, 1871.

I AM directed by Earl Granville to acknowledge the receipt of your letter marked "Immediate," of the 18th inst., and I am to inform you in reply that his Lordship concurs in the Despatch which the Earl of Kimberley proposes to address to the Governor-General of Canada, on the subject of the seizure of the 'Samuel Gilbert.'

The Under Secretary of State,
Colonial Office.

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

No. 43.

No. 43.

The FOREIGN OFFICE to the COLONIAL OFFICE.

(Confidential.)

SIR,

Foreign Office, September 27, 1871.

WITH reference to my letter of the 19th inst., I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a Despatch from Her Majesty's Chargé d'Affaires at Washington, reporting conversations he has had with Mr. Secretary Fish and Mr. Bancroft Davis, as to the seizure of American vessels for violation of the Canadian fishery laws.

No. 43,
Confidential.

The Under Secretary of State,
Colonial Office.

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

(No. 43—Confidential.)

Enclosure in No. 43.

My Lord,

Washington, September 5, 1871.

CANADA.

Enclosure
in No. 43.

With reference to my Despatch, No. 10, of the 1st ult., wherein I reported the seizure of the American fishing schooner 'Samuel Gilbert' for infringement of the fishery laws, I have the honour to state that some little anxiety has been expressed to me both by Mr. Fish and Mr. Bancroft Davis, as to what they term the stringency of the Regulations, under present circumstances, towards the 'Lizzie A. Tarr,' and American fishing vessels in general.

Mr. Bancroft Davis told me confidentially that the particulars connected with the seizure of this vessel had been got together and forwarded to the State Department by General Butler, of Massachusetts, who would probably use them to the best of his power, and naturally in an unfriendly sense, during the approaching Session of Congress. Mr. Fish, however, a few days ago informed me he would not lay the matter officially before me, as he had grave doubts whether the action of the captain of the schooner had been bonâ fide; and he, Mr. Fish, even hinted that the vessel might have been despatched for the express purpose of being captured.

He added, that the fishing season was now drawing to a close, and that on the whole he thought it would be wise policy on the part of the captors to content themselves with the detention of the vessels for a certain time, a proceeding which would answer all practical purposes, and also baffle the malice of unscrupulous politicians.

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

I have, &c.,
(Signed) F. PAKENHAM.

No. 44.

No. 44.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, October 3, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor-General of Canada, forwarding depositions taken with respect to the seizure of the United States' fishing schooner, 'Franklin S. Schenck,' by the Canadian Police Vessel the 'New England.'

In acknowledging this Despatch, Lord Kimberley has referred Lord Lisgar to the Despatch addressed to him in the case of the 'Samuel Gilbert,' a draft of which accompanied my letter to you of the 18th September.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 45.

No. 45.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, October 7, 1871.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 3rd inst., enclosing the depositions in the case of the American fishing vessel 'Franklin S. Schenck,' which has been seized by a Canadian cruiser, and in compliance with Lord Kimberley's request I am to return to you those depositions.

The Under Secretary of State,
Colonial Office.

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

No. 46.

No. 46.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, October 21, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor-General of Canada, forwarding depositions in the case of the seizure of the United States' schooner 'Edward A. Horton,' by the Canadian Government schooner 'Sweepstakes,' for violation of the fishery laws of the Dominion.

In acknowledging this Despatch, Lord Kimberley has referred Lord Lisgar to the Despatch addressed to him in the case of the 'Samuel Gilbert,' a draft of which accompanied my letter to you of the 18th of September.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

CANADA.

No. 47.

No. 47.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, October 26, 1871.

* Page 121.

With reference to my letter of the 14th ult.,* respecting illegal fishing by United States' vessels in Canadian waters, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, the accompanying copies of a Despatch, and of its enclosures, from Her Majesty's Chargé d'Affaires at Washington upon the subject.

I am, &c.,

(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

Enclosures in
No. 47.

Enclosures in No. 47.

(No. 70.)

MY LORD,

Washington, Oct. 10, 1871.

1.

With reference to your Lordship's Despatch, No. 56, of the 14th ultimo, I have the honour to enclose copy of the note which, in compliance with your instructions, I addressed to Mr. Fish, requesting him to cause the issue of such directions as might be thought necessary with a view to restrain United States' vessels from illegal fishing in Canadian waters.

2.

From Mr. Fish's reply, whereof copy is also enclosed, it will be seen that the instructions issued in 1870 for the guidance of American fishermen (Enclosures 3 and 4) were not renewed for the season of 1871, because it was supposed that the Dominion authorities were inclined to anticipate as far as possible by Executive action the provisions of the Treaty of May 8 relating to the Fisheries.

3.*

Mr. Fish's note concludes by stating that the fishing season having already terminated, and it being reasonable to hope that before the commencement of another season the Dominion Legislature and Congress will pass the laws requisite to bring the provisions of the treaty into full force, it is not thought necessary to take any steps in advance of such Legislative action.

4.*

I may add that the two circulars enclosed in Mr. Fish's note were forwarded to the Foreign Office in triplicate in Sir E. Thornton's Despatch, No. 331, of July 25, 1870.

(Enclosures 3
and 4 appear
to have been
already sent
to the Colonial
Office on Aug.
8, 1870.)*

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

I have, &c.,
(Signed) F. PAKENHAM.

SIR,

Washington, Oct. 5, 1871.

With reference to the case of the 'Samuel Gilbert' and other vessels which, during the last few months have been seized by the Canadian authorities for contravention of the Fishery Regulations, I have the honour to acquaint you that a correspondence has taken place on these matters between the Governor-General of the Dominion, the Colonial Office and Her Majesty's Principal Secretary of State for Foreign Affairs, and I am now instructed by Earl Granville to convey to you the impression of Her Majesty's Government that in their opinion these incidents would be largely diminished in number, if not prevented altogether, by the authorities of the United States issuing such instructions as they may think necessary for the guidance of the masters of American fishing vessels, warning them of the impropriety of illegal fishing in Canadian waters, and pointing out the embarrassments that might arise from a persistence in such a course of action.

I should feel much obliged if you would inform me whether you are disposed to concur in this opinion of Her Majesty's Government, and if so what steps the United States' Government propose to take in order to endeavour to obviate for the future the occurrence of these regrettable incidents.

The Hon. Hamilton Fish,
&c. &c. &c.

I have, &c.,
(Signed) F. PAKENHAM.

SIR,

Department of State, Washington, Oct. 7, 1871.

I have the honour to acknowledge the receipt of your note of the 5th inst., in which, referring to the seizure of the 'Samuel Gilbert' and other American fishing vessels, and to the correspondence which has taken place on the subject between Her Majesty's authorities, you inform me that Earl Granville desires you to convey to this department the impression of Her Majesty's Government that in their opinion these incidents would be largely diminished in number, if not prevented altogether, by the authorities of the United States issuing such instructions as they may think necessary for the guidance of the masters of American fishing vessels, warning them of the impropriety of illegal fishing in Canadian waters, and pointing out the embarrassments that might arise from a persistence in such a course of action. You at the same time inquire whether I am disposed to concur in that opinion, and if so, what steps this Government propose to take in order to endeavour to obviate for the future the occurrence of incidents of the character above referred to.

You are probably aware that on the 9th of June, 1870, the Secretary of the Treasury, at the suggestion of this department, issued a circular for the information of the fishermen, a copy of which is enclosed, of the character desired by Lord Granville, and took great pains to bring it to their notice. These instructions were not renewed for the season of 1871, because it was supposed that the Dominion authorities

* These Enclosures (3 and 4) will be found at page 193 of Papers printed confidentially, January, 1871.

were disposed to anticipate as far as possible by Executive action the provisions of the Treaty concluded on the 8th of May last relating to the fisheries, which, when fully carried out, will prevent future differences on this subject between the two Governments.

CANADA.

The fishing season is now over for this year, and as it is to be hoped that before another season begins the Dominion Legislature and Congress will pass the laws necessary to bring the provisions of the Treaty into full operation, it is not thought necessary to take any steps in advance of such Legislative action.

The Hon. Francis Pakenham,
&c. &c. &c.

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

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE
AND THE ADMIRALTY.

No. 1.

No. 1.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, January 7, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a Despatch from the Governor-General of Canada, enclosing a revised list of vessels seized by Imperial and Canadian cruisers for violation of the fishery and revenue laws during the past season.

No. 292.
Dec. 15, 1870.

Vide Papers
printed con-
fidentially,
Feb., 1871,
page 10.

A copy of this Despatch has also been communicated to the Foreign Office.

The Secretary to the Admiralty.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 2.

No. 2.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, January 20, 1871.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a letter from Mr. Thomas Hughes, applying on the part of the Anglo-American Committee, who are preparing a statement of the Canadian fisheries question, for a copy of the instructions given to British officers in command of vessels of war in the Canadian waters.

Jan. 11, 1871,
page 107.

Lord Kimberley will be glad to be informed whether, in their Lordships' opinion, these instructions can be properly communicated to the Anglo-American Committee.

The Secretary to the Admiralty.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 3.

No. 3.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, January 23, 1871.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of 20th inst.,* requesting that you may be informed whether, in their Lordships' opinion, a copy of the instructions given to the officers in command of Her Majesty's ships engaged in the protection of the Canadian Fisheries, may properly be communicated to the Anglo-American Committee, who are preparing a statement of the Canadian Fishery question.

* Supra.

2. In reply I am commanded by their Lordships to request that you will state to the Earl of Kimberley that although it is unusual to furnish official documents to unofficial Committees, yet as these instructions, which were issued confidentially, have been subsequently forwarded to the United States' Government by the Foreign Office, and have been laid before Congress, my Lords have no objection, so far as this Department is concerned, to their being furnished to the Committee, if the Secretary of State considers it expedient that the Confidential Letter of the Colonial Office, dated 12th April, 1866, on which the instructions to the commanding officers are founded, should be so furnished.

The Under Secretary of State,
Colonial Office.

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

CANADA.

No. 4.

No. 4.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, February 7, 1871.

Sec. of State,
Confidential,
Feb. 1, 1871,
page 94.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a Despatch which his Lordship has addressed to the Governor-General of Canada on points connected with the North American fisheries.

As it is very desirable to obtain as full information as possible with regard to the practice which prevailed between the Convention of 1818 and the ratification of the Reciprocity Treaty in 1854, with respect to the admission of United States' fishing vessels to the ports of the North American Colonies for the purposes of trading, transshipping fish, &c., Lord Kimberley desires me to request that you will move their Lordships to inform him whether the instructions issued to the naval officers on the station between those dates throw any light upon this question.

The Secretary to the Admiralty.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 5.

No. 5.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, February 15, 1871.

* Vide Papers
printed con-
fidentially,
Feb., 1871,
page 15.

WITH reference to my letter of the 2nd November,* reporting the capture of the American fishing vessels 'Clara F. Friend' and 'Foam,' by Her Majesty's ships 'Plover' and 'Valorous,' I am commanded by my Lords Commissioners of the Admiralty to request you will inform the Earl of Kimberley that Vice-Admiral Fanshawe, in a letter dated the 22nd December, reports that the 'Clara F. Friend' was condemned for contravention of the fishery laws at the Vice-Admiralty Court, Charlottetown, on the 12th December, and that the 'Halifax Daily Reporter and Times' newspaper of the 12th December states that the 'Foam' had also been condemned at the same Court.

The Under Secretary of State
for the Colonies.

I am, &c.,
(Signed) VERNON LUSHINGTON.

No. 6.

No. 6.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, February 25, 1871.

† Supra.

I HAVE received, and laid before my Lords Commissioners of the Admiralty, your letter of the 7th instant,† forwarding a copy of a Despatch addressed by the Secretary of State for the Colonies to the Governor-General of Canada on points connected with the North American fisheries, and requesting to be informed whether the instructions issued to naval officers on the station between the Convention of 1818 and the ratification of the Reciprocity Treaty in 1854 throw any light on the question of the practice which then prevailed with respect to the admission of United States' fishing vessels to the ports of the North American Colonies, for the purposes of trading, transshipping fish, &c.

2. In reply I am desired by their Lordships to request you will lay before the Earl of Kimberley the enclosed extracts from the general instructions sent to the naval Commanders-in-Chief on the North American station, on the fishery question.

3. The instructions dated 7th June, 1830 (extract enclosed No. 1), show the regulations under which commanding officers of Her Majesty's ships engaged in protecting the fisheries acted from 1818 to that date; and in 1836 an addition to the instructions was embodied in the orders given to the then naval Commander-in-Chief Sir P. Halkett (extract enclosed No. 2).

4. I am at the same time to request you will state to his Lordship that these instructions continued in force up to 1852, when a lengthened correspondence took place on the subject of the fisheries, which is in the possession of your Department; and that an alteration was subsequently made in the instructions, as shown in the accompanying extract (No. 3) from the orders to Rear-Admiral Fanshawe, dated 21st March [? 20th], 1854.

5. The extracts enclosed do not contain any clause bearing directly on the question at issue, and my Lords are not aware that any specific orders relating thereto have ever been issued without a communication having been made at the time to the Colonial Office.

The Under Secretary of State
for the Colonies.

I am, &c.,
(Signed) VERNON LUSHINGTON.

No. 1.

EXTRACTS from INSTRUCTIONS given to Vice-Admiral COLPOYS, the Commander-in-Chief of Her Majesty's Ships and Vessels on the NORTH AMERICAN and WEST INDIAN STATION, dated June 7, 1830.

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

"You will take especial care that the treaties which subsist between His Majesty and the United States of America be strictly adhered to, and for your more precise information and guidance with regard to the inhabitants and vessels of the United States resorting to the fisheries on the coasts or in the neighbourhood of His Majesty's settlements, we refer you to the before-mentioned convention between the two countries, signed at London on the 20th October, 1818 (page 392 of Hertslet's Collection of Treaties), and to the Act of Parliament 59 George III., cap. 38 (page 1,066 of the Admiralty Statutes), which was passed with reference to that convention; and we enclose to you herewith a copy of an Order in Council dated the 19th June, 1819; a copy of a letter addressed by Earl Bathurst on the 5th April, 1819, to the then Board of Admiralty; and a copy of a letter addressed by Earl Bathurst on the 21st June, 1819, to the Governor of the Island of Newfoundland; and you are carefully to attend to the regulations and instructions contained in these several documents, and to cause the same to be strictly observed and complied with by the officers under your orders.

"You are to guard the fisheries as far to the northward as your command extends, and to prevent any trade or intercourse being carried on by any persons whomsoever, other than the subjects of the United Kingdom, with the inhabitants of Labrador, which of right belongs solely to His Majesty. You are, however, to take care that the ships of your squadron be not frozen in during the winter months in any of the ports in the northern part of your station, except it be deemed necessary for the public service that one or two of the smaller vessels under your command should remain at Newfoundland throughout the winter, on which point you are to use your discretion according to the communications which may be made to you from that Island."

No. 2.

EXTRACT from INSTRUCTIONS given to Vice-Admiral Sir PETER HALKETT, Kt., G.C.H., &c., &c., Commander-in-Chief of Her Majesty's Ships and Vessels on the NORTH AMERICAN and WEST INDIES STATION, dated March 8, 1836.

"And as various complaints have been made from the authorities in Canada on the subject of the encroachment of American fishermen in the River and Gulf of St. Lawrence on the limits prescribed by the Convention of 1818 for the regulation of the fisheries; and as by a letter of the 13th of February, 1836, from Lord Palmerston, it is stated that it does not appear that the Government of the United States can have any adequate means of preventing the encroachments of the American fishermen above referred to, it is his Lordship's opinion that the only way in which the British rights of fishery can be effectually maintained is by the presence of a British ship of war, you will therefore during the fishing season, and from time to time as it may appear to you to be necessary, send a vessel of war accordingly, with instructions to her commander to enforce the stipulations of the 1st article of the Convention of 1818. It may be added that the American Government has shown every disposition and have instructed their collectors to enjoin the masters, owners, and others engaged in the fishery to observe strictly the limits assigned for taking, drying, and curing fish, under the Convention of 1818."

No. 3.

EXTRACT from INSTRUCTIONS given to Rear-Admiral FANSHAWE, &c., &c., Commander-in-Chief of Her Majesty's Ships and Vessels on the NORTH AMERICAN and WEST INDIES STATION, dated March 20, 1854.

"You will take special care that the treaties which subsist between Her Majesty and the United States of America be strictly adhered to, and for your more precise information and guidance with regard to the inhabitants and vessels of the United States of America resorting to the fisheries on the coasts or in the

CANADA.

Nowfound-
land.*
Prince Ed-
ward Island.
Nova Scotia.
New Bruns-
wick.
Canada.

neighbourhood of Her Majesty's settlements, we refer you to the before-mentioned convention between the two countries signed at London on the 20th October, 1818, and to the Act of Parliament 59 George III., cap. 38 (page 1,066 of the Admiralty Statutes), which was passed with reference to that convention, and we enclose you herewith, for your information, a printed collection of regulations or laws now in force in the Colonies mentioned in the margin in connection with the said Convention and Act of Parliament, and you are carefully to attend to the regulations and instructions contained in these documents, and to cause the same to be strictly observed and complied with by the officers under your orders."

No 7.

No. 7.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, May 12, 1871.

I AM commanded by my Lords Commissioners of the Admiralty, to transmit herewith copy of a letter from Vice-Admiral Fanshawe, the Commander-in-Chief on the North American station, dated the 21st April, No. 165, reporting the names and disposition of the vessels proposed to be employed for the protection of the Canadian fisheries during the approaching fishing season; and the instructions he proposes to issue for the guidance of the officers employed on this service.

2. In laying the same before the Earl of Kimberley, my Lords desire me to request you will move his Lordship to inform them what orders should now be given for the guidance of officers employed in protecting these fisheries.

3. My Lords presume that the instructions must be suspended until the action of the United States' Government as regards the signature of the Treaty is known.

I am, &c.,

(Signed) THOS. WOLLEY.

The Under Secretary of the State for the Colonies.

P.S.—A similar letter has been addressed to the Foreign Office.

Enclosures in No. 7.

(No. 165.)

PROTECTION of the CANADIAN FISHERIES.

SIR,

'Royal Alfred,' Bermuda, April 21, 1871.

As the fishing season on the coast of Canada, is now approaching, I have to report, for the information of the Lords Commissioners of the Admiralty, that I am about to adopt similar measures to those taken by my predecessor last year, for the protection of the fisheries, and enclose a list showing the vessels that will probably be employed, and their respective stations.

2. The only addition to the instructions to the officers in command proceeding on this service, will be with reference to their Lordships' letter, No. 20, M., of the 15th October, 1870, which will run as follows:—"The transshipment of fish and obtaining supplies by American fishing vessels cannot be regarded as a substantial invasion of British rights, and those vessels are therefore not to be prevented from entering "British bays for such purposes."

3. Referring to your letter, No. 302, L.M.M., of the 2nd July, 1870, I request their Lordships' instructions, whether I am to issue authority to the colonial cruisers employed under the Government of the Dominion of Canada to wear a blue ensign and pendant during the present season.

I have &c.,

The Secretary of the Admiralty.

(Signed) E. G. FANSHAWE, Vice-Admiral.

PROPOSED DISPOSITION of the SQUADRON on the FISHERIES.

STATIONS I. & II.	STATION III.	STATIONS IV. & V.	STATION VI.
Bay of Fundy.	East Coast of Cape Breton.	West Coast of Cape Breton. North Coast of P. E. Island.	North Coast of New Brunswick.
'Fly.'	'Philomel.'	'Niobe' and 'Minstrel.'	'Raccoon' and 'Cherub.'

On the French fisheries of Newfoundland the two following ships will probably be employed:—
'Danae' and 'Lapwing.'

* These words differ from previous instructions.

CANADA.

No. 8.

No. 8.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, May 24, 1871.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 12th instant,* respecting the instructions to be issued to the Imperial officers employed in the protection of the North American fisheries, during the approaching fishery season. * Page 128.

Lord Kimberley desires me to state that, after communicating with the Secretary of State for Foreign Affairs on the subject, he concurs with the Lords Commissioners of the Admiralty in thinking that these instructions should be suspended until the action of the United States' Government, as regards the Treaty which has been recently signed at Washington, is known.

The Secretary to the Admiralty.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 9.

No. 9.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, May 27, 1871.

WITH reference to previous correspondence respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, for the information of the Lords Commissioners of the Admiralty, the enclosed copies of a correspondence with the Governor-General of Canada respecting the instructions proposed by the Canadian Government to be issued to the officers in command of the Government vessels engaged in the protection of the fisheries for the approaching season.

The Secretary to the Admiralty.

I am, &c.,
(Signed) H. T. HOLLAND.

Governor,
No. 54, March
2, 1871,
page 30.
Sec. of State,
No. 389, April
12, 1871,
page 98.
Governor,
No. 99, May
4, 1871,
page 50.
Sec. of State,
No. 427, May
25, 1871,
page 98.

No. 10.

No. 10.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, June 1, 1871.

I AM commanded by my Lords Commissioners of the Admiralty to acknowledge the receipt of your letter of the 27th ultimo,† enclosing copies of a correspondence in regard to the instructions for the approaching season, proposed to be issued to the officers of ships of the Dominion of Canada, engaged in the protection of the Canadian fisheries, and to request you will inform the Secretary of State for the Colonies that in accordance with the views of the Secretary of State for Foreign Affairs, in which the Earl of Kimberley concurs, as stated in your letter of the 24th ultimo,‡ their Lordships will not at present issue any instructions to the Naval Commander-in-Chief on the North American station on this subject. † Supra. ‡ Supra.

The Under Secretary of State
for the Colonies.I am, &c.,
(Signed) THOS. WOLLEY.

No. 11.

No. 11.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, June 6, 1871.

WITH reference to my letter of the 12th ult.§ and your reply of the 24th ult.,|| in regard to the suspension of the instructions relative to the protection of Canadian fisheries until the Treaty of Washington is ratified, I am commanded by my Lords

CANADA.

May 18, 1871.

Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State for the Colonies, copy of a letter from Vice-Admiral Fanshawe, and its enclosure, dated the 18th ult., No. 213, reporting that he has enjoined special caution to the officers engaged in protecting Canadian fisheries not to interfere with American vessels unless found in flagrant violation of the fishery laws.

2. My Lords also desire me to request you will state to the Earl of Kimberley that a telegram has now been received from Vice-Admiral Fanshawe requesting to be informed whether the instructions, as amended, shall be withdrawn.

3. My Lords will be glad to be informed whether Lord Kimberley is of opinion that no captures of offending vessels should be effected under any circumstances, and what course generally should be adopted, in order that instructions may be conveyed to the Vice-Admiral accordingly.

4. I am to add that a similar communication has been addressed to the Foreign Office.

The Under Secretary of State for
the Colonies. I am, &c.,
(Signed) VERNON LUSHINGTON.

Enclosures in No. 11.

PROTECTION of CANADIAN FISHERIES.

SIR,

'Royal Alfred,' Bermuda, May 18, 1871.

Referring to my letter of the 21st ultimo, No. 165, relative to the protection to be afforded by Her Majesty's ships to the Canadian fisheries during the present season, a copy of which was forwarded to Her Majesty's minister at Washington, I beg to report for the information of the Lords Commissioners of the Admiralty, that I have just received a letter from Sir Edward Thornton, in which he informs me that a treaty was signed at Washington on the 8th instant, containing certain stipulations respecting the fisheries.

Although that treaty requires ratification, His Excellency recommends that in the meantime American fishing vessels should not be captured unless found in flagrant and open violation of the fishery laws and regulations. I have in consequence added a rider to that effect (copies enclosed) to the orders of all ships about to proceed to the fisheries frequented by Americans, and have informed the minister and the Governor-General of Canada accordingly.

The Secretary to the Admiralty.

I have, &c.,
(Signed) E. G. FANSHAWE, Vice-Admiral.

RIDER inserted in the INSTRUCTIONS for the PROTECTION of the FISHERIES, 1871.

'Royal Alfred,' Bermuda, May 18, 1871.

As the adjustment of all questions relating to the fisheries is now under consideration by the Governments of England and the United States, you are to be *very careful* in the meantime not to capture fishing vessels under American colours, unless found in flagrant and open violation of the fishery laws and regulations.

(Signed) E. G. FANSHAWE, Vice-Admiral.

No. 12.

No. 12.

The COLONIAL OFFICE to the ADMIRALTY.

(Confidential.)

SIR,

June 10, 1871.

WITH reference to your letter of the 6th inst.,* respecting the Canadian fisheries, I am directed by the Earl of Kimberley to acquaint you, for the information of the Lords Commissioners of the Admiralty, that as soon as the Treaty of Washington has been ratified by the Queen, Her Majesty's Government will recommend the Governments of Canada, Newfoundland, and Prince Edward Island to admit United States' fishermen provisionally to the Colonial inshore fisheries during the present season pending the passing, by the Colonial Legislatures, of the Acts necessary to give effect to the fishery Articles of the Treaty.

In the meantime Lord Kimberley is of opinion that the instructions to cruisers should continue to be suspended.

The Secretary to the Admiralty.

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

* Page 129.

No. 13.

CANADA.

The COLONIAL OFFICE to the ADMIRALTY.

No. 13.

SIR,

Colonial Office, June 12, 1871.

WITH reference to Mr. Meade's letter of the 10th inst.,* respecting the suspension of the instructions to Her Majesty's cruisers employed in the protection of the North American fisheries, I am directed by the Earl of Kimberley to request that you will state to the Lords Commissioners of the Admiralty that it is the desire of Her Majesty's Government that during the suspension of those instructions, the officers commanding Her Majesty's ships should be directed, whilst abstaining from taking active measures to enforce the exclusion of United States' fishermen from the fisheries in question, to assist the local authorities in preserving order amongst the fishermen, and to protect the colonial revenue vessels from being interfered with by any armed force.

I am, &c.,

The Secretary to the Admiralty.

(Signed) H. T. HOLLAND.

No. 14.

No. 14.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, June 16, 1871.

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for the Colonies, extracts from a general letter, No. 232, of the 2nd instant, from the Naval Commander in Chief on the North American and West Indian station, reporting the movements of Her Majesty's ships in connection with the protection of Canadian fisheries.

I am, &c.,

The Under Secretary of State
for the Colonies.

(Signed) THOS. WOLLEY.

Enclosure in No. 14.

EXTRACT from a LETTER, dated June 2, 1871, from THE NAVAL COMMANDER IN CHIEF on the NORTH AMERICAN and WEST INDIAN STATION.

"The Governor of Newfoundland informs me, by letter dated the 24th May, that 'a complaint has recently been made to the Government of Newfoundland by a person named John Penny, a resident of 'Great Jervis, Hermitage Bay, on the south coast of the island, respecting the encroachments of American 'vessels upon our fishing grounds in that locality,' and a telegram from Captain Malcolm on the 31st states that he was about to proceed to that place. On my arrival here, I received a telegram from Governor Hill to the same effect, and requesting the presence of a vessel of war at Fortune Bay, I therefore dispatched the 'Raccoon' on the 28th May, with orders to call at St. Pierre and Fortune Bay to endeavour to pick up the 'Danae,' and to communicate with the Governor of Newfoundland and ascertain his wishes. In dealing with trespassers Captain Howard has been directed to guide himself by the General Instructions for the protection of the fisheries, and his special attention is drawn to the rider dated 18th May, 1871.

"When his presence is no longer required at Fortune Bay the 'Raccoon' will cruise for the protection of the fisheries on Stations IV. and V (west coast of Cape Breton and north coast of Prince Edward Island) until the arrival of the 'Niobe' from Bermuda about the 10th June, when the latter ship will take charge of those stations, and the 'Raccoon' proceed to No. VI. (north coast of New Brunswick).

"The 'Philomel' will proceed to Station III. (east coast of Cape Breton) to-morrow.

"The 'Fly' is cruising upon Stations I. and II. (Bay of Fundy)."

No. 15.

No. 15.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, July 1, 1871.

WITH reference to my letter of the 16th ultimo,† and to former correspondence, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State for the Colonies, a copy of a Despatch, No. 256, of the 13th ultimo, from Vice-Admiral Fanshawe, reporting the orders given by him in regard to the suspension of the Canadian fisheries instructions.

I am, &c.,

The Under Secretary of State
for the Colonies.

(Signed) THOS. WOLLEY.

CANADA.

PROTECTION OF CANADIAN FISHERIES.

(No. 256.)

SIR,

'Royal Alfred,' Halifax, June 13, 1871.

I have the honour to acknowledge the receipt of two telegrams from the Lords Commissioners of the Admiralty received at Halifax on the 10th and 12th inst. respectively, on the subject of the Canadian fisheries.

2. The following directions have in consequence been given to the commanding officers of Her Majesty's ships employed on Canadian fishery service; and the Governor-General of Canada and the Minister at Washington have been notified accordingly.

I. The Instructions for the Protection of the Fisheries, 1871, are suspended, except that the limits of the cruising stations will remain the same as those proscribed in Appendix B of the Fishery Instructions, and that Articles 4, 5, and 8, and the first and third paragraphs of Article 9 will still be acted upon.

II. Her Majesty's ships will in future abstain from active measures for enforcing the fishery laws; but they are instructed to assist the local authorities to preserve order amongst the fishermen, and to protect the colonial revenue vessels from interference by any armed force.

III. Commanding officers are enjoined to be careful, in rendering assistance to the local authorities above alluded to, to act under requisitions from a magistrate or other properly constituted civil authority, in order that any steps they may take may be in strict conformity with the colonial laws.

IV. In the protection of the colonial revenue vessels from interference by any armed force, commanding officers are ordered to take such immediate steps as the occasion may, in their judgment, require.

V. Finally, they are directed to consult with the principal civil authorities on their respective stations, with a view to regulating their movements in the command [which they] may deem most conducive to the effectual carrying out of these instructions.

3. The following ships are now upon the respective stations, charged with the conduct of these duties, as modified by the present instructions—

Nos. I. and II., Bay of Fundy, 'Fly.'

No. III., East Coast, Cape Breton, 'Philomel.'

No. IV., West Coast, Cape Breton, 'Philomel.'

No. V., North Coast, Prince Edward Island, 'Niobe.'

No. VI., North Coast, New Brunswick, 'Racoon,'—'Minstrel' to follow.

And on the Coast of Newfoundland 'Danae,'—'Lapwing' to follow.

I have, &c.,

The Secretary to the Admiralty.

(Signed) E. FANSHAWE, Vice-Admiral.

See page 126
of Paper
printed con-
fidentially,
Jan. 1871.
See page 130
of same Paper.

No. 16.

No. 16.

The COLONIAL OFFICE to the ADMIRALTY.

SIR,

Downing Street, September 20, 1871.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying transcript of an Act passed by the Legislature of Canada, entitled "An Act further to amend the "Act respecting Fishing by Foreign Vessels," together with a transcript of the previous Canada Act, 31 Vict. cap. 61, some of the provisions of which are repealed by the present Act, and others substituted; and I am desired to request that you will move their Lordships to signify to this Department their opinion, whether this Act may properly be allowed to remain in operation.

I am, &c.,

The Secretary to the
Admiralty.

(Signed) ROBERT G. W. HERBERT.

Cap. XXIII.
Printed at
page 79.

NEWFOUNDLAND.

NEWFOUND-
LAND.

DESPATCHES FROM THE GOVERNOR.

No. 1.

No. 1.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 17.)

Government House, Newfoundland, March 18, 1871.

(Received April 17, 1871.)

(Answered, No. 11, April 22, 1871, page 153.)

MY LORD,

I HAVE the honour to transmit to your Lordship the copy of a correspondence which has recently taken place between Mr. Vail, Provincial Secretary, Nova Scotia, and Mr. Bennett, the Premier of my Government, relative to a Resolution having been passed in the Nova Scotia House of Assembly on the 17th February last "protesting against transfer of fisheries or sacrificing them to Imperial or Canadian interests you "better join."

2. The unnecessary and misapplied zeal of Mr. Vail appears to have induced him to adopt a most irregular course in thus communicating by an inexplicit telegram the intended action of one of the Provinces of the Dominion of Canada to the leader of my Government.

3. There does not appear to be any desire on the part of this Colony to make a move in the matter referred to in Mr. Vail's telegram, and the tone of Mr. Bennett's letter in reply thereto holds out but small inducement to Nova Scotia to further solicit the interference of Newfoundland in the petulant action of the neighbouring Province.

4. Before transmission Mr. Bennett submitted his replies (telegram and letter) to me, both of which I approved.

5. I consider it expedient to forward a copy of the correspondence in question to the Governor-General of Canada and to the Lieut.-Governor of Nova Scotia, and I trust that your Lordship will approve of my views in the matter herein referred to.

I have, &c.,

(Signed) STEPHEN J. HILL.

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 1.

Enclosures in
No. 1.

COPY of a CORRESPONDENCE between Mr. VAIL, of Halifax, Province of Nova Scotia, and Mr. BENNETT, of Newfoundland.

Telegram from Halifax.

February 18, 1871.

Passed resolution yesterday, 30 to 3 protesting against transfer fisheries or sacrificing them to Imperial or Canadian interests you better join.

Hon. C. F. Bennett.

(Signed) W. B. VAIL.

Reply to foregoing.

Halifax, Nova Scotia, February 21, 1871.

Cannot at present see the propriety or utility of protesting. Will write by mail.

Hon. W. B. Vail.

(Signed) C. F. BENNETT.

Mr. BENNETT to Mr. VAIL.

MY DEAR MR. VAIL,

Saint John's, March 2, 1871.

I sent you the other day a telegram in reply to yours of the 18th ultimo, to the effect that this Government could not then see the propriety or utility of joining in a protest upon the subject referred to in your telegram. We are ignorant of the whole circumstances which led to the action you took in the matter, and should we find them such as to call forth our sympathies on behalf of the course you deemed

NEWFOUND- proper to take, the question would still arise with us as to the propriety or utility of our joining you in
LAND. that protest.

It is the desire of this Government to avoid any collision with the Imperial wishes that do not necessarily demand our interference. We view England as our natural protector. She has always acted not only justly but generously towards us. We have no apprehension that she will in any manner prejudice those rights and privileges which she so liberally granted to the people of this Colony under their valued constitutional charter. She has left us to exercise our own discretion and free will to enter the Confederation of the North American Provinces under the Dominion or not; and we have every confidence that she will protect us in the enjoyment of all those rights and privileges which are so essential to our prosperity and happiness.

Hon. W. B. Vail, M.P.P.,

I have, &c.,
(Signed) C. F. BENNETT.

No. 2.

No. 2.

Governor HILL, C.B., to THE EARL OF KIMBERLEY.

(No. 19.)

Government House, Newfoundland, March 29, 1871.

(Received April 17, 1871.)

(Answered, No. 17, May 5, 1871, page 153.)

MY LORD,

1st Enclosure,
March 21,
1871.

I HAVE the honour to transmit to your Lordship a copy of a letter from the President of the Chamber of Commerce of this Colony setting forth a complaint on behalf of the mercantile community with reference to the alleged illegal prosecution of the seal fishery by an American vessel named the 'Montecello,' now said to be engaged in this pursuit in the seas adjacent to Newfoundland.

2. Before entering upon an explanation of the case of this ship, it may not be out of place to explain briefly to your Lordship the manner in which the seal fishery is prosecuted in this Colony, with a view to the more easy comprehension of points connected with the subject in question, which will herein be after named.

3. The owner of a vessel (sometimes vessels are hired for the purpose) prepares his ship for sea each year so as to be ready to sail for the seal fishery on or about the 1st March. The ship's company consists of the usual crew and a number of men shipped for the sealing trip or trips only. These men are supplied by the merchant with necessaries for the voyage. Should the voyage be successful, one-third of the value of the seals taken is divided among the men, and the captain receives a sum varying from 6*d.* to 1*s.* per seal. One steamer this year took 28,000 seals, of the value of about 15,000*l.* sterling, of which 5,000*l.* would be divided among about 150 men, giving each man about 33*l.* The captain in this instance will receive 1,400*l.* If seals are taken soon after the departure of the vessel on the first voyage, a second and sometimes a third trip is accomplished, after which the men return to their homes. The number of men in each vessel varies according to the size of the ship. In a sailing vessel one-half of the value of the seals taken is divided among the men, and in a steamer one-third is divided among the sealers, as before stated.

4. The 'Montecello' is a screw-steamer of 525 tons, sailing under the United States' flag, and supplied by Ludlow, of Boston, Mass. I am informed that this steamer arrived at Bay Roberts, in Conception Bay, Newfoundland, in the month of February, 1870, and there embarked about 150 men as sealers—inhabitants of the place—from which port she sailed on or about the 1st March, 1870, for the purpose of taking seals in the seas adjacent to this Island. Having sustained considerable damage in the ice, and having had her screw broken, the steamer returned with but very few seals to Bay Roberts, and there having landed the men, steamed back to Boston.

5. I am now informed that the screw-steamer 'Montecello' did last February arrive at Bay Roberts, and there (as the year before) shipped men as sealers, from thence proceeded to sea in order to take seals in the seas adjacent to Newfoundland, and is now said to be engaged in such pursuit. I am further informed that this vessel (although not yet returned to port) has been reported by the captains of other vessels to have taken a considerable quantity of seals, one-third of the value of which will be divided among the sealers, who, as I before stated, are inhabitants of this Colony, and therefore British subjects.

6. It is said that the seals taken by the 'Montecello' will be manufactured into oil in St. John's, and afterwards taken to the United States as American manufactured oil, and there admitted free of duty. The merchants here therefore naturally feel alarmed that the successful voyage of the steamer in question will induce many American merchants to send their ships to this Colony each year for the capture of seals, and even

should the United States' Government charge no duty on the produce of these voyages, the anxiety of our mercantile community would still continue, as a large influx of vessels for sealing purposes other than those annually dispatched from our ports would be extremely detrimental to the successful sealing voyages, from which not only the merchants but also a large number of the population derive so much benefit.

7. An American vessel can, according to the Treaty, take fish outside the three-mile limit (which I hear has been the case with the 'Montecello'), but to obtain supplies in a port of this Colony, and to embark British subjects for the purpose of fishing inside or outside the three-mile limit is doubtless an infraction thereof.

8. The interests of the Colony demand that some action should be taken by her in this matter, but before doing so my Responsible Advisers are of opinion that the case of the 'Montecello' should be referred to Her Majesty's Imperial Government. I concur in this opinion, as I consider that it would be extremely inexpedient at the present moment, when a Commission is engaged in the amicable discussion of disputed fishery questions between the United States and Canada, to take any steps to prevent a recurrence of the 'Montecello' transaction until your Lordship's opinion thereon shall have been obtained.

9. It was suggested in the Legislative Council to insert a clause in the Revenue Bill placing an export duty on oil equal to that levied on foreign manufactured oil entering the United States, the amount thereof to be refunded to the merchant in the event of duty being charged by the American Government; this clause I have been informed was only to apply to oil exported to the United States. It was hoped by this measure to place the cargo of the 'Montecello' and those exported by our merchants to the United States on an equal footing. This suggestion was, however, abandoned, as my Government was averse to it. I transmit herewith to your Lordship copy of a letter from the Attorney-General to the Premier, in which the former gives his opinion as regards the proposed clause, and also as regards the case of the 'Montecello.'

I have, &c.,
(Signed) STEPHEN J. HILL.

The Earl of Kimberley,
&c. &c. &c.

2nd Enclosure,
March 27,
1871.

Enclosure 1 in No. 2.

Enclosure 1 in
No. 2.

Mr. RENDELL, President, Chamber of Commerce, to Governor HILL, C.B.

MAY IT PLEASE YOUR EXCELLENCY,

St. John's, March 24, 1871.

I have been requested by the Chamber of Commerce to bring under your Excellency's notice and consideration the fact of the screw-steamer 'Montecello,' owned by citizens of the United States of America, having recently completed her crew and equipment at Bay Roberts, Conception Bay, for the prosecution of the seal fishery on this coast, and of her departure on the voyage from that harbour in the early period of the present month.

The Chamber have been informed and believe that it is the intention of the owners of the said steamer to land the product of the said voyage in which she is now engaged at a port in this Island, for the purpose of manufacturing and rendering the same into oil, and shipping it to the United States, to be introduced there duty free, as American caught and manufactured produce.

The Chamber would respectfully submit to your Excellency that this course of proceeding is in their opinion an infringement of existing treaty rights between the United States and Great Britain, and also that if such produce so procured should be landed in this Island, manufactured, and thereafter transshipped to the United States, and be admitted there duty free, it would not only be a manifest injustice, but would be seriously prejudicial to the interests of the people of this Island, whose great and chief dependence lies in the fisheries around this coast, and who cannot, under the present fiscal laws of the United States, avail themselves of American markets without being subject to the onerous and almost prohibitory duty of 20 per cent. ad valorem on all fish oils.

The Chamber feel assured, on your Excellency's representations, that Her Majesty's Government will not fail, in a matter of such paramount importance to British subjects, to cause their interests to be duly protected in accordance with treaty rights between the two nations, and they would respectfully invite the serious consideration of your Excellency and Executive advisers as to the propriety of immediate legislative action, as in the other North American provinces, for the more effectually preventing foreign encroachment upon British fishery on the coasts on their colonial jurisdiction.

I have, &c.,
(Signed) S. RENDELL, President.

Governor Hill, C.B.,
&c. &c. &c.

NEWFOUND-
LAND.Enclosure 2 in
No. 2.

Enclosure 2 in No. 2.

From Mr. LITTLE, Attorney-General, Newfoundland, to Mr. BENNETT, Premier.

SIR,

St. John's, March 27, 1871.

I have the honour to acknowledge the receipt of your communication of the 25th instant, with enclosures in reference to a proposed amendment in the Revenue Bill now before the Legislative Council, and requesting that I would furnish you with my opinion as to the legality and effect of such a section being inserted in that Bill.

I beg to state that I do not advise the adoption of any such clause or amendment, because in my opinion it is a renewal of that exceptional legislation which took place in our Legislature on the passage of the Revenue Bill for 1866, and justly censured by the then Secretary of State of that year.

As to your query whether the owners of the American steam-ship 'Montecello' have infringed any of the provisions of existing treaties by calling at a port in this Island, and there equipping, manning, and fitting out said vessel for the prosecution of a fishing voyage,

I am of opinion that such acts are an infringement not only of existing treaties but also of the statute law of England, and I would respectfully advise that the case be formally stated and submitted to his Excellency the Governor, for transmission to the Imperial authorities for their information.

The Hon. C. F. Bennett, Premier,
&c. &c. &c.

I have, &c.,
(Signed) JNO. J. LITTLE

No. 3.

No. 3.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(Confidential.)

Government House, Newfoundland, March 24, 1871.

(Received April 17, 1871.)

MY LORD,

(Answered, Confidential, April 28, 1871, page 153.)

* Page 152.

I HAVE had the honour to receive your Lordship's Despatch, Confidential, of the 4th February last,* enclosing copy of a Despatch addressed by your Lordship to the Governor-General of Canada on points connected with the North American fisheries, and calling attention to the fact that Her Majesty's Government attach great importance to receiving accurate information as to the practice which prevailed between the date of the Convention of 1818 and the ratification of the Reciprocity Treaty of 1854, with respect to the admission of United States' vessels to the ports of the British Possessions in North America for the purpose of trading, transshipping fish, &c., and desiring special information on the three heads mentioned in the concluding paragraphs of the enclosed Despatch so far as the Colony under my Government is concerned.

2. Although I have endeavoured by every possible means to supply your Lordship with information as to the practice which prevailed between 1818 and 1854 with respect to the admission of United States' vessels into the ports of Newfoundland, I find that I can give but little insight into the matter on which Her Majesty's Government desire to be informed.

3. The records of my office throw no light upon the point before referred to, and the Colonial Department here is unaware of any documents in their possession which would lead to the discovery of authentic facts having any bearing upon the particular subject in question. The absence of any chronicle as to the practice which prevailed between the dates before mentioned, with respect to the entry of United States' vessels for fishing purposes into the ports of this Colony, must necessarily lead to the conclusion that American ships have resorted but little to our harbours.

4. There is one instance on record of an American schooner, the 'Vigilant,' having been captured by Captain Gordon, Her Majesty's ship 'Pandora,' in 1823, taken into Ferryland, and there condemned by the Court of Vice-Admiralty for breach of the revenue laws. It does not, however, appear in the case of this ship that any infraction of the treaty took place. The seizure for the offence of smuggling would have been equally applicable to a vessel of any nation.

5. With a view to giving your Lordship explicit information on the three heads to which special reference is made in the concluding paragraphs of the Despatch to the Governor-General of Canada, I referred the correspondence in question confidentially to the Chief Justice, Sir Hugh Hoyles. This gentleman before his elevation to the bench had been for many years in considerable practice in the Colony, and filled the office of Attorney-General and the post of leader of the Government during the administration of the late Sir Alexander Bannerman. I therefore naturally concluded that he (Sir Hugh) would (if any information was to be obtained as regards the fishery question) be able to afford as much as could be acquired.

6. The letter of Sir Hugh Hoyles exhausts almost completely the subject to which it refers. He appears to have taken much trouble in examining, or causing to be examined, old records and documents of the several courts which might bear on the questions on which I desired to be informed, but there seems to be no information obtainable, or rather no cause for record or discussion, as United States' vessels have little or no inducement to frequent these shores for fishing purposes so as to interfere with the observance of the Treaty.

7. I transmit herewith, for your Lordship's information, a copy of the letter of the Chief Justice.

8. One of the only two instances of complaint of the infraction of the Treaty to which Sir Hugh Hoyles refers, is with respect to an American vessel named the 'Montecello,' the case of which ship has been this day officially brought to my notice, and forms the subject of another Despatch.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

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LAND.

Confidential,
March 21,
1871.

Enclosure in No. 3.

Enclosure in
No. 3.

SIR HUGH HOYLES to the PRIVATE SECRETARY.

(Confidential.)

SIR,

Judges' Chambers, St. John's, March 21, 1871.

I have the honour to acknowledge the receipt of your communication of the 2nd instant, enclosing copies of two Despatches, one from the Earl of Kimberley to the Governor-General of Canada, dated the 1st of February; the second from that nobleman to the Governor, dated the 4th February, and enclosing copy of the Despatch to the Governor-General.

Both Despatches are upon the subject of the practice pursued in the North American Provinces in respect to the admission of the United States' fishing vessels to the ports of the Provinces under the Fishery Treaty of 1818; and after referring particularly to some points with which the other Provinces only are concerned, require from Newfoundland, in common with them, "first, extracts from proceedings of our Courts of Justice, " showing that the Courts had held the purchase of bait or supplies, the transshipment of fish, the engage- " ment of sailors, or other similar transactions, to authorize the forfeiture of the vessels concerned in them, " or forcible interference of Government officers to prevent such transactions.

"Secondly, instances of cases in which transactions of this kind had been in fact prevented by authority, " with such information as would show whether the Government or fishermen of the United States protested " against the exercise of this authority or acquiesced in it.

"Thirdly, such information as would show whether this interference was effected or acquiesced in, on the " ground that the fishing vessels were absolutely prohibited by the treaty from engaging in such trans- " actions, or on the ground that the particular fishing vessels thus treated had not fulfilled the conditions " required from other vessels in order to make such transactions lawful."

Although I have taken much pains in the matter of this inquiry, I can, I regret to say, throw but little light upon the points as to which his Lordship desires information.

Within my own experience and that of my brother judges, extending altogether over a period of nearly 40 years, no case has occurred in Newfoundland of the seizure of, or of any interference with, American vessels for alleged violations of the treaty.

I have made inquiry of old residents whose former official positions would necessarily have made them acquainted with such cases if any existed, and their experience is in conformity with ours.

I have either examined myself, or caused to be examined the records of the old surrogate courts, and so far as they remain there, of the Court of Vice-Admiralty, and of the Supreme Court, up to the date of the Reciprocity Treaty, but could find there nothing bearing upon the subject, the only instance recorded of the seizure of an American vessel being that of the American schooner 'Vigilant,' which vessel was seized in the harbour of Burin by Captain Gordon, of Her Majesty's sloop 'Pandora,' in 1823, and taken by him into Ferryland, and there, as appears by the papers in the cause, condemned by the Court of Vice-Admiralty for breach of the revenue laws.

I have never heard of complaints of the infraction of the treaty by the Americans except in two instances, and these are of recent date.

The first was a complaint made to my brother Judge, Hayward, when on the Southern Circuit last summer, of certain American fishing vessels having trespassed upon the English fishing grounds off Fortune Bay; but upon inquiry it appeared the alleged encroachments were to seaward of the three-mile boundary.

The second is the case of an American steam-ship called the 'Montecello,' said to have fitted out from Conception Bay, for the seal fishery in February, 1870, and to have returned to that port with some seals, which were there disposed of, and alleged also to have proceeded on the same voyage last month from the same place, with the intention of returning to the Bay with her catch at the conclusion of the current fishery.

Whether the taking the seals by this vessel last spring was a breach of the treaty or not would depend upon the locality where the seals were caught, as to which I have no information.

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LAND.

The fitting out from our harbours (if it be so) upon such a voyage would seem to be at variance with the treaty, as well as with the provisions of the Imperial Act 59 Geo. III., cap. 38.

So far as I am aware this vessel has not been interfered with in any way, but I observe by the reports from the Legislative Council that the attention of the local Government is now being drawn to her case.

I may observe, in connection with the subject of this inquiry, that except in the way of outfitting for the seal fishery, United States' fishermen have but little inducement to infringe the terms of the treaty on the coasts of Newfoundland.

They visit British waters principally for mackerel, codfish, and herring. But mackerel have always been more abundant on the shores of the neighbouring provinces than on ours, and for many years past, until last autumn, these fish have deserted our fishing grounds.

Codfish are more plentiful on those parts of the Labrador coast where Americans are permitted to fish, than on those parts of the coast of Newfoundland from which they are excluded; and although American vessels resort to our western bays for herring in the winter and early spring, when these fish are found there, it is, it would seem, more to their advantage to purchase from the inhabitants, who are always ready to supply them with herrings, than to catch them, at least at that season, for themselves.

The Private Secretary,
&c. &c. &c.

I have, &c.,
(Signed) H. W. HOYLES, Chief Justice.

No. 4.

No. 4.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 26.)

Government House, Newfoundland, April 21, 1871.

(Received May 16, 1871.)

(Answered, No. 22, June 2, 1871, page 154.)

MY LORD,

I HAVE the honour to transmit to your Lordship six copies of a printed paper containing an Address from the Legislative Council, my reply thereto, and a letter from the Colonial Attorney-General. The Address in question has relation to the entrance of foreign vessels into this country for the prosecution of the seal fishery, and contains a request to be furnished with any correspondence which may have arisen on the subject in question.

2. Although the name of the steam-ship 'Montecello' is not mentioned in the Address, the recent discussions in the Council as to alleged infraction of Treaty rights by this American steamer, and the especial reference in the Address to the prosecution of the seal fishery by subjects of the United States, indicate very clearly that the Council desire to be informed as to the action taken by the local Government with reference to the case of the before-named vessel.

3. In my reply I informed the Upper House that no correspondence relative to the subject of their Address had arisen during my administration, except in the case of the foreign steam-ship 'Montecello,' which case being of very recent occurrence, had been reported to your Lordship by the last mail, that the correspondence thereon being necessarily incomplete, it was inexpedient to produce a portion only of it, but that I had no objection to hand them a copy of the Attorney-General's opinion on the case of this ship.

4. As I had already addressed your Lordship in my Despatch, No. 19,* of the 29th March, 1871, upon the subject on which the Council desired to be informed, I did not think it desirable to give them a copy of my communication until your Lordship's reply thereto had been received.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

Enclosure in
No. 4.

Enclosure in No. 4.

To His Excellency Colonel HILL, C.B., Governor and Commander-in-Chief.

MAY IT PLEASE YOUR EXCELLENCY,

Legislative Council, April 17, 1871.

The Legislative Council being desirous of addressing you upon the question of the entrance and outfit of foreign vessels in this country for the prosecution of the seal fishery and the manufacture of seals into oil, with the intention of making further representations to your Excellency, in view of the enactment of laws for its future prevention or regulation, respectfully request that your Excellency will be pleased to cause the Council to be furnished with such legal opinions as your Excellency may now be able to afford, or may be enabled to obtain, upon the subjects of the right of the trade, people, and legislature of this

country as against foreigners, and especially the United States, in relation to the prosecution of the seal fishery, and the entrance and clearance of ships, and the landing and manufacture of seals, whether under existing treaties or otherwise. Also, that your Excellency will be pleased to furnish the Council with copies of the correspondence which the Executive informs the Council has taken place between your Excellency and the Imperial Government on or touching this subject.

(Signed) EDWARD MORRIS, President.

Governor's Reply, with Opinion of Attorney-General.

Government House, Newfoundland, April 19, 1871.

HON. GENTLEMEN OF THE LEGISLATIVE COUNCIL,

With reference to your Address requesting to be furnished with any legal opinions that I can supply relative to the entrance and outfit of foreign vessels in this country for the prosecution of the seal fishery, I beg to hand you the opinion of the Attorney-General upon the case of an American vessel named the 'Montecello,' which steamer has been recently engaged in the prosecution of the seal fishery in the seas adjacent to Newfoundland.

Except in the case of the vessel in question, no correspondence has arisen, during my administration, with respect to the taking of seals off the coast of this Colony by foreign ships. I have recently referred this case to the Secretary of State for the Colonies, and as any correspondence thereon must necessarily at this early period be incomplete, I cannot comply with your request for copies of Despatches on the case now referred to, until the correspondence relative thereto shall have been completed.

(Signed) STEPHEN J. HILL.

Mr. LITTLE to Mr. C. F. BENNETT.

Sir,

St. John's, March 27, 1871.

I have the honour to acknowledge the receipt of your communication of the 25th instant, with enclosures, in reference to a proposed amendment in the Revenue Bill now before the Legislative Council, and requesting that I would furnish you with my opinion as to the legality and effect of such a section being inserted in the Bill,

I beg to state that I would not advise the adoption of any such clause or amendment, because in my opinion it is a renewal of that exceptional Legislation which took place in our Legislature on the passage of the Revenue Bill for 1866, and justly censured by the then Secretary of State for that year.

As to your query whether the owners of the American steam-ship 'Montecello' have infringed any of the provisions of existing treaties by calling at a port in this Island, and there equipping, manning, and fitting out said vessel for the prosecution of a fishing voyage? I am of opinion that such acts are an infringement not only of existing treaties, but also of the statute law of England; and I would respectfully advise that the case be formally stated and submitted to his Excellency the Governor for transmission to the Imperial authorities for their information.

I have, &c.,
(Signed) Jos. J. LITTLE.

No. 5.

No. 5.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 31.)

Government House, Newfoundland, April 28, 1871.

MY LORD,

(Received May 16, 1871.)

(Answered, No. 29, June 20, 1871, page 154.)

I HAVE the honour to transmit to your Lordship copies of a printed paper containing a further Address from the Legislative Council upon the subject of the prosecution of the seal fishery from ports of Newfoundland by the vessels of foreign nations, and my reply thereto.

I have already in Despatches, Nos. 19* and 26† of the 29th March, and 21st April respectively, brought the subject in question to your Lordship's notice. I now beg to submit the observations contained in the present Address for your Lordship's consideration.

* Page 134.
† Page 138.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

Enclosure in No. 5.

Enclosure in
No. 5.

To His Excellency Colonel HILL, C.B., Governor and Commander-in-Chief.

MAY IT PLEASE YOUR EXCELLENCY,

We, the Legislative Council of Newfoundland in session convened, respectfully submit the following statements in reference to the question of the prosecution of the seal fishery from our ports by the vessels of foreign nations.

NEWFOUND-
LAND.

1. It is unnecessary for us to make any particular references to the case of the United States' steam-ship 'Montecello,' which first led to the consideration and discussion of the subject by the Legislature, as the circumstances have already come under your Excellency's observation.

2. The matter appears to us to present itself in one or both of two views, viz. either as the infraction of existing treaties, or as an intrusion, with which, in the absence of a treaty, the Colony has, through its Legislature, a complete and inalienable right to deal as a question of maritime and territorial right.

3. If the first view (that which is generally received) be correct, then, by the terms of the Convention of 1818, American fishermen have no rights on or within three marine miles of any of the coasts, bays, creeks, and harbours of Her Majesty's dominions in America, save the liberty of taking fish on certain defined parts of the coast of Newfoundland and Labrador, and to dry and cure the same in unsettled localities; and by that Convention and the Imperial Act 59 Geo. III., cap. 38, they would have no right to enter the bays or harbours of Newfoundland outside these limits for any other purposes whatever than those of shelter or repair, of purchasing wood and obtaining water, under the penalties of that Act, and subject to any order or orders of Her Majesty in Council, or of the Colonial Governor, in pursuance of such orders.

4. The entry, outfit, manning, and clearance, and subsequent return of the ship in question, and the manufacture of her cargo of seals, have taken place outside the boundaries excepted in the said Act and Convention, and within the prohibited limits; and is the commencement of a foreign trade and industry, which, if unrestricted, may probably assume such dimensions and importance as very seriously to damage the interests of the trade and people of this Colony.

5. We desire that such powers as may be lawfully exercised under the Treaty of 1818 and the said Act, and by local legislation (if necessary), for the more effectual execution of the same, may be applied towards the prohibition of the use by foreigners of our territorial and maritime possessions for the purposes of the prosecution of what is commonly termed the "seal fishery," and the manufacture of seals into oil.

6. If it be held that the seal, being an amphibious mammal, is not a "fish," nor its capture by means of ships, a "fishery," nor its manufacture into oil a "drying or curing of fish," nor the person conducting the business of seal taking, a "fisherman," and that therefore, for other reasons, the matters specified in the fourth paragraph were never contemplated by, and do not come within the treaty, then no further questions of the interpretation or execution of treaties will arise;—and we submit that our territorial and maritime authority with regard to this question would be wholly unaffected and undiminished, and may be freely exercised by local legislation in such manner as may, in the judgment of the Legislature, best conserve the interests of this Colony.

7. Her Majesty's Government has on more than one occasion assured to the Colony the integrity and control of its territorial and maritime rights. We submit, that by the law of nations the subjects of a Foreign State have no right to occupy and use at its discretion any portion of the territory of another state, nor are they entitled to any commercial privileges within it, unless by conventional stipulation, or the authority of the law of the latter state;—that if the traffic in question be unaffected by treaty, the Colony has the exclusive power of legislation over its maritime territory, which embraces, by the general usage of nations, the distance of a marine league along the coast, "within which limits its rights of property and territorial jurisdictions are absolute, and exclude those of every other nation." In the assertion of these rights, the neighbouring Colonies have passed, and have for many years enforced, penal laws for the protection of their rights from foreign competition and interference.

8. During the present Session the local Government has declined to legislate upon the subject matter of these representations; and while we do not disapprove of the forbearance to pass any law affecting the operations of the present season, we do most strongly urge the enactment in the next Session of protective measures in regard to the use of our territory for purposes mentioned in the fourth paragraph, and otherwise calculated to create and foster a dangerous rivalry. And we respectfully suggest, that in the meantime it should be clearly intimated and understood that foreigners, purposing to engage in the next ensuing and future seasons, in the prosecution of the seal fishery, will do so subject to existing law and—so far as the jurisdiction of this country is concerned—to such laws and regulations as the Colony may impose.

We submit the foregoing observations as worthy of consideration with regard to this serious and important matter, and we trust that any course of action may be carefully avoided which may tend to derogate from the just rights of the colonists, or be calculated in any way to permit or countenance any foreign intrusion fraught (as we believe that in question to be) with highly injurious consequences to the trade and people of this Colony.

[Passed the Legislative Council April 21, A.D. 1871.]

(Signed) EDWARD MORRIS, President.

His Excellency's Reply.

Government House, Newfoundland, April 22, 1871.

MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL,

I thank you for your Address in reference to the question of the prosecution of the seal fishery from our ports by the vessels of foreign nations, and for the interest you display in this important matter and in the general affairs of the Colony. I shall have much pleasure in transmitting your communication, which embodies subjects worthy of careful consideration, to the Right Hon. the Secretary of State for the Colonies.

(Signed) STEPHEN J HILL.

NEWFOUND-
LAND.

No. 6.

No. 6.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 37.)

Government House, Newfoundland, May 20, 1871.

(Received June 15, 1871.)

MY LORD,

(Answered, No. 34, July 19, 1871, page 155.)

I HAVE the honour to transmit to your Lordship copy of a declaration made by a person named John Penny before the magistrate of the Central District Court of this Colony relative to recent encroachments said to have been committed by American fishermen in the neighbourhood of Fortune and Hermitage Bays, on the southern coast of Newfoundland, near which localities Penny resides.

May 17, 1871.

2. Although it appears from the declaration in question that during the past summer American vessels have frequented the southern coast of this Island, the information of the past and present supposed depredations by subjects of the United States upon our fishing grounds has only within the last few days been reported to me.

3. I have, in consequence, telegraphed to the Admiral commanding the station at Halifax, suggesting that the ship of war which usually leaves that port about this time of year for the coast of Newfoundland may be directed to call at Fortune Bay and investigate the nature of the alleged encroachments. Admiral Fanshawe has not yet arrived at Halifax, but the reply of the senior naval officer there to my telegram indicates that the Admiral will doubtless comply with my suggestion.

May 19, 1871.

4. On hearing from the commander of the man-of-war as to the result of the proposed investigation upon the subject of Penny's complaint, I shall be able to furnish your Lordship with definite information on the subject of this Despatch. I may, however, add that Captain Coen, the magistrate of "Grand Bank," in the district of Fortune Bay, has verbally informed me that Penny's statement is substantially correct.

May 19, 1871.

I have, &c.,

The Earl of Kimberley,
&c. &c. &c.

(Signed) STEPHEN J. HILL.

Enclosure in No. 6.

Enclosure in
No. 6.

Newfoundland, Central District, St. John's Court.

I, John Penny, of Great Jervois, in Hermitage Bay, on the western shore of Newfoundland, planter, do hereby declare I have resided at Great Jervois for twenty years, and have carried on the supplying business in the fishery; that last summer to my knowledge several fishing vessels belonging to the United States of America have been engaged in prosecuting the cod fishery and catching halibut inside the headlands and on the fishing grounds frequented and used by our Newfoundland fishermen in Fortune and Hermitage Bays, and during the month of April last and the present month of May the American fishermen with large craft have fished and taken codfish and halibut upon the punt ledges inside the headlands of the bays aforesaid, and the Newfoundland fishermen complain of the encroachment; the Americans generally use bultows, which extend a great distance. In consequence of this interference our fishermen are much injured in their trade.

(Signed) JOHN PENNY.

Declared before me, at St. John's, this 17th day of May, A.D. 1871.

(Signed) D. W. PROWSE, J.P.

St. John's, May 19, 1871.

Would suggest that vessel of war on passage here may be permitted to call into Fortune Bay to investigate serious complaints of encroachment by American fishermen there.

To Admiral or Commanding Officer, Halifax, U.S.

(Signed)

STEPHEN J. HILL, Governor.

Halifax, May 19, 1871.

No vessel available at present. Will submit your suggestion to the Admiral on arrival, about 25th instant.

To the Governor, St. John's.

(Signed)

CAPTAIN HOWARD, Senior Naval Officer.

No. 7.

NEWFOUND-
LAND.

No. 7.

(No. 43.)

Governor HILL, C.B., to The EARL OF KIMBERLEY.

Government House, Newfoundland, June 6, 1871.

(Received June 29, 1871.)

(Answered, No. 34, July 19, 1871, page 155.)

* Page 141.

MY LORD,

IN continuation of my Despatch, No. 37,* of the 20th May, respecting certain alleged encroachments of American vessels upon the fishing grounds in the neighbourhood of Fortune and Hermitage Bays, upon the south coast of Newfoundland, I have the honour to transmit to your Lordship further correspondence with reference to the subject of the Despatch before referred to.

2. Admiral Fanshawe arrived at Halifax on the 25th May, and on the same date informed me by telegram that Her Majesty's ship 'Danae' left Bermuda for St. John's on the 18th instant, and that Her Majesty's ship 'Racoon' would call at Fortune Bay en route to New Brunswick.

3. The 'Danae' arrived here on the evening of the 29th May, on which date I received a telegram from Captain Howard, Her Majesty's ship 'Racoon,' at St. Pierre, stating that the Admiral wished the 'Danae' to meet the 'Racoon,' at Harbour Breton. This I immediately communicated to Captain Malcolm, and was informed by him that he would be prepared to sail for the place indicated by the Admiral on the 31st instant.

4. I have this day received a telegram from Captain Malcolm, by which it appears that Penny's complaint is not important, and that a detailed account of the alleged encroachments will be given to me on the arrival of the 'Danae' at St. John's, on or about the 19th instant. I hope therefore to have the honour of transmitting by the next mail to your Lordship an accurate report of the supposed depredations by American vessels upon our fishing grounds on the south coast of Newfoundland.

I have, &c.,

(Signed) STEPHEN J. HILL.

The Earl of Kimberley,
&c. &c. &c.Enclosures in
No. 7.

Enclosures in No. 7.

Governor HILL to Admiral FANSHAWE.

(No. 48.)

SIR,

Government House, Newfoundland, May 24, 1871.

I transmitted to your Excellency on the 19th instant a telegram, as follows:—"Would suggest that vessel of war on passage here may be permitted to call into Fortune Bay to investigate serious complaints of encroachments of American fishermen there;" and received a reply from the senior naval officer to the effect that no ship was then available, but that my telegram would be submitted to your Excellency on arrival at the above-named port, on or about the 25th instant.

A complaint has recently been made to the Government of Newfoundland by a person named "John Penny," a resident of "Great Jervis," Hermitage Bay, on the south coast of the Island, respecting the encroachments of American vessels upon our fishing grounds in that locality, and as I am anxious to obtain accurate information as to the alleged depredations, I should thank you to permit the man-of-war destined for service on this coast to call at Fortune or Hermitage Bays on passage to St. John's, and to request the captain of the vessel to gather as much knowledge as possible relative to the supposed encroachments.

I have, &c.,

(Signed) STEPHEN J. HILL.

Vice-Admiral E. G. Fanshawe,
&c. &c. &c.

Governor HILL to Captain MALCOLM, R.N.

(No. 50.)

SIR,

Government House, Newfoundland, May 30, 1871.

I am anxious to obtain a correct version of the nature of a complaint recently made to the Government of Newfoundland by a person named "John Penny," residing at "Great Jervis," Hermitage Bay on the south coast of the Island, relative to certain alleged encroachments of American vessels upon our fishing grounds in the neighbourhood of Fortune and Hermitage Bays; I have therefore the honour to transmit to you a copy of a letter which I have lately addressed to Admiral Fanshawe, and copies of two telegrams respecting the subject in question.

The nature of supposed depredations by subjects of the United States is set forth in "Penny's" deposition; the nature of the duty which you are now called upon to perform, and which I have no doubt will be ably executed, is detailed in my Despatch to the Admiral.

I also transmit to you copies of telegrams from Admiral Fanshawe to myself, Captain Howard to Governor Hill, and my reply to the latter, for your information and guidance.

I have, &c.,

(Signed) STEPHEN J. HILL.

Captain George John Malcolm, R.N.,
&c. &c. &c.

Her Majesty's ship 'Danae,' St. John's.

COPY of TELEGRAM from Admiral FANSHAWE to Governor HILL, C.B.

Halifax, May 25, 1871.

'Danae' left Bermuda 18th instant for St. John's, calling at St. Pierre. 'Racoon' leaves Halifax to-morrow for Fortune Bay, en route for New Brunswick.
To Governor of Newfoundland, St. John's.

(Signed) ADMIRAL FANSHAWE.

COPY of TELEGRAM from Captain HOWARD, Her Majesty's ship 'Racoon,' to Governor HILL.

St. Pierre, May 29, 1871.

Admiral wishes 'Danae' to meet me at Harbour Breton without delay. Please communicate this and your wishes to Captain Malcolm.

(Signed) CAPTAIN, Her Majesty's ship 'Racoon.'

From GOVERNOR, Newfoundland, to COLONIAL OFFICE.

Reply to foregoing.

Copy of Telegram from Governor Hill to Captain Howard, Her Majesty's ship 'Racoon,' at St. Pierre.
St. John's, May 30, 1871.

'Danae' arrived ; leave to-morrow for Harbour Breton.

(Signed) HILL, Governor.

From GOVERNOR, Newfoundland, to COLONIAL OFFICE.

Copy of Telegram from Captain Malcolm, Her Majesty's ship 'Danae,' to Governor Hill, C.B.

Bay du Nord, June 6, 1871.

'Danae' will return before them. Penny's complaint not important. Details on arrival.

(Signed) MALCOLM.

No. 8.

No. 8.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

TELEGRAM.

St. John's, July 1, 1871.

(Registered July 4, 1871.)

(Answered, No. 31, July 3, 1871, page 155.)

In reference to Washington Treaty, is it understood that fish oil includes seal oil? Information will oblige this Government.

No. 9.

No. 9.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 49.)

Government House, Newfoundland, June 23, 1871.

(Registered July 11, 1871.)

(Answered, No. 34, July 19, 1871, page 155.)

MY LORD,

IN continuation of my Despatch to your Lordship, No. 43,* of the 6th inst., respecting certain alleged encroachments of American fishermen on the fishing grounds in the neighbourhood of Fortune and Hermitage Bays, on the south coast of Newfoundland, I have the honour to transmit herewith to your Lordship copies of further correspondence in reference to the investigation of the circumstances connected with the supposed depredations.

2. It appears from Captain Malcolm's Report that the encroachments, if any, were of a most trivial nature, not characterized by any desire on the part of American fishermen generally to violate existing Treaties.

3. The investigation in this instance appears to have been carefully conducted by Captain Malcolm, and has happily resulted in a true exposition of the nature of the encroachments, an end anxiously desired by the Government of Newfoundland.

I have, &c.,

(Signed) STEPHEN J. HILL.

The Earl of Kimberley.
&c. &c. &c.

Cap. Malcolm
to Gov. Hill,
June 18, 1871.

Mr. Camp to
Cap. Malcolm,
June 3, 1871.

Cap. Malcolm
to Gov. Hill,
June 18, 1871.

Fishery
Report.

No. 60.
Gov. Hill to
Cap. Malcolm
June 20, 1871

* Page 142.

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Enclosure 1 in
No. 9.

Enclosure 1 in No. 9.

Captain MALCOLM to Governor HILL.

REPORTING PROCEEDINGS.

YOUR EXCELLENCY,

H.M.S. 'Danae,' St. John's, June 18, 1871.

In reply to your letter, No. 50, dated Government House, Newfoundland, May 30, 1871, I have the honour to inform you that I have been to "Great Jervis Harbour," Bay of Despair, and have made inquiries relative to the alleged encroachments of the American fishermen.

2. The result of my inquiries in the bays of Despair, Hermitage, and Fortune has been—

(a). That the Americans have now and then encroached, but as a rule they have fished without the marine league.

(b). That they have been supplied with bait by colonial fishermen.

(c). That the number of vessels has been very small, and they seem mostly to have left the coast.

(d). That the complaint of "John Penny" was made mostly on surmises and hearsay, at least such were the answers he gave me in the presence of an officer of this ship on my questioning him.

3. I enclose as a specimen of the vagueness of reports made on this subject a copy of a letter with my notes on it from Henry Camp, revenue officer.

4. In conclusion, in my letter on the fisheries, you will see what was done on the subject.

I have, &c.,
(Signed) G. J. MALCOLM.

His Excellency Colonel Hill, C.B.,
&c. &c. &c.

Enclosure 2
in No. 9.

Enclosure 2 in No. 9.

Mr. HENRY CAMP to Captain MALCOLM.

COPY of Captain MALCOLM'S NOTES and
REMARKS.

Preventive Office, Pushtrough,
Hermitage Bay, June 3, 1871.

SIR,

With respect to American fishermen fishing within the boundary, three marine miles, I take the liberty of informing you that the vessels began to arrive about 25th penult., some of them left about 15th ult., well fished. The last I have seen or heard of was on Monday last, 29th ult. The skipper with two men belonging to one of them were in this settlement on Sunday last.

They reported halibut to be very scarce on the ground, and expected to leave Terra Oivra, Newfoundland, for Anticosta, in the Gulf of St. Lawrence. That they have (or some of them) fished within the line there is no doubt.

Two vessels, I have been informed, laid down bultows about half mile from the shore, south side of this bay (near Grole).

But their chief rendezvous* is S.S.E. to S.S.W., off Pass Island. Fishermen say within one and a half mile of the island: for the distance I cannot vouch.

On Sunday, 7th ult., I saw two vessels at anchor in the bay; these without doubt were infringing. It should be observed that nearly all Americans fish on Sundays. This I learned from themselves.

One vessel laid lines at the entrance to Taylor's Passage, i. e. the passage leading to Bonne Bay, two miles west from this. That they have done our fishermen great harm there is no doubt.

From our local fishermen last season Mr. Penny, Great Jervis, bought at least 30 tons halibut, local price 10*l.* per ton. This season I believe he can get none, i. e. from the fishermen in these localities.

No doubt the Americans will be here again about 20th inst., when they know the caplin are well in. Last season they remained till late in August.

The last vessel I boarded 1870 was the 'White Fawn,' and it so happened that was the last vessel taken by the Dominion cruisers.

I have taken the liberty of handing you a paper with names and number of the vessels seized last season by the Canadian authorities.

If, Sir, you could induce the Newfoundland Govern-

NOTE.—The halibut ground is outside the marine league.

NOTE.—This is a surmise, for which there is no evidence.

NOTE.—Again a surmise; must be inquired into. Our inquiries tend to show that this has been the exception; and the fishermen took, one occasion, law into their own hands.

QUERY.—Were they fishing?

NOTE.—They have a perfect right to shelter and hospitality.

NOTE.—By concurring with them, which, if outside marine league, is not illegal.

QUERY.—The fishermen sold, no doubt, to Americans?

NOTE.—Americans were supplied with bait to catch the halibut by the very men who complained of them.

NOTE.—At that period H.M.S. 'Lapwing' will be about.

NOTE.—Foreign to subject, except that it shows that if poaching there, she most probably had poached here.

NOTE.—This information may be useful to

ment to send some kind of a cruiser with a few men of the right stamp to protect the fisheries both with regard to Americans here and French at Point May to Samaline, you would do the fishermen an incalculable good, as it is well known that French from St. Peter's fish on our shore about Point May.

For several years an officer with a boat's crew were stationed at Samaline, i. e. for about two months, but unfortunately the lieutenant shot a Frenchman (not intentionally), and since that season, now, I think, fifteen years, no boats have been left by any of Her Majesty's ships.

I have, &c.,
(Signed) HENRY CAMP,
P. Office, H.M. Customs.

His Honour Captain Malcolm,
H.M.S. 'Danae.'

P.S.—The method of fishing practised by the Americans is the bultow. The vessels are from 70 to 100 tons, old measure; each vessel has on average a crew of 12 men, skipper and cook included. 5 dories, or flat-bottomed boats, from 13 to 16 feet in length, each dorie 2 men and 4 lines of 30 furlongs each = 120 furlongs per boat, with 200 to 240 hooks; each vessel has therefore two-thirds of a mile of lines, and 1000 or 1200 hooks out. The number fishing off this part of the coast this season is about 12.

The Americans use herring as bait. Halibut is their principal catch, but necessarily they must take some cod fish, and these would generally be large with many "mother fish" (spawning properly, but locally mother).

Government of Newfoundland, and for information of naval officer. NEWFOUNDLAND.

NOTE.—As these occurrences do more harm than good, it was doubtless a wise precaution.

NOTE.—Very few here now.

Enclosure 3 in No. 9.

Captain MALCOLM to Governor HILL, C.B.

FORWARDING LETTER ON NEWFOUNDLAND FISHERIES.

YOUR EXCELLENCY,

H.M.S. 'Danae,' St. John's, June 18, 1871.

I have the honour to forward herewith for your information a letter on the Newfoundland fisheries between 31st May and 16th June, 1871.

2. I have been ordered to give the command of the 'Danae' to Captain W. S. Brown, who succeeds me as senior naval officer on this station.

His Excellency Governor Hill, C.B.,
&c. &c. &c.

I have, &c.,
(Signed) G. J. MALCOLM,
Captain and Senior Officer.

Sub-Enclosure.

FISHERY REPORT.

H.M.S. 'Danae,' Great Jervis Harbour, June 3, 1871.

The crops have not yet been sown. They only consist of cabbage and potatoes for home consumption. There has been no cattle disease and no sickness. The fishing up to the present time has been about one quarter short of usual average. The fish principally taken are cod fish, some halibut—salmon which are just striking the coast—and in the winter turbot in the bay. Up to the present time about 700 quintals of cod have been taken. The cod are on the coast all the year round, and are caught by hook and line, often in 120 fathoms of water. There are no seals. There have been from six to ten American schooners on the coast this year, averaging from 70 to 100 tons; most of them seem now to have left, some with 60,000 lbs., and others with 40,000 lbs. of halibut, green weight. They generally fish with bultows, and as a rule outside the marine league. The fishermen here complain of this practice, but except in isolated cases the men give no evidence to prove that the Americans fish within the marine league; further, the very men who complained, before doing so, supplied the Americans with herring as bait, at 6s. per barrel, and I have no doubt sold them part of the fish comprising their cargoes; they thus got ready money; had they given them to the merchants they would only have served to pay up arrears of old debts. The Americans were here last year, but the fishermen gave their fish to Mr. Penny and others; this year they seem to have adopted the other plan, and Mr. Penny not approving of not being paid, thinks he must stop it, and hits upon the plan of complaining to the Governor against illegal fishing on the part of the Americans, taking his affidavit to the fact, and when questioned by me, says, "He doesn't know, but he heard that the Americans had been fishing close in shore." In Great Jervis Harbour and Pushthrough there are about 40 families, consisting of about 250 souls; all except Mr. Penny and Mr. Camp, the Custom House officer, Land Surveyor, and Schoolmaster, are engaged in fishing. They have five

Enclosure 3
in No. 9.

Sub-
Enclosure.

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schooners and about fifty boats. They have no trade except in fish and a small quantity of fur. They make a little money by selling bait to the French and Americans. Mr. Penny supplies them partly with provisions from Canada and St. John's, also Newman and Co., of London, barter with them; these latter have a screw steamer of about 60 tons, that brings supplies from Gaultois and Harbour Breton, and is constantly passing to and fro. The fishermen have had no relief, and there is no crime as far as I could learn. About two-thirds of them are Episcopalians, who are ministered to by the clergyman from Hermitage Cove, who comes about five or six times in a year; the rest are Catholics, who are visited by the priest from Harbour Britain. There are two schools,—one at Mr. Penny's and the other at Push-through; the latter is conducted by the Revenue Officer, Mr. Camp. In winter he had, so he says, 34 pupils under instruction. I was struck by the handwriting, being clear and very legible. During the winters, which are severe, deers, hares, ptarmigan, wild geese, and ducks afford them much nouriture. They reported, for the truth of which I will not vouch, that in 1870 they killed 800 deer. In summer they obtained large quantities of gooseberries, blackberries, cranberries, strawberries, and raspberries, and a few esculents, all growing wild. The people as a rule presented a robust, healthy appearance. In average years a fisherman will gain about 50*l.* per annum. On this and the proceeds of their gardens and poultry, in some cases of their goats and odd jobs, they have to subsist. Salt meat is very dear. It may not be out of place here to remark on the custom of weighing and selling fish, as the same, doubtless, more or less according to locality, is the rule or rather custom on the coast of Newfoundland. A quintal weighs 112 lbs., but it often occurs that the men need the money before the fish is properly cured—in many cases I fear before it is even caught—in which case the equivalent acknowledged by custom is as follows:—

i. e. According to custom and usage of Great Jervis Harbour, one quintal of fish from the knife, or fresh fish is 222 lbs.

One quintal of fish dried and properly prepared is 112 lbs.

One quintal of fish split open and lying in salt is 280 lbs.

One ton of oil is 256 gallons, Imperial measurement.

According to law:—

One barrel of pickled fish of any kind is 200 lbs. to the quintal.

One barrel of herring, fresh from the net, is equal to 32 gallons of fish, value 5*s.* to 6*s.*

One hogshead of salt equals 5 cwt., value 12*s.* 6*d.*

One hogshead of coal equals 5 cwt., value 9*s.*

Wood is sold at 14*s.* per cord, dimensions of cord 4 feet high and wide, and 8 feet long.

The value of furs and skins seems to average as follows, *i. e.* taking one year with the other, and one quantity of fur with the other:—

	£	s.	d.		£	s.	d.
Black fox	-	-	-	15	0	0	0
Silver fox	-	-	-	8	0	0	0
Grey fox	-	-	-	1	10	0	0
Red fox	-	-	-	0	8	0	0
				Otter	-	-	-
				Beaver	-	-	-
				Bear	-	-	-
				Musk rat	-	-	-

The North Arm of Despair Bay, June 6, 1871.

There is here some trade in furs carried on by Indians and half-castes. The salmon take is so insignificant that it can hardly be called a fishery. There is good turbot fishing, the average take being 600 quintals, sold I believe at about 8*s.* sterling per green quintal. The Telegraph Station of the English Atlantic Cable is pleasantly situated at the head of the Bay. Its principal object seems to me to be to test the line east and west, and in case of posts being blown down and the electric current being impeded, to have them repaired, for which object there are experienced men here. There is good anchorage here in 7 fathoms mud, about 1½ mile from the telegraph station; ships coming up when near head of Arm, should anchor as soon as they strike 7 fathoms; farther up after 6 fathoms, it shoals rapidly.

The North-east Arm of Despair Bay, June 7, 1871.

Here near Conn River there is a settlement of Indians; their number varies, as they are often changing their abodes, sometimes twenty, at others not over three families. There is one white family settled here. The place has some little trade in furs, hoops of casks, fancy wood, hay, herring, and salmon. This salmon fishery might be extended. I had occasion to point out to Mr. Michael Collier that he was breaking the Governor's proclamation of 8th April, 1871, by his system of fishing and nets. He promised to change it. Spars for topgallant masts, boats' masts, studding-sail booms, and oars, as also knees for boats, can be obtained here. Beyond Wesel Island there is a station of English Atlantic Telegraph Company; there are about five families here. They trade a little in hay, herrings, and salmon. I had here occasion to draw attention to the size of herring-net meshes. At the bottom of all these bays the woods present an appearance and luxuriance which offers a remarkable contrast to those at the entrance. Nearly everywhere are seen signs of destructive fires, originating through carelessness; as they are very injurious to the settlers, they cannot be too much guarded against. Whole districts are laid bare, valuable wood, in many cases the growth of half a century, is destroyed.

Ship Cove, June 8, 1871.

Ship Cove is a settlement of about 45 souls—Roman Catholics; they have two schooners and a few boats. They trade in cod, salmon, turbot, and herring; they rear calves for sale, having about 40 head of cattle. H.M.S. 'Danae' could not obtain any fresh meat, as they do not kill their cows, and the calves were too young. They also trade in cask-hoops, bark of trees, which is stretched out and used for sails and covering for cargoes. The deer, geese, and ptarmigan appear in autumn in great number; they send them to St. Pierre and St. John's for sale; they also obtain and sell otter, martin, deer, and beaver skins. They appear to be contented and thriving; not much troubled by too much learning. The inhabitants

think that there are silver mines in the neighbourhood; as they showed us a mineral very like mundic, there may be tin mines near—but this is a question for geologists and mineralogists to decide. The anchorage is good in 8 fathoms. In North-west Cove near Ship Cove we found the American schooner 'Lizzie A. Tarr,' of Gloucester, employed catching herrings from the shore for bait, i. e. a boat and a crew of five men were helping John Ingram, William Willcocks, and Michael Willcotts, of King's Harbour, to fish with a herring net under 2 inches. The Americans were clearly breaking the Convention of 1818; "they and the fishermen," the Act for protecting the herring fishery of the 27th March, 1862.

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Pass Island, June 8, 1871.

They catch here halibut and cod; I heard there were about 170 inhabitants employing over 50 boats. They say Americans now and then come on their fishing ground about one mile S.S.E. to S.S.W. of island, but here as elsewhere they complain of bultows, as killing the mother fish; this is accounted for by these being the largest fish, and they do not rise to take hook and line, but from the bait of bultows being on the ground they take it. Hearing the same everywhere, and as colonial fishermen are averse to its use, as being as destructive to sea fishery as high weirs are to salmon fishery, the Legislature of Newfoundland could meet this evil by making fishery with bultows illegal for all alike.

Dawson's Cove.

About 36 inhabitants; about seven boats and two schooners here—cod fishery off the entrance of Connaigre Bay.

Fox Island.

About 20 inhabitants and 5 boats.

Harbour Galley.

Marked in Admiralty chart Frenchman's Cove; about 13 inhabitants and 3 boats.

Raymonds Point.

About 14 inhabitants and four boats. At the three latter places they have had fair fishery, about 5 green quintals of cod per head. They are assisted in eking out their living by the wild berries they collect, and the wild fowl they shoot.

Hermitage Cove, June 10, 1871.

Here are the head-quarters of the clergyman of the district, Mr. Colley; the place seems to be neat and doing moderately well. There are about 23 families and about 30 boats; they catch cod and herring in fair quantities, and some turbot, the former they take to Gaultois for sale, the herring also, but some small portion they sell to the Americans for bait. This system as well as that of fishing with bultows (trots) is so very unpopular that public opinion amongst themselves will entirely put a stop to it. They have some cows, and grow for their own use potatoes and cabbages, and get in the proper season a good deal of wild fruit and game. There seems to be no sickness and no crime, and only one case, that of a widow, where they have received Government relief. Here, as in all other places, they consider the take of fish of this year as below the average, and that the season has been uncommonly cold and unpropitious.

Gaultois, June 11, 1871.

This is a large store and drying place for fish of Messrs. Newman and Co., of London. It presents the appearance almost of a dockyard, and looks very tidy. Mr. Holman, the agent, told me, for which I will not answer, that they exported 15,000 quintals of dried fish. Besides this establishment with its four schooners, there are 11 fishing boats with which the other inhabitants fish. But this fishery is not very productive.

Fortune, June 13, 1871.

A bad anchorage, except for every small craft. Sheltered from southerly wind. In Roads there were 15 fishing schooners from Lamaline and other places, which had put in for shelter; they fish near Miquelon; had as yet little or no success; report caplin as having struck in. Before writing of Fortune, I must remark that at this place, as at others, we have great difficulty in determining the number of inhabitants, boats, &c., as no two people agree in their statements, being very vague in their ideas of quantity and numbers, therefore the captain reporting has often to judge for himself. The settlement seems to contain something short of 700 souls, presents a flourishing appearance, and seems more cultivated than other places. They have cattle and sheep, get a fair catch of fish; they are mostly Protestants. There were many sick suffering from the effects of cold, to whom Dr. Gabriel, there being no medical man here, afforded some relief. This settlement has some trade with St. Pierre. It is not visited by game or wild fowl. They have about 28 schooners, and over 50 boats. They fish now at Grand Bank, and off the coast between this and Dantzig Point; later many go to the fishery in the Straits of Belle Isle. They are averse to bultows, for reason assigned under the head of Pass Island. They complain of French encroachments near Dantzig Point, saying, for truth of which I will not answer, that as many as 50 boats fish within colonial bounds—this must be inquired into.

14th June, on passage to St. Mary's, visited Dantzig Point; though there were many colonial schooners and boats fishing off the point, I saw no French boats so employed.

St. Mary's Harbour, June 15, 1871.

This is a well-to-do settlement, the entire population of apparently 700 souls, with the exception of one family being Roman Catholics. They are ministered to by Father Ryan. They have a good stock of cattle, and cultivate nearly sufficient ground for their own use. They trade and barter principally with St. John's houses. The health of the settlement is good. In winter they get a good supply of deer and wild fowl; now and then bears and seals are killed. They catch here and in the neighbourhood, cod, a

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few halibut, also herrings and caplin; the two latter are used for bait. They report herring fishery a over, and that of caplin as beginning. They fish for cod with nets, bultows, and hook and line. They report that those who have nets can get from 1,000 to 1,200 quintals in the season, and the men with hook and line, from 50 to 80 quintals. The catch as yet has not been good, but now that caplin have struck in, if fine weather comes, they hope for much success. It is very difficult to arrive at the number of craft they have, as the accounts here are more conflicting than usual, but from what I could see they must have about 60 large boats, and over 30 schooners under 30 tons. When H.M.S. 'Danae' anchored, there were 55 schooners in the Roads; we passed 33, and they said many vessels were up the bay fishing. I heard it is no uncommon thing for 400 craft to be collected here. They have no complaints to urge against foreign fishermen; they seldom come here. Though using bultows, with many hundreds of hooks, they, like the settlers at other ports, consider them as destructive to the mother fish. St. Mary's Harbour, on the whole, gives the impression of being thriving and prosperous. The drying establishments here are vaster than at any place H.M.S. 'Danae' has visited. The system of bag-net fishing for cod must, in my opinion, be very injurious, as they kill enormous quantities of spawning fish; the spawn, representing some millions of eggs, was heaped up and salted, being exported in casks to the Mediterranean, and amongst other uses, it is used as bait for sardines.

G. MALCOLM, Captain and Senior Officer.

Enclosure 4 in
No. 9.

Enclosure 4 in No. 9.

Governor HILL, C.B., to Captain MALCOLM, R.N.

(No. 60.)

SIR,

Government House, Newfoundland, June 20, 1871.

I have the honour to acknowledge the receipt of your letter of the 18th instant, transmitting a report of the Newfoundland fisheries between the 31st May and 16th June, 1871, and stating that you had been ordered to give the command of the 'Danae' to Captain W. S. Brown, who succeeds you as senior naval officer on this station.

I beg to thank you for the very interesting report upon the Newfoundland fisheries, on which you have evidently bestowed much thought and care, and I have to express my appreciation of the manner in which you have carried out the investigation of the circumstances connected with the alleged encroachments of American fishermen in the neighbourhood of Fortune and Hermitage Bays, on the south coast of Newfoundland.

Captain George John Malcolm, R.N.,
&c. &c. &c.
H.M.S. 'Danae.'

I have, &c.,
(Signed) STEPHEN J. HILL.

No. 10.

No. 10.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 51.)

Government House, Newfoundland, July 4, 1871.

MY LORD,

(Received July 26, 1871.)

I HAVE the honour to inform your Lordship that on the 1st inst. I sent a telegram to your Lordship as follows, viz.:—"In reference to terms of Washington Treaty is it understood that fish oil includes seal oil? Explanation will oblige this Government." And on the 3rd inst. received the following reply:—"I am of opinion that the term fish oil does not include seal oil. (Signed) EARL KIMBERLEY."

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

No. 11.

No. 11.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 55.)

Government House, Newfoundland, July 14, 1871.

(Received August 8, 1871.)

MY LORD,

(Answered, No. 38, September 3, 1871, page 156.)

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 28,* of the 17th June, enclosing copies of the treaty signed at Washington on the 8th May by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States; of the Instructions to Her Majesty's High Commissioners, and Protocols of the Conferences held by the Commission; of two notes which have passed between Sir E. Thornton and Mr. Fish; and of a Despatch—of

* Page 154.

17th June—which your Lordship has addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents.

2. I observe in the copy now before me of the Despatch of Mr. Secretary Fish (8th May, 1871) to Sir E. Thornton, an omission which bears very materially upon the peculiar interests of this colony, respecting the immediate acquiescence of the Government of Newfoundland in the opinions of Her Majesty's Government as regards the prompt admission of American fishermen to the provisional use—as far as this Island is concerned—of the privileges granted to them by the Treaty.

3. Respecting the immediate admission of American fishermen into British waters Mr. Fish writes:—"As several articles of the Treaty which has been signed this day relating to the admission of citizens of the United States to fish within the territorial waters of Her Britannic Majesty on the coast of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place," &c. &c. And again, in writing of the restoration to British subjects of certain duties by Congress, Mr. Fish observes, "That any duties which may have been collected on and after the first day of July next on fish oil and fish (except fish of the inland lakes and of the rivers falling into the same, and except fish preserved in oil), the produce of the fisheries of the Dominion of Canada and of Prince Edward Island, shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British Possessions of fish oil and fish (with the like exception) being the produce of the fisheries of the United States." The word "Newfoundland," included in the first extract from Mr. Fish's Despatch, is excluded from the latter, and if intentional the omission in question may act detrimentally towards the future acceptance of the terms of Treaty by the Colonial Legislature.

4. My Ministers, however, to whom I have communicated the whole of the important documents respecting the Washington Treaty, are willing to consider this omission as unintentional, and although anxious to obtain information on this point, have resolved to comply at once with the wishes of Her Majesty's Government as regards the admission, during the present season, of citizens of the United States to the provisional use of the privileges granted to them by the Treaty, so far as lies within the jurisdiction of the Government of Newfoundland to bestow.

5. There is another point in reference to the correspondence relative to the Treaty to which my Advisers invite your Lordship's attention. The copy of Sir E. Thornton's reply (9th May, 1871) to Mr. Fish contains, in connection with the repayment of import duties by Congress, the following words:—"The above-mentioned Colonial Governments, who would be asked to grant the immediate and certain right of fishing within the territorial waters of those colonies, whilst the return of the import duties on fish from the 1st July next promised by the United States is prospective and contingent on the action of Congress." The words "on fish oil"—following the words "that any duties which may have been collected on and after the first day of July next"—in Mr. Fish's note to Sir E. Thornton are in the reply thereto (from which the above extract is taken) omitted. The Executive Council beg to be advised on this head.

6. I beg to transmit to your Lordship copy of a Minute of Council, signifying assent on the part of the Government of Newfoundland to the request contained in your Lordship's Despatch, No. 28, of 17th June, respecting the Treaty of Washington.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

July 7, 1871.

Enclosure in No. 11.

COPY OF MINUTE OF COUNCIL.

Enclosure in
No. 11.

Council Room, July 7, 1871.

In compliance with the request made by Earl Kimberley in his Despatch of 17th June to his Excellency the Governor, it is agreed to accede thereto.

True Copy:

STEPHEN J. HILL.

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No. 12.

No. 12.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 57.)

Government House, Newfoundland, July 17, 1871.

(Received August 8, 1871.)

(Answered, No. 46, October 24, 1871, page 157.)

MY LORD,

July 14, 1871.

1. As the legislation contemplated in the Treaty of Washington does not, in your Lordship's opinion (received by telegram on the 3rd instant), embrace the consideration of seal oil under the head of fish oil, as an article to be admitted free of duty from the ports of the British North American Possessions by the American Government into the ports of the United States, I have the honour to transmit herewith to your Lordship copy of a Minute of Council, which invites the attention of Her Majesty's Government to the seal fishery in relation to Newfoundland, alludes to the possible consequences which might ensue from the prosecution of this fishery hereafter as a right by citizens of the United States, and respectfully suggests the expediency of conceding to America the right of taking seals in the territorial waters of Newfoundland, and of making outfit in the ports thereof, on the condition that the United States' Government admit the produce of the seals of this Colony into their ports duty free.

2. Should your Lordship consider the present moment a favourable opportunity to bring the points raised in this Despatch under the notice of the American authorities, the favourable consideration of the subjects in question by the Government of the United States would greatly facilitate the acceptance of the Washington Treaty by the Colonial Legislature when that important instrument is referred by my Advisers to the Assembly in February next.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

Enclosure in
No. 12.

Enclosure in No. 12.

MINUTE OF EXECUTIVE COUNCIL, NEWFOUNDLAND.

Council Room, July 14, 1871.

As the Washington Treaty makes no reference to the seal fishery, and as seal oil, the property of Her Majesty's subjects of this Colony, is chargeable with a duty of 20 per cent. on its value in the United States, not payable on the oil of seals taken by American citizens, Newfoundlanders claim and contemplate the exercise of the exclusive right of taking seals to the extent of three (3) miles from this and the islands adjacent thereto. This Government, therefore, respectfully submits for the consideration of Her Majesty's Government the possible consequences which might ensue from the exercise of this right, should disputes arise between the citizens of the United States and Her Majesty's subjects of Newfoundland, were the rights of the latter to be invaded by American citizens, or doubts occur as to distances, both parties being in possession of fire-arms.

The number of men on board of the vessels engaged in this fishery varies from 50 to 200 men each, the steamers taking a larger number than the sailing vessels; and there are not less than 8,000 of our men so engaged.

The Government would respectfully suggest that to avoid such possible, indeed such probable collisions, whether it would not be desirable that Newfoundland should concede to American citizens the right of taking seals in her territorial waters, subject to the laws that are to govern Her Majesty's subjects residing in this Colony engaged in the prosecution of the fisheries, and also the privilege of making their outfits in the ports of this country, and manufacturing their seals in like manner as British subjects, on the condition that the United States' Government admit the produce of the seals of this Colony into their ports duty free, in like manner as they have agreed by the Treaty to admit fish and fish oils.

The compact fields of ice on which the seals whelp, extending over some hundreds of miles of the sea bordering the coasts, occasionally affording openings, and at other times closing, would render it utterly impracticable for the ships of war of either nation to pass through, and prevent such collisions.

On reference to the 18 Victoria, cap. 3, giving effect to the Reciprocity Treaty of 1855, it will be seen that "products of fish, and of all other creatures living in the water," were under the Treaty admitted free of duty into the ports of the United States, and our seal oil was consequently placed on the same footing as the seal oil manufactured by the citizens of the United States.

No. 13.

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No. 13.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 61.)

Government House, Newfoundland, July 21, 1871.

(Received August 3, 1871.)

MY LORD,

(Answered, No. 36, August 17, 1871, page 156.)

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 29,* of the 20th June, communicating to me the opinion of the Crown Law Officer respecting the prosecution of the seal fishery from the ports of this Colony by vessels of foreign nations. Page 154.

2. With respect to the legislation of the restrictive character pointed at by the Legislative Council in their address to me of the 21st April, my Ministers wish me to inform your Lordship that the Executive Council did not approve of the enactment suggested in the address; on the contrary, the Government of Newfoundland have refrained from taking any action to prohibit, by legislation or otherwise, the use of their territory for the purpose of the prosecution by foreigners of the seal fishery, and the manufacture of seals into oil, until the opinions of Her Majesty's Government on this question had been made known to them.

3. The suggestions contained in my Despatch, No. 57,† of the 17th July are respectfully offered by my Advisers with an earnest desire that the settlement of a matter of such importance as the prosecution of the seal fishery from the ports of this Colony by vessels of foreign nations may be arrived at in a manner agreeable to the views of the British and American Governments, and satisfactory as regards the interests of the Colony. † Page 150.

I have, &c.,
(Signed) STEPHEN J. HILL.

The Earl of Kimberley,
&c. &c. &c.

No. 14.

No. 14.

Governor HILL to The EARL OF KIMBERLEY.

(Confidential.)

Government House, Newfoundland, September 11, 1871.

(Received October 3, 1871.)

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Confidential Despatch of the 21st July last,‡ enclosing copy of a Despatch from Her Majesty's Ambassador at Paris, stating that he has reason to surmise that communications are going on between the United States' Legation and the French Government respecting the Island of St. Pierre, and its possible transfer to the United States. ‡ Page 156.

I have submitted the Despatch in question for the consideration of the Government of Newfoundland. My Responsible Advisers are of opinion that the transfer of the Island of St. Pierre to the United States would be fraught with very serious consequences to the trade of this Colony, and have requested me to transmit the enclosed Minute, which gives expression to the views of the Executive Council on this subject, for your Lordship's consideration. *September 7.*

I have, &c.,
(Signed) STEPHEN J. HILL.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 14.

Enclosure in
No. 14.

Council Chamber, September 7, 1871.

The Executive Council having had under their most careful consideration the Confidential Despatch of the Right Hon. the Earl of Kimberley, dated the 21st July, which his Excellency has been pleased to lay before them, beg leave to observe that the occupation of St. Pierre and Miquelon by the United States of America would, in the opinion of this Government, be fraught with very serious consequences to the large capital now employed by British merchants in the fisheries, the commerce, and the carrying trade of this Colony, and entail utter ruin on it as a British possession.

The subject involves questions wholly and especially for the consideration of the Imperial Government, apart from those which affect the resident population of the Colony, viz. how far the possession of St. Pierre by the United States of America would interfere with British policy and objects on this side of the Atlantic, or prejudice that supremacy which Her Majesty's navy now commands throughout the whole Gulf of the St. Lawrence.

This Government, nevertheless, avail themselves of the occasion offered them, respectfully and deferentially to observe, that were St. Pierre to become a colony of the United States, the Government of that country could, at a comparatively small cost, and without doubt would convert the spacious bay or roadsteads of the island into a safe harbour, sufficiently large to contain no small portion of her navy.

NEWFOUND- They could, at the same time, fortify the island, make it another Gibraltar, and the key of the Gulf of
LAND. St. Lawrence.

Such is the central position of St. Pierre in respect to the whole of the southern coast of Newfoundland, extending from Cape Race on the east to Cape Rae on the west—such is its contiguity to our best fishing grounds, and to the populous settlements scattered along the whole length of that coast, that it would secure to the American merchants advantages for extending their fisheries indefinitely, to the prejudice of our fishermen, and by means of a contraband traffic, which would be next to impossible for this Government to suppress or materially to check, to monopolize the commerce of the whole of that section of the Colony, now almost exclusively carried on by British merchants.

The most prominent among the advantages which the American merchants and traders at St. Pierre would possess are that of importing from the United States their manufactures and other commodities duty free, and of the receipt of bounties usually granted by the Government of that country to those engaged in their fisheries; whereas the expenses of this Government, and other requirements of the Colony, necessitate the imposition of import duties on all such goods to raise the requisite revenue wherewith to meet those expenses; and such are the circumstances of this Colony, that there are no other sources whence to derive a revenue.

Another matter for the especial consideration of the Imperial Government is, how far it would be politic on the part of Great Britain to permit a United States' Colony (if to be avoided) to be placed in such close proximity to our people to enable them to propagate annexation views among a devotedly loyal people.* We say loyal, because at present they are loyal, and have ever been so in all past time; the inhabitants of Newfoundland are almost to a man the descendants of the people of the United Kingdom, or natives thereof. All their sympathies are with the mother-country, as are likewise their business operations, and their most wealthy merchants reside there.

As to the desirability of this Colony making the purchase of St. Pierre and Miquelon, should the French be disposed to sell them for a price, this Government regret to say, that desirable as it might be, the financial circumstances of the Colony are such that it possesses no means whatever wherewith to make the purchase.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 2.)

SIR,

Downing Street, January 17, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 85,† of the 26th of November, forwarding a copy of Commander Pasley's Report on the fisheries of Newfoundland and Labrador for the year 1870.

With reference to the remarks of Commander Pasley at page 7 of his Report, respecting the injury caused to the fisheries by the use of the bultow, I have the honour to enclose‡ for your information a copy of the Report of the Commissioners appointed to inquire into the Sea Fisheries of the United Kingdom presented to Parliament in 1866, which will be found to contain valuable information with respect to destructive methods of taking fish.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 2.

No. 2.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(Confidential.)

SIR,

Downing Street, February 4, 1871.

I HAVE the honour to transmit to you a copy of a Despatch which I have addressed to the Governor-General of Canada on points connected with the North American fisheries.

From this Despatch you will observe that Her Majesty's Government attach great importance to receiving accurate information as to the practice which prevailed between

† Vide Papers printed confidentially, Feb. 1871, page 60.

‡ Report of the Commissioners appointed to inquire into the Sea Fisheries of the United Kingdom. Presented to Parliament, 1866, vols. i., ii.

Confidential. Feb. 1, 1871. (Canada), page 94.

the date of the Convention of 1818, and the ratification of the Reciprocity Treaty in 1854, with respect to the admission of United States' fishing vessels to the ports of the British possessions in North America for the purposes of trading, transshipping fish, &c. NEWFOUND-
LAND.

The three heads on which information is especially desired are mentioned in the concluding paragraphs of this Despatch, and I request that you will supply me with this information so far as the Colony under your Government is concerned.

Governor Hill, C.B., I have, &c.,
&c. &c. &c. (Signed) KIMBERLEY.

No. 3.

No. 3.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 11.)

SIR,

Downing Street, April 22, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 17,* of the 18th of March, enclosing copies of a correspondence which had passed between the Provincial Secretary of Nova Scotia, and Mr. Bennett, the Chief Minister of your Government, relative to a Resolution passed in the Nova Scotian House of Assembly, having reference to the fisheries. * Page 133.

I think you were quite right in approving Mr. Bennett's determination not to interfere in this matter, and I observe with pleasure the good feeling which Mr. Bennett manifests towards the Imperial Government.

Governor Hill, C.B., I have, &c.,
&c. &c. &c. (Signed) KIMBERLEY.

No. 4.

No. 4.

(Confidential.)

The EARL OF KIMBERLEY to Governor HILL, C.B.

SIR,

Downing Street, April 28, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, marked Confidential, of the 24th ult.,† in answer to my Despatch of the 4th of February,‡ on points connected with the North American fisheries. † Page 136.
‡ Page 152.

I request that you will also convey to the Chief Justice of Newfoundland my thanks for the trouble he has taken in furnishing me with the information I desired.

Governor Hill, C.B., I have, &c.,
&c. &c. &c. (Signed) KIMBERLEY.

No. 5.

No. 5.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 17.)

SIR,

Downing Street, May 5, 1871.

I HAVE received your Despatch, No. 19, of the 29th March,§ forwarding a copy of a letter from the President of the Chamber of Commerce of Newfoundland, complaining of the alleged illegal prosecution of the seal fishery by an American vessel named the 'Montecello,' in the seas adjacent to Newfoundland, together with a copy of a letter from the Attorney-General to the Premier, relative to the same subject. § Page 134.

The questions raised in your Despatch will receive my attention, and meanwhile I am of opinion that your Government have acted wisely in not initiating any measures at present on a subject which is beset by many doubts.

Governor Hill, C.B., I have, &c.,
&c. &c. &c. (Signed) KIMBERLEY.

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No. 6.

The EARL OF KIMBERLEY to Governor HILL, C.B.

No. 6.

(No. 22.)

SIR,

Downing Street, June 2 1871.

* Page 138.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 26,* of the 21st of April, forwarding an Address, dated the 17th of April, from the Legislative Council of Newfoundland, for copies of the correspondence between the Home Government and yourself on the subject of the prosecution of the seal fishery by foreign vessels. I approve of the course taken by you in regard to this Address.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 7.

No. 7.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 28.)

SIR,

Downing Street, June 17, 1871.

† These Par-
liamentary
Papers are at-
tached at the
end of this
Correspond-
ence.
‡ Page 99.

I HAVE the honour to enclose herewith copies of the Treaty signed at Washington on May 8, by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States;—of the Instructions to Her Majesty's High Commissioners,—and Protocols of the Conferences held by the Commission;—of two Notes which have passed between Sir E. Thornton and Mr. Fish;†—and of a Despatch of even date herewith,‡ which I have addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents.

With reference to that part of my Despatch to Lord Lisgar, which bears upon the proposed arrangement for the immediate provisional admission of the United States' fishermen to the Colonial fisheries, I have to observe, that Her Majesty's Government are aware that under this Treaty, as under the Convention of 1854, Newfoundland is placed in a somewhat different position to that of the other Colonies interested; but they would strongly urge upon the Government of Newfoundland that it is most desirable for the general interest of the Empire that the same course should be pursued as in 1854, and that the application made by the United States' Government should be acceded to by Newfoundland, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 8.

No. 8.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 29.)

SIR,

Downing Street, June 20, 1871.

§ Page 139.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 31,§ of the 28th of April, forwarding an Address from the Legislative Council of Newfoundland, in reference to the prosecution of the seal fishery from the ports of the Colony by vessels of foreign nations.

I have been in communication with the Law Officers of the Crown on this question, and I am advised that seals are not fish, and that persons capturing seals are not fishermen within the meaning of the Treaty of 1818. It follows that the provisions of that Treaty and of the Statute 59 Geo. III., cap. 38, have no application to such persons, conferring upon them no rights, and affecting them with no liabilities. It also follows that the Colony is entitled to assert its territorial rights against them to the same extent as it would have been entitled if no such Treaty had been made.

But though the Colony may be entitled to prohibit by legislation the use of their territory for the purpose of the prosecution by foreigners of the seal fishery and the manufacture of seals into oil, Her Majesty's Government would view with great regret any legislation of the restrictive character pointed at by the Legislative Council in their Address of the 21st of April.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 9.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 30.)

SIR, Downing Street, June 28, 1871.
 WITH reference to my Despatch, No. 28,* of the 17th of June, forwarding to you a copy of the Treaty recently concluded at Washington with the Government of the United States, I have the honour to transmit to you, for your information and for that of your Government, copies of the correspondence noted in the margin between the Admiralty and this Department, respecting the suspension of instructions to the British naval officers employed in the protection of the North American fisheries.

Governor Hill, C.B.,
 &c. &c. &c.

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

NEWFOUND-
 LAND.
 ————
 No. 9.
 * Page 154.
 Admiralty,
 May 12, 1871,
 page 128.
 C. O. to Ad-
 miralty, May
 24, 1871,
 page 129.
 Admiralty,
 June 1, 1871,
 page 129.
 Admiralty,
 June 6, 1871,
 page 129.
 C. O. to Ad-
 miralty, June
 10, 1871,
 page 130.
 C. O. to Ad-
 miralty, June
 12, 1871,
 page 131.

No. 10.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 31.)

SIR, Downing Street, July 3, 1871.
 I SENT on this day, at 6 P.M., a Telegraphic Despatch to you in the following words:—"I am of opinion that the term fish oil does not include seal oil."

Governor Hill, C.B.,
 &c. &c. &c.

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

No. 10.

No. 11.

(No. 32.) The EARL OF KIMBERLEY to Governor HILL, C.B.

SIR, Downing Street, July 6, 1871.
 WITH reference to my Despatch, No. 30,† of the 28th of June, enclosing copies of a correspondence with the Board of Admiralty respecting the instructions to the officers in command of Her Majesty's ships engaged in the protection of the North American fisheries, I have the honour to transmit to you, for your information, a copy of a Despatch received through the Admiralty from Vice-Admiral Fanshawe, reporting the orders given by him on the subject.

Governor Hill, C.B.,
 &c. &c. &c.

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

No. 11.
 † Supra. 11
 June 13, 1871.
 Vide Enclo-
 sure to Admi-
 ralty Letter of
 the 1st July,
 1871,
 page 131.

No. 12.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 34.)

SIR, Downing Street, July 19, 1871.
 I HAVE received your Despatches of the numbers and dates mentioned in the margin, enclosing correspondence which had passed on the subject of certain alleged encroachments on the fishing grounds on the southern coasts of Newfoundland.

These proceedings do not seem to call for any action on the part of Her Majesty's Government.

Governor Hill, C.B.,
 &c. &c. &c.

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

No. 37,
 May 20, 1871,
 page 141.
 No. 43,
 June 6, 1871,
 page 142.
 No. 49,
 June 2^o 1871,
 page 143.

NEWFOUND-
LAND.

No. 13.

No. 13.

The EARL OF KIMBERLEY to GOVERNOR HILL, C.B.

(Confidential.)

SIR,

Downing Street, July 21, 1871,

July 10, 1871.
Enclosure in
Foreign
Office, July
12, 1871,
page 161.

I TRANSMIT to you a copy of a Despatch from Her Majesty's Ambassador at Paris which has been forwarded to me by Earl Granville, stating that he has reason to surmise that communications are going on between the United States' Legation and the French Government respecting the Island of St. Pierre, and its possible transfer to the United States.

If it is the fact that the French Government are prepared to part with this Island, it would appear to be worth while for your Government to consider the expediency of endeavouring to obtain it for the Colony of Newfoundland.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 14.

No. 14.

The EARL OF KIMBERLEY to GOVERNOR HILL, C.B.

(No. 36.)

SIR,

Downing Street, August 17, 1871.

* Page 151.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 61,* of the 21st of July, respecting the question of the prosecution of the seal fishery from the ports of Newfoundland by vessels of foreign nations.

I learn with satisfaction that your Government do not intend to take any action to prohibit the use of their territory for the purpose of the prosecution by foreigners of the seal fishery, and the manufacture of seals into oil, until the opinion of Her Majesty's Government is made known to them.

† Page 150.

I am in communication with the Secretary of State for Foreign Affairs on the subject of the arrangement proposed in your Despatch, No. 57,† of the 17th of July, relating to this question.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 15.

No. 15.

The EARL OF KIMBERLEY to GOVERNOR HILL, C.B.

(No. 38.)

SIR,

Downing Street, September 3, 1871.

† Page 148.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 55,† of the 14th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington, so far as concerns the Colony under your Government.

Her Majesty's Government have learnt with much satisfaction that the Newfoundland Government have so willingly acceded to their wishes in this respect.

I have drawn Lord Granville's attention to the two questions raised in your Despatch on the correspondence which passed on this subject between Sir Edward Thornton and Mr. Fish.

Governor Hill, C.B.,
&c. &c. &c.

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

NEWFOUND-
LAND.
No. 16.

No. 16.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 39.)

SIR,

Downing Street, September 5, 1871.

WITH reference to my Despatch, No. 38,* of the 3rd instant, in answer to yours of the 14th of July,† relating to the Treaty of Washington and to the fisheries, I have the honour to transmit to you, for your information and guidance, a copy of a letter from the Foreign Office on the subject of your Despatch, and relating also to a question raised in a Despatch received from the Lieut.-Governor of Prince Edward Island.

* Page 156.
† Page 148.
Foreign
Office Aug.
31, 1871,
page 164.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 17.

No. 17.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 46.)

SIR,

Downing Street, October 24, 1871.

I REFERRED to the Secretary of State for Foreign Affairs a copy of your Despatch, No. 57,‡ of the 17th of July, enclosing a Minute of your Executive Council suggesting that the right of taking seals in Newfoundland waters, and of making outfits in the ports of the Island, should be conceded to the United States, on condition that the United States' Government should admit the produce of the seals of Newfoundland into their ports duty free.

‡ Page 150.

I have been informed in reply that the matter has been brought to the notice of the United States' Government, and will receive their consideration, but that the proposal is one which needs Congressional approval before it can be definitively accepted by the Department of State.

Governor Hill, C.B.,
&c. &c. &c.

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

No. 18.

No. 18.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 47.)

SIR,

Downing Street, November 1, 1871.

WITH reference to your Despatch, No. 55,§ of the 14th of July, and to my reply, No. 38,|| of the 3rd of September, respecting the fishery stipulations of the Treaty of Washington, I have the honour to transmit to you, for your information, a copy of a Despatch received through the Foreign Office, from Her Majesty's Chargé d'Affaires at Washington, respecting the omission of the word "Newfoundland" in Mr. Fish's note of May 8th last, on this subject.

§ Page 148.
|| Page 156.
Enclosures in
Foreign
Office Letter
of October 26,
1871,
page 166.

Governor Hill, C.B.,
&c. &c. &c.

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

NEWFOUND-
LAND.

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND
THE FOREIGN OFFICE.

No. 1.

No. 1.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, March 1, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, the enclosed copy of a letter received from Col. Geo. J. Haly, having reference to the Newfoundland fisheries.

Feb. 18, 1871.

The Right Hon. E. Hammond,
&c. &c. &c.

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

MY LORD,

12, St. Stephen's Road, Shepherd's Bush, February 18, 1871.

As one having property, and being much interested, in Newfoundland and the staple of its commerce, its fisheries, I beg to offer the following observations, which I trust may be considered opportune at the present moment.

It is not my intention to here enter on any lengthy representation regarding the fact that the Newfoundland fisheries are acknowledged to have very largely contributed to the maritime superiority of Britain and our navy's supremacy, more particularly in the days of Nelson, serving, as these fisheries did, as the great and truly efficient nursery for rearing and training hardy and skilful seamen, so essential to England's prosperity.

At the present time, the British fisheries in Newfoundland are in a sad state of decadence, owing principally to having to contend against the unfair and unjust monopolizing principles on which the French and Americans carry on their piscatory enterprises in those parts, supported by large state bounties. Further, both of these nations have made unwarrantable encroachments, the French in particular having taken illegal possession of some of the finest fishing grounds along the coast of Newfoundland; whilst the Americans, with their ever keen eye to national interests, together with the monetary and political value of these fisheries, it is well known do not hesitate to take every advantage that may tend to the detriment of British interests in the working of this great and profitable field of marine enterprise. The practice in seamanship, however, still afforded, especially by the employment of ships of some burden, in the arduous and daring seal fisheries during the early spring, previous to the summer cod fishing, render this Colony highly valuable for duly preserving and inciting the energies and professional qualities belonging by nature to Englishmen, only requiring practical opportunities for developing into the true-bred British sailor.

The purport of this communication is to suggest the advisability, if possible, of the British Government availing itself of the opportunity, which will most likely offer, of recovering by fair money payments the French settlements on the coast of Newfoundland, which France, in her present monetary position, may be only too glad of exchanging for what she now needs more, or might not only be found willing, but even anxious, to rid herself of these distant possessions for money to meet the unforeseen exorbitant demands at present preferred against her.

In doing myself the honour of submitting these suggestions, I need scarcely add that in a commercial point of view the profits that would accrue to Britain from such a measure would be incalculable, securing as it would the principal part of the salt fish trade with most of the continental Roman Catholic countries and the West Indies, to say nothing of the advantage of repossessing some of the best fishing grounds in the world, with healthy and convenient localities in which to settle some of our teeming and overplus population.

Although Newfoundland has heretofore been chiefly prized for its fisheries, yet it may be worth mentioning that the mineral resources of the Colony are known to be great. Indeed, a copper mine now being worked on the west coast is of high value and very great extent, the productiveness of which, however, is much marred by the unwarrantable demand of a royalty on the mineral by the French for the transit through what they choose to term their territory. But this being a topic, among others, which formed the subject upon which a deputation lately from St. John's, Newfoundland, waited on one of your Lordship's predecessors, I shall refrain here from further notice of this important matter.

It may likewise be worthy of note that the agricultural capabilities of the island are much more than is generally supposed. Some of the inland tracts are rich in alluvial soil, producing peculiarly fine pasturage, which, together with extensive forests, render the interior of Newfoundland well suited for emigrating settlers from this country.

The cause of these advantages not having been more generally utilized has been a mistaken policy on

the part of the colonial authorities, merchants, &c., wishing to monopolize the whole energies of the people on what most interested themselves—the several fisheries. This policy, however, originated very many years ago, with the view of encouraging these fisheries as a nursery of British seamen.

Trusting that the importance of the subject treated on in this communication will be a sufficient apology for the liberty I have taken in trespassing on your valuable time,

I have, &c.,
(Signed) GEO. J. HALY, Colonel.

The Right Honourable the Secretary of State
for the Colonies.

NEWFOUND-
LAND.

No. 2.

No. 2.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, April 27, 1871.

I AM directed by the Earl of Kimberley to transmit to you for communication, if Lord Granville thinks it advisable, to the High Commission at Washington, the accompanying copy of a Despatch from the Governor of Newfoundland, forwarding a copy of a letter from the Chamber of Commerce of the Colony complaining of the alleged illegal prosecution of the seal fishery by an American vessel named the 'Montecello,' in the seas adjacent to Newfoundland, together with a copy of a letter from the Colonial Attorney-General to the Premier relative to the same subject.

Lord Kimberley desires me to enclose, for Earl Granville's information, the copy of a Despatch which he proposes, with Lord Granville's concurrence, to address to the Governor of Newfoundland on the subject.

I am, &c.,
(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

Governor,
No. 19,
Mar. 29, 1871,
page 134.

Sec. of State,
No. 17, May 5,
1871,
page 153.

No. 3.

No. 3.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, May 4, 1871.

IN reply to your letter of the 27th ult.,* enclosing a copy of a Despatch from the Governor of Newfoundland respecting the alleged illegal seal fishery in the seas adjacent to that State by an American vessel called the 'Montecello,' I am directed by Earl Granville to acquaint you that his Lordship concurs in the Despatch which the Earl of Kimberley proposes to address to the Governor of Newfoundland upon the subject.

I am to add that copies of your letter and of its enclosures will be forwarded to Her Majesty's High Commissioners at Washington.

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

The Under Secretary of State,
Colonial Office.

* Supra.

No. 4.

No. 4.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, May 27, 1871.

WITH reference to Sir F. Rogers' letter of the 27th of April,* and to your reply of the 4th inst.,† respecting the alleged illegal fishery in the seas adjacent to Newfoundland by an American vessel called the 'Montecello,' I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further Despatch from the Governor of Newfoundland, respecting the prosecution of the seal fishery from the ports of that Colony by foreign vessels.

Lord Kimberley desires me to state that he has communicated the correspondence on this question to the Law Officers of the Crown, and has requested to be favoured with their opinion.

* Supra.

† Supra.

No. 31,
Apr. 28, 1871,
page 139.

NEWFOUND-
LAND.

1. Whether seals are "fish," and persons conducting seal fishery "fishermen" within the meaning of the Treaty of 1818.

2. Whether the proceedings of the United States' fishermen in the ports and harbours of Newfoundland, which are objected to by the Legislative Council and Chamber of Commerce of that Colony, are an infringement of the Treaty of 1818 and of the Imperial Act, 59 Geo. III., c. 38.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 5.

No. 5.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, June 30, 1871.

WITH reference to my letter of the 27th of May, informing you that the Law Officers of the Crown had been consulted on the question of the prosecution of the seal fishery from the ports of Newfoundland by foreign vessels, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of their opinion in reply.

I am also to enclose a copy of a Despatch addressed to Governor Hill on this subject.

The Under Secretary of State,
Foreign Office.

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

Law Officers
June 8, 1871.
Despatch to
Gov. Hill,
No. 29, of
June 20, 1871,
page 154.

Enclosure in
No. 5.

Enclosure in No. 5.

MY LORD,

Temple, June 8, 1871.

We are honoured with your Lordship's commands signified in Mr. Holland's letter of the 27th ult., stating that he was directed to transmit to us the enclosed copies of a correspondence with the Governor of Newfoundland, in reference to the prosecution of the seal fishery from the ports of that Colony by vessels of foreign nations. That your Lordship requested that we would take these papers into our consideration, and furnish your Lordship with our opinion upon the following questions:—

1. Whether seals are 'fish,' and persons conducting seal fishery 'fishermen,' within the meaning of the Treaty of 1818?

2. Whether the proceedings of United States' fishermen in the ports and harbours of Newfoundland which are objected to by the Legislative Council and Chamber of Commerce of that Colony, are an infringement of the Treaty of 1818, or of the Imperial Act, 59 Geo. III., c. 38?

In obedience to your Lordship's commands, we have the honour to Report—

That we are of opinion that seals are not fish, and that persons capturing seals are not fishermen within the meaning of the Treaty of 1818. It follows that the provisions of that Treaty, and of the Statute 59 Geo. III., cap. 38, have no application to such persons, conferring upon them no rights, and affecting them with no liabilities. It also follows, that the Colony is entitled to assert its territorial rights against them, to the same extent as it would have been entitled if no such Treaty had been made.

The Earl of Kimberley, K.G.,
&c. &c. &c.

We have, &c.,
(Signed) R. P. COLLIER,
J. D. COLERIDGE,
TRAVERS TWISS.

No. 6.

No. 6.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, July 3, 1871.

I AM directed by the Earl of Kimberley to transmit to you the copy of a telegram* which has been received from the Governor of Newfoundland, raising a question whether the words fish oil in the Treaty of Washington include seal oil, and to request that you will lay the same before Earl Granville for his consideration.

Lord Kimberley proposes, with the concurrence of Lord Granville, to return the following answer.

"I am of opinion that the term fish oil does not include seal oil."

* Telegram,
July 1, 1871,
page 143.

As bearing upon this question, I am to observe that the Law Officers of the Crown reported very recently that seals were not fish within the meaning of the Treaty of 1818. NEWFOUND-
LAND.

A copy of this Report was forwarded to the Foreign Office on the 30th June.

The Under Secretary of State, I am, &c.,
(Signed) H. T. HOLLAND.
Foreign Office.

No. 7.

No. 7.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, July 3, 1871.
IN reply to your letter of this day's date, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs in the answer which it is proposed to return to the question raised by the Governor of Newfoundland as to whether the words "fish oil" in the Treaty of Washington include "seal oil."

The Under Secretary of State, I am, &c.,
(Signed) E. HAMMOND.
Colonial Office.

No. 8.

No. 8.

The FOREIGN OFFICE to the COLONIAL OFFICE.

(Confidential.)
SIR, Foreign Office, July 12, 1871.
I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Her Majesty's Ambassador at Paris, stating that he has reason to surmise that communications are going on between the United States' Legation at Paris and the French Government respecting the Island of St. Pierre, and its possible transfer to the United States. *No. 557,
Confidential.*

The Under Secretary of State, I am, &c.,
(Signed) E. HAMMOND.
Colonial Office.

Enclosure in No. 8.

Enclosure in
No. 8.

No. 857.—Confidential.)
(MY LORD, Paris, July 10, 1871.
I have had some reason to surmise that communications may be going on between the United States' Legation here and the French Government respecting the Island of St. Pierre, and that possibly the Government of the United States may have conceived the idea of purchasing this Island.
This is not more than a conjecture, but, nevertheless, I mention it to your Lordship, because it may be worth while to consider what effect upon the Imperial and Colonial interests of Great Britain might be produced by a transfer of the French Islands on the south coast of Newfoundland to the United States.

The Earl Granville, K.G., I have, &c.,
(Signed) LYONS.
&c. &c. &c.

No. 9.

No. 9.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, July 28, 1871.
I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, copies of correspondence enclosed in Despatches which have been received from the Governor of Newfoundland relating to certain alleged encroachments on the fishing grounds on the south coast of the Colony. Lord Kimberley has informed *No. 37,
May 20, 1871,
page 141.
No. 43,
June 6, 1871,
page 142.
No. 49,
June 23, 1871,
page 143.*

NEWFOUND-
LAND.
—
the Governor that these proceedings do not seem to call for any action on the part of Her Majesty's Government. I am to request that these enclosures, which are in original, may be returned to this Department.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 10.

No. 10.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, August 5, 1871.

Admiralty,
July 27, 1871,
page 167.

I AM directed by Earl Granville to transmit to you a copy of a letter from the Admiralty, in enclosing, in original to be returned, copies of a Despatch from Vice-Admiral Fanshawe, and Report from Captain Malcolm, respecting the alleged encroachments of American fishermen on the British fisheries; and I am to request that, in laying the same before the Earl of Kimberley, you will call his Lordship's attention to the nature of the complaints preferred against the American fishermen.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ODO RUSSELL.

No. 11.

No. 11.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, August 15, 1871.

* Supra.

I HAVE laid before the Earl of Kimberley your letter of the 5th inst.,* enclosing copies of correspondence received from the Board of Admiralty on the subject of the alleged encroachments of American fishermen on the British fisheries.

F. O., Aug. 5,
1871, supra.

† Page 161.

I am directed by his Lordship to return the papers as requested, and to observe that these encroachments would appear to be of the same unimportant character as those previously reported by the Governor of Newfoundland in the correspondence communicated to the Foreign Office in the letter from this office of 28th ult.,† and that the reply to the Governor, of which the terms were then stated, would seem to dispose sufficiently of these cases.

The Under Secretary of State,
Foreign Office.

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

No. 12.

No. 12.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, August 19, 1871.

‡ Page 160.

No. 61,
July 21, 1871,
page 151.

§ Page 150.

WITH reference to Mr. Meade's of the 30th of June,‡ enclosing a copy of a Despatch addressed to the Governor of Newfoundland in reference to the prosecution of the seal fishery from the ports of that Island by vessels of foreign nations, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of the reply which has been received from Governor Hill.

The Governor's Despatch, No. 57,§ of the 17th July, to which he refers is communicated to you in another letter of this day's date.

The Right Hon. E. Hammond.
&c. &c. &c.

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

No. 13.

No. 13.

COLONIAL OFFICE to FOREIGN OFFICE.

SIR,

Downing Street, August 19, 1871.

C. O. to F. O.,
July 3, 1871,
page 160.

WITH reference to the correspondence noted in the margin respecting a question asked by the Governor of Newfoundland with regard to the interpretation of the term "fish oil" in the Treaty of Washington, I am directed by the Earl of Kimberley to

transmit to you a copy of a Despatch, with its enclosure from Governor Hill, in which it is suggested that the right of taking seals in Newfoundland waters, and of making outfit in the ports, should be conceded to the United States, on condition that the United States' Government should admit the produce of the seals of Newfoundland into their ports duty free.

Lord Kimberley thinks the proposed arrangement would be highly desirable, and he would suggest that it should be proposed to the United States' Government, if Lord Granville should not see any objection.

The Right Hon. E. Hammond, I am, &c.,
&c. &c. &c. (Signed) ROBERT G. W. HERBERT.

NEWFOUND-
LAND.
F. O. to C. O.,
July 3, 1871,
page 161.
No. 57, July
17, 1871,
page 150.

No. 14.

No. 14.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, August 21, 1871.
With reference to the correspondence noted in the margin respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, copies of the enclosed Despatches received from the Governor of Newfoundland, and the Lieut.-Governor of Prince Edward Island, from which it will be seen that the Governments of these Islands agree to the admission to their respective inshore fisheries of the United States' fishermen during the present season.

I am also to enclose copies of the Despatches from the Secretary of State, to which these communications are replies.

The Despatch from the Governor of Newfoundland raises two questions on the correspondence which passed between Mr. Fish and Sir E. Thornton on the 8th and 9th of May last, copies of which were forwarded to this office in your letter of the 26th of that month.* Lord Kimberley requests that Lord Granville will enable him to give an explanation to the Governor on these points, and he would also be glad if his Lordship would inform him whether there is any objection to the proposal which it appears is to be made by the Government of Prince Edward Island in the event of the Acts to give effect to the Treaty being passed by the Colonial Legislatures for the appointment of a Representative from that Island to give information to the Commission which is to meet at Halifax under the 21st and 22nd Articles of the Treaty.

The Right Hon. E. Hammond, I am, &c.,
&c. &c. &c. (Signed) ROBERT G. W. HERBERT.

F. O. to C. O.,
May 26, 1871,
page 115.
C. O. to F. O.,
June 23, 1871,
page 118.
Newfound-
land, No. 55,
July 14, 1871,
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Prince Ed-
ward Island,
No. 59,
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page 181.
Secretary of
State to
Governor,
Newfound-
land, No. 28,
June 17, 1871,
page 154.
Sec. of State
to Prince Ed-
ward Island,
No. 22,
June 17, 1871,
page 189.

* Page 115.

No. 15.

No. 15.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, August 21, 1871.
With reference to my letter of this day's date,† forwarding copies of Despatches from the Governor of Newfoundland and the Lieut.-Governor of Prince Edward Island respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to enclose copies of Despatches which, with Earl Granville's concurrence, his Lordship proposes to forward to the Governors of those Islands by the mail of Friday next.

The Right Hon. E. Hammond, I am, &c.,
&c. &c. &c. (Signed) ROBERT G. W. HERBERT.

† Supra.
No. 38,
Sept. 3, page
156.
No. 32,
Sept. 3, page
191.

NEWFOUND-
LAND.

No. 16.

No. 16.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, August 31, 1871.

I AM directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship concurs in the Despatches to the Governor of Newfoundland and Lieutenant-Governor of Prince Edward Island respecting the admission of American fishermen to the inshore fisheries of those Islands, and of which drafts were enclosed in your letter of the 21st instant.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ODO RUSSELL.

No. 17.

No. 17.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, August 31, 1871.

* Page 163.

I HAVE laid before Earl Granville your letter of the 21st inst.,* enclosing copies of correspondence with the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island respecting the provisional admission of American fishermen to the inshore fisheries of those Islands; and I am in reply to request that you will state to the Earl of Kimberley that Lord Granville has no doubt that the Government of Newfoundland is right in assuming that the omission of the mention of Newfoundland in the passage in Mr. Fish's note to Sir E. Thornton, referred to, was unintentional.

Her Majesty's Chargé d'Affaires at Washington will, however, be instructed to call Mr. Fish's attention to the omission as being understood to be by inadvertence. His Lordship wishes the Government of Newfoundland to be informed that the intention of the two notes was that, pending reciprocal legislation, in return for the immediate provisional admission of American fishermen to the inshore fisheries, drawbacks should be granted on the import duties taken in the United States on the fish oil and fish which are to be hereafter admitted free for a term of years under the 21st Article of the Treaty.

I am to add that, as regards the desire expressed by the Government of Prince Edward Island that some person should be appointed to attend the Commission at Halifax, it appears to Lord Granville that it would not only be permissible, but highly desirable, that Prince Edward Island and the other Provinces should furnish the fullest information before the Commission as to the value of the inshore fisheries on their coasts.

The 24th Article of the Treaty provides that the Commissioners shall be bound to receive such oral or written testimony as either Government may present, and it will, consequently, be competent for the Government of Prince Edward Island to send to Halifax any person who may be selected as best capable of giving evidence on its behalf.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ODO RUSSELL.

No. 18.

No. 18.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, August 31, 1871.

† Page 162.

F. O., No. 36,
Aug. 31, 1871.

WITH reference to your letters of the 19th inst.† respecting the Newfoundland seal fishery, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a Despatch which his Lordship has addressed to Mr. Pakenham, in compliance with Lord Kimberley's suggestion, directing him to submit to the United States' Government the proposal that American fishermen should be admitted to the Newfoundland seal fisheries on condition that the produce of those fisheries is admitted into the United States free of duty, and to state that Her Majesty's Government would be glad if it could be acceded to.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ODO RUSSELL.

Enclosure in No. 18.

NEWFOUND-
LAND.Enclosure in
No. 18.

(No. 36.)

SIR,

Foreign Office, August 31, 1871.

I transmit to you herewith copies of a letter from the Colonial Office and of a Despatch from the Governor of Newfoundland proposing that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, and of making outfit in the ports of that Island, on the condition of the admission of the produce of the Newfoundland seal fishery into the United States free of duty; and I have to instruct you to submit the proposal to the consideration of the United States' Government, and to state that Her Majesty's Government would be glad if it could be acceded to.

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

Honourable F. J. Packenham,
&c. &c. &c.

No. 19.

No. 19.

The COLONIAL OFFICE to the FOREIGN OFFICE.

(Confidential.)

SIR,

Downing Street, October 13, 1871.

WITH reference to your letter marked Confidential of the 12th of July last,* with respect to the possible transfer of the Island of St. Pierre by the French Government to the Government of the United States, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Governor of Newfoundland, to whom your letter was communicated, with a Minute of his Executive Council urging strongly the disadvantages which would be caused to Newfoundland by such transfer.

* Page 161.
Confidential,
Sept. 11, 1871,
page 151.

By Article 6 of the Treaty of Utrecht the Islands of St. Pierre and Miquelon were ceded to France subject to certain conditions, but by Article 4 of the Treaty of Versailles they were ceded "in full right," no conditions being mentioned. Lord Kimberley observes, however, that in the declaration made by the British Plenipotentiary at the time of signing this latter Treaty, it is stated that "the King of Great Britain, in ceding "the Islands of St. Pierre and Miquelon to France, regards them as ceded for the "purpose of serving as a real shelter to the French fishermen, and in full confidence that "these possessions will not become an object of jealousy between the two nations." His Lordship, therefore, would submit for Lord Granville's consideration whether it might not be advisable that inquiry should be made of the French Government as to the report of their intentions to sell the Island, and that it should be pointed out to them, with reference to the declaration made at the time of the cession of the Islands, that such a change of ownership would affect British interests.

I am to enclose a copy of the Despatch from Lord Kimberley, to which the Governor's Despatch is a reply.

To Governor,
Confidential,
July 21, 1871,
page 156.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 20.

No. 20.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, October 14, 1871.

WITH reference to your letter of the 19th of August last,† stating that the Earl of Kimberley considered it highly desirable that United States' fishermen should be admitted to the Newfoundland seal fisheries under certain conditions, and suggesting that such an arrangement should be proposed to the United States' Government, I am now to transmit to you, for Lord Kimberley's information, the accompanying copy of a Despatch which has been received from Her Majesty's Chargé d'Affaires at Washington upon the subject.

† Page 162.

No. 60,
Sept. 26, 1871.

The Under Secretary of State,
Colonial Office.

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

Enclosure in No. 20.

Enclosure in
No. 20.

(No. 60.)

MY LORD,

Washington, September 26, 1871.

With reference to your Lordship's Despatch, No. 36, of the 31st ult., on the subject of a proposal on the part of the Government of Newfoundland that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, and of making outfit in the ports of that

NEWFOUND-
LAND.

Island, I have now the honour to enclose copy of the reply of the Acting Secretary of State to my communication on the subject, from which it will be seen that the proposal is one which needs Congressional approval before it can be definitively accepted by the Department of State.

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

I have, &c.,
(Signed) F. PAKENHAM.

Sub-Enclosure
in No. 20.

Sub-Enclosure in No. 20.

SIR,

Department of State, Washington, September 23, 1871.

I have the honour to acknowledge the receipt of your note of the 18th inst., informing me that you are instructed to submit, for the consideration of this Government, a proposal on the part of the Government of Newfoundland that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, and of making outfit in the ports of that Island, on condition of the admission of the produce of the Newfoundland seal fishery into the United States free of duty. You at the same time inform me that Her Majesty's Government would be glad if the above proposal could be acceded to.

In reply, I have the honour to inform you that the subject will receive consideration; but that the proposal is one which needs Congressional approval before it can be definitively accepted by this Department.

The Hon. Francis Pakenham,
&c. &c. &c.

I have, &c.,
(Signed) J. C. B. DAVIS,
Acting Secretary.

No. 21.

No. 21.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, October 26, 1871.

WITH reference to your letter of the 21st of August* last, respecting a question raised by the Governor of Newfoundland on the omission of the word "Newfoundland" in Mr. Fish's note of May 8th last, on the subject of the fishery stipulations of the Washington Treaty, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Her Majesty's Chargé d'Affaires at Washington explaining the matter.

The Under Secretary of State,
Colonial Office.

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

Enclosure in
No. 21.

Enclosure in No. 21.

(No. 69.)

MY LORD,

Washington, October 10, 1871.

With reference to your Lordship's Despatch, No. 32, of the 31st of August, on the subject of the omission of the word "Newfoundland" in Mr. Fish's note of May 8 last on the subject of the fishery stipulations in the Treaty of that date, I have the honour to state that on calling Mr. Bancroft Davis's attention to the circumstance he at once acknowledged the omission, and attributed it to a clerical error, which has now been set right by the note, copy of which is herewith enclosed, but which reached me too late for transmission by the mail of the 3rd inst.

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

I have, &c.,
(Signed) F. PAKENHAM.

Sub-Enclosure

Sub-Enclosure.

SIR,

Department of State, Washington, September 30, 1871.

With reference to your note of the 19th inst. relating to the omission of "Newfoundland," from the contemplated contingent proposal for remission of duties which may have been collected on and after the 1st day of July, 1871, on fish oil and fish the produce of certain British fisheries named in Mr. Fish's note of the 8th of May last, I have the honour to inform you that the omission was inadvertent.

In stating this fact, now that the fishing season has passed, I must add that no engagement "in presenti" can be assumed.

The Hon. F. Pakenham,
&c. &c. &c.

I have, &c.,
(Signed) J. C. B. DAVIS,
Acting Secretary.

CORRESPONDENCE BETWEEN THE ADMIRALTY AND THE
COLONIAL OFFICE.

No. 1.

No. 1.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, July 27, 1871.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Kimberley, copy of a letter and its enclosure, dated the 1st instant, No. 285, from the Commander-in-Chief on the North American and West Indies station, relative to certain alleged encroachments by American fishermen on the fisheries at Newfoundland.

July 1, 1871.

The Under Secretary of State
for the Colonies.

I am, &c.,
(Signed) VERNON LUSHINGTON.

Enclosure in No. 1.

Enclosure in
No. 1.

ALLEGED ENCROACHMENTS by AMERICAN FISHERMEN.

(No. 285.)

SIR,

'Royal Alfred,' Halifax, July 1, 1871.

Referring to the third paragraph of my general letter, No. 232, of 2nd June, 1871, I have the honour to transmit herewith, for the information of the Lords Commissioners of the Admiralty, the result of the investigations made by Captain G. J. Malcolm, late of the 'Danae,' as to the alleged encroachments in the vicinity of Fortune Bay.

The Secretary to the Admiralty.

I have, &c.,
(Signed) E. G. FANSHAWE,
Vice-Admiral.

LETTER of PROCEEDINGS.

(No. 16.)

SIR,

Her Majesty's ship 'Danae,' at St. John's, June 22, 1871.

I have the honour to report, in continuance of my letter of proceedings, No. 14, of the 31st May, that I left St. John's on the same day and proceeded to Harbour Breton, where I arrived on the 2nd instant. Found there Captain Howard in Her Majesty's ship 'Raccoon.' I reported myself to him, and with his consent I did not anchor, but went on at once past Pass Island to Great Jervis Harbour, where I arrived the same day.

2. Great Jervis Harbour is where Mr. Penny resides, who had reported the encroachments of the Americans. I found on speaking with him and Mr. Camp, the revenue officer, that they had only heard the Americans had encroached, but had not seen them, saying that they believed they had done so at Pass Island and in Fortune Bay.

3. On the 5th instant I went in this ship up the north arm of Despair Bay, where I received your telegram to return to St. John's before the 19th instant. On the same day I despatched Lieutenant Black in the first cutter of this ship to cruise in the neighbourhood of Pass Island.

4. On the 7th inst. I went up the north-east arm, in which I found the American schooner 'Lizzie A. Tarr,' of Gloucester. Part of her crew, one of her boats, and some colonial fishermen were employed fishing on the shore for herring with a net whose meshes were under the legal size. I warned all parties of the illegality of their employment, and said a repetition of their offence would lead to seizure. I here despatched Sub-Lieut. Burr, of this ship, to cruise in the neighbourhood of Fox Island, Bay of Despair.

5. On the 9th inst. I proceeded from Ship Cove, north-east arm, to Hermitage Cove, Hermitage Bay, where I arrived the same day.

6. On the 10th June Sub-Lieut. Burr rejoined me in the whaler. He reported having met with 'Lizzie Tarr' at King's Harbour with the same fishermen who had been with her in North West Cove. He warned them against trespassing, and they promised not to do so again, and left the Bay of Despair. I consider that in this case Sub-Lieut. Burr showed great tact and discretion. He had visited several fishing stations, and except in the above case no authenticated encroachments were reported.

The fishermen say the Americans came in and bought bait, and that they were annoyed by their concurring with them in the fishery.

7. On the 11th June Lieut. Black joined me in the first cutter of this ship. He had visited Pass Island and several places in its neighbourhood. He reported one authenticated case of encroachment, in which the fishermen had taken the law into their own hands, and prevented the Americans fishing within bounds. He also reported to the same effect as Sub-Lieut. Burr relative to the jealousy against concurrence. The great sore is the use of bultows (trots), against the use of which most colonial fishermen are averse. The

NEWFOUND- colonial Legislature could meet the difficulty by making the use of bultows illegal. Lieut. Black displayed
LAND. considerable zeal and perseverance whilst absent from the ship.

8. I left Hermitage Cove on the 12th inst., and arrived on the same day at Fortune. Here they knew nothing of American encroachments. Had heard that they had been fishing illegally near Pass Island. They for their part complained of French encroachments near Dantzic Point. I would here remark, as I have done in my fishery letter, that all these people accept hearsay as fact, and as a rule supply foreigners with bait and complain of them afterwards for fishing with it.

Vice-Admiral E. G. Fanshawe,
&c. &c. &c.

I have, &c.,
(Signed) G. J. MALCOLM, Captain.

No. 2.

No. 2.

The COLONIAL OFFICE to the ADMIRALTY.

No. 55,
July 14, 1871,
Newfound-
land,
page 148.

No. 59,
July 25, 1871,
Prince Ed-
ward Island,
page 181.

Sec. of State
to Newfound
land, No. 28,
June 17, 1871,
page 154.

Sec. of State
to Prince Ed-
ward Island,
No. 22,
June 17, 1871,
page 189.

SIR,

Downing Street, August 22, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of the Lords Commissioners of the Admiralty, the enclosed copies of Despatches received from the Governor of Newfoundland and from the Lieut.-Governor of Prince Edward Island, respecting the Treaty of Washington and the admission, during the present season, of United States' fishermen to the provisional use of the privileges granted to them by that Treaty so far as those Islands are concerned.

I am also to enclose a copy of the Despatches from Lord Kimberley, to which these communications are replies.

The Secretary to the Admiralty.

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

No. 3.

No. 3.

The ADMIRALTY to the COLONIAL OFFICE.

SIR,

Admiralty, September 6, 1871.

* Supra. WITH reference to your letter of the 22nd ultimo,* I am commanded by my Lords Commissioners of the Admiralty to request you will inform the Secretary of State for the Colonies that copies of the Despatches from the Governors of Newfoundland and Prince Edward Island, in regard to the admission, provisionally, during the present season, of the United States' fishermen to the privileges, granted by the Treaty of Washington, to fish within British waters on the coasts of Canada, Prince Edward Island, and Newfoundland, have been sent to the Naval Commander-in-Chief on the North American station, for his information and guidance.

The Under Secretary of State
for the Colonies.

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

PRINCE EDWARD ISLAND.

PRINCE
EDWARD
ISLAND.

DESPATCHES FROM THE GOVERNOR.

No. 1.

No. 1.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(Confidential.)

Prince Edward Island, February 17, 1871.

(Registered 10th March, 1871.)

(Answered, Confidential, 17th March, 1871, page 189.)

MY LORD,

I RECEIVED last night your Lordship's Confidential Despatch of the 16th of January,* * Page 188. directing me to acquaint your Lordship with the views of my Responsible Advisers upon the points raised in Admiral Fanshawe's Report to the Admiralty on the subject of the protection of the North American fisheries, more particularly as to the propriety or otherwise of admitting United States' fishing vessels into the ports of this Island for purposes of trade, and I will lose no time in bringing the matter before my Council, and in forwarding to your Lordship a minute expressive of their opinion upon the subject.

2. There can be no sort of doubt as to what that opinion will be. Our people make comparatively little use of the fisheries themselves, while the money that the American fishermen spend here annually is a great object to the colonists, who are only too glad, as I said in a former Despatch, to open their ports to such remunerative and therefore welcome visitors; and indeed no Government could afford, of its own volition, to adopt an adverse policy. In point of fact my ministers urged me very strongly to congratulate the Colony, in the speech with which I opened the session of the Provincial Legislature the day before yesterday, on the recent suspension, by permission from your Lordship, of the prohibitory instructions which were issued to Custom House officers last year with respect to the then prevailing practice of admitting United States' fishing vessels to entry in our ports. But I felt that as the subject was still under the consideration of Her Majesty's Government, as was evident to me from the concluding paragraph of your Lordship's Despatch, No. 32,* of the 20th October, it would be imprudent, if not improper, for me in any way to assume to regard as final a permission which, should Her Majesty's Government think proper, may be, I am aware, at any moment withdrawn. At all events I did not conceive that as an Imperial officer I ought to hamper an open question by expressing any formal or emphatic opinion in favour of a particular line of policy, and I therefore resisted the pressure of my ministers and reduced my remarks to the Legislature upon the subject to a mere statement of facts.

No. 15,
Nov. 23, 1870.
Vide Papers
printed con-
fidentially,
Feb., 1871,
page 53.

3. I annex a copy of the draft paragraph as submitted to me when I met my Council for the purpose of considering the speech, which will leave no doubt on your Lordship's mind as to the nature of the opinion that will be expressed in the Minute of Council which I shall have the honour of submitting by next mail. The paragraph as altered and delivered by me will be found in the copy of the speech which accompanied my Despatch, No. 28, of 15th instant, but for easy reference I attach it to this Despatch also.

* Vide Papers
printed con-
fidentially,
Jan., 1871,
page 230.

4. While I hope that your Lordship will approve of the course which, in view of the unsettled state of the fishery question, I adopted on this occasion, my chief object in writing this letter is to acquaint you, as quickly as possible, with the views of my ministers so far as they are known to me at present, in case time should be of importance and there should be any delay in the preparation of the formal minute.

5. I trust that your Lordship will kindly excuse these incompact and hurried remarks, but I write in great haste to save the outgoing supplementary mail.

I have, &c.,

The Earl of Kimberley,
&c. &c. &c.(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

P.S. I will not fail to draw the particular attention of my Council to Admiral Fanshawe's suggestion respecting the establishment of a colonial preventive force for the better protection of the fisheries, and to forward to your Lordship their opinion on that point also.

W. R.

PRINCE
EDWARD
ISLAND.

PARAGRAPH as drafted by COUNCIL.

The Colony to be congratulated on the favourable answer which Earl Kimberley, Secretary of State for the Colonies, has returned to the Minute of Council (of 2nd September, 1870) calling the attention of Her Majesty's Government to the prohibition imposed upon foreign fishing vessels from landing and transshipping their cargoes at this port.

As altered by LIEUT.-GOVERNOR.

You are aware that the prohibitory instructions which were issued to Custom House officers, in the month of August, with respect to the then prevailing practice of admitting United States' fishing vessels to entry in the ports of this Colony, have since been withdrawn. The question was submitted to Her Majesty's Government by the late Administration, and the reply which I received from the Secretary of State enabled me to suspend the restrictions which last autumn the local Government felt called upon to impose.

No. 2.

No. 2.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(Confidential.)

Government House, March 2, 1871.

(Received March 20, 1871.)

MY LORD,

REFERRING to my Confidential Despatch of the 17th ultimo,* I have now the honour to submit a Minute of the Executive Council on the subject of admitting United States' fishing vessels into the ports of this Island for the purposes of trade.

2. This Minute fully confirms the opinion which I have already expressed to your Lordship as to the views of my Government on the point in question, and I do not think that it is necessary for me on this occasion to trouble your Lordship with any further remarks upon the subject.

My Council, looking no doubt to the Joint High Commission which is about to meet at Washington, express a strong opinion against allowing United States' "vessels the privilege of our inshore fisheries without the United States granting us adequate trade "concessions in return." I took the opportunity of assuring the Council that it is the desire of Her Majesty's Government to do full justice to the provinces in the impending discussion between the Governments of England and the United States on the subject of the Canadian fisheries.

3. In the postscript of my Confidential Despatch of the 17th ultimo,† I said that I would draw the attention of my Advisers to Admiral Fanshawe's suggestion respecting the establishment of a colonial preventive force for the protection of the fisheries, and forward to your Lordship their opinion on that point also. But on proceeding to communicate with the Council I observed that your Lordship called for information on one point only—the exclusion of United States' fishing vessels from the waters of Prince Edward Island—and therefore thought it better, in inviting an expression of the opinion of the Council, to confine myself strictly to the limits defined by your Lordship.

4. I take this opportunity of acknowledging your Lordship's Confidential Despatch of the 4th February,‡ enclosing copy of one to the Governor-General of Canada§ with reference further to the protection of the North American fisheries, and of stating that the required information shall be supplied at the earliest possible moment. One of the gentlemen on whom I chiefly rely for accurate information is out of town, and will not be back until the end of the week; but I feel sure that your Lordship would prefer a little delay to hasty or imperfect information on so important a subject.

I have, &c.,

(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

The Earl of Kimberley,
&c. &c. &c.

Government House, February 20, 1871.

The Lieut.-Governor communicates confidentially to the Executive Council a Confidential Despatch from the Secretary of State on the subject of the protection of the fisheries, together with the papers therein referred to, and will be glad to receive from his Advisers a minute expressive of their opinion on the points on which his Lordship is pleased to invite it.

(Signed) WILLIAM ROBINSON.

* Page 169.

March 2,
1871. Minute.

Lieut.-Gov. to
Secretary of
State.

No. 15,
Nov. 23, 1870.
Vide Paper
printed confidentially,
Feb., 1871,
page 53.

Lieut.-Gov. to
Secretary of
State.

Confidential,
Feb. 17, 1871,
page 169.
† Page 169.

Feb. 20, 1871.
Memorandum.

‡ Page 189.
§ Confidential,
Feb. 1, 1871,
page 94.

At a Meeting of Council.

Council Chamber, March 2, 1871.

The Council having had under their consideration a Confidential Despatch from the Secretary of State on the subject of the protection of the fisheries, dated Downing Street, 16th January, 1871, together with the papers therein referred to, as well as a Memorandum from the Lieut.-Governor wherein his Honour expressed a desire to be furnished with a Minute expressive of the opinion of the Council on the point on which his Lordship is pleased to invite it, beg to submit the following Minute.

The opinion of the Council is requested upon the points raised in the papers accompanying his Lordship's Despatch, only so far as they relate to the exclusion of the United States' fishing vessels from the waters of Prince Edward Island.

The Council are of opinion that the exclusion of the fishing vessels of the United States from the waters of this Island would operate prejudicially upon its trade and revenues, and that the inhabitants generally would view with regret the reimposition of the prohibition which was enforced in the latter months of the past year. The Council desire it to be understood that, while they are of opinion that it would be impolitic to deny to the United States' fishing vessels the privilege of entering the ports of this Island for the purposes of obtaining and replenishing their stores and necessaries for fishing and transshipping their fish, they, however, express a strong opinion against allowing such vessels the privilege of our inshore fisheries without the United States granting us adequate trade concessions in return.

(Signed) JAMES C. POPE, President of Council.
T. HEATH HAVILAND.
FREDERICK BRECKEN.
A. A. MACDONALD.
L. C. OWEN.
GEORGE W. HOWLAN.
EMANUEL MCEACHEN.
JAMES DUNCAN.

PRINCE
EDWARD
ISLAND.

No. 3.

No. 3.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(Confidential.)

Government House, March 29, 1871.

(Received April 17, 1871.)

MY LORD,

IN continuation of my Confidential Despatch of the 2nd inst.,* I have now the honour to reply to your Lordship's Confidential Despatch of the 4th February,† relative to the practice which prevailed between the date of the Convention of 1818 and the ratification of the Reciprocity Treaty in 1854, with respect to the admission of United States' fishing vessels to the ports of this Island for the purposes of trading, transshipping fish, and purchasing bait and supplies.

* Page 170.
† Page 189.

2. The three heads on which accurate information is specially desired are briefly:—

(1) Whether the purchase of bait or supplies, the transshipment of fish, the engagement of sailors, or other similar transactions, have ever been held by the local courts to authorize the forfeiture of the vessels concerned in them, or the forcible interference of Government officers to prevent such transactions.

(2) Whether there are any cases on record in which transactions of this kind were in fact prevented by authority, with such information as would show whether the Government or the fishermen of the United States protested against such exercise of authority or acquiesced in it; and

(3) Whether the interference was effected or acquiesced in on the ground that the fishing vessels were absolutely prohibited by the Treaty from engaging in such transactions, or on the ground that the particular fishing vessels thus treated had not fulfilled the conditions required from other vessels in order to make such transactions lawful.

3. From the documents which I enclose (Confidential Minute of Executive Council, Memo. by Registrar of Vice Admiralty Court, Letter from Collector of Customs, and Letter from Prothonotary of Supreme Court) your Lordship will observe that there is no instance on record of a vessel having been seized or forcibly interfered with in Prince Edward Island for anything short of fishing within protected waters, and consequently the local courts were never called upon to pronounce decision in any case of the nature referred to by your Lordship. Under these circumstances it is difficult to say whether, had the question been put to the test by forcible interference with or the seizure of one of their vessels for trading or transshipping fish, the Government or the fishermen of the United States would have protested against such exercise of authority or acquiesced in it; but it is very important to remark that when the local Government, in August, 1870, suddenly put a stop in the middle of the fishing season to the practice which had gradually crept into existence of admitting United States' fishing vessels into our harbours for purposes of trade, &c., the American Consul appeared to recognize the legal right of the

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Government to enforce such a regulation, and neither protested against it here nor made it, so far as we are aware, the subject of any official complaint to his own Government. He was anxious to impress members of the Executive Council with the opinion that his Government would look on the refusal of entry to American vessels as an unfriendly act on the part of Prince Edward Island, but both himself and the fishermen who were at that time about the coast would seem to have acknowledged the legality of the restrictions which the local Government felt called upon to impose, for I cannot ascertain that any fishing vessel endeavoured or attempted to infringe the regulations so long as they remained in force.

4. My Council make use of the present opportunity to repeat the opinion which I have already communicated to your Lordship in a former Despatch, that American fishermen should not be debarred from refitting their vessels at the stores of our merchants or from transshipping fish legally taken outside the three-mile line, but that no foreign vessel should be allowed to fish within the boundary until some equivalent privilege by way of reciprocity or otherwise is given in exchange, or without first obtaining a licence for that purpose. This, in my judgment, is a sensible and liberal opinion, calculated, if fairly carried out, to be a benefit to the people of this Island and to remove all reasonable ground of irritation in the United States.

5. The enclosed Minute of Council contains fuller information upon the subject to which it relates than I have embodied in this Despatch, but I think I have adverted to the most important points in the paper, being those on which your Lordship is desirous of obtaining accurate information.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieutenant-Governor.

Confidential,
March 2, 1871,
page 170.

Enclosure 1 in
No. 3.

Enclosure 1 in No. 3.

Council Chamber, Charlottetown, Prince Edward Island,
March 27, 1871.

The Executive Council have had under consideration a confidential Despatch from Earl Kimberley, Her Majesty Principal Secretary of State for the Colonies, addressed to Lieut.-Governor Robinson, transmitting a "copy of a Despatch addressed to the Governor-General of Canada, on points connected with the North American fisheries, and requiring information as to the practice which prevailed between the date of the Convention of 1818 and the ratification of the Reciprocity Treaty of 1854, with respect to admission of United States' fishing vessels to the ports of the British possessions in North America for the purposes of trading, transshipping fish, purchase of bait, or other similar transactions."

From the records of the Vice-Admiralty Court of this Island, it appears that all the cases taken into that court were for fishing within the three-mile line. A memorandum of these cases is annexed. A letter from the prothonotary is also appended to show that no cases of the nature referred to have ever been brought before the Supreme Court; and also a letter from the collector of Customs, wherein he states that neither in his department is there to be found any record of such a case. The question of purchasing bait or supplies or preparing to fish, engagement of sailors, or other similar transaction, has never come before any of the courts in this Colony, nor are any instances within the knowledge of the Council wherein such acts have been prevented by authority.

As regards the admission of American fishing vessels to the ports of British possessions in North America for the purpose of trading, it may be remarked that American fishing vessels are, by their own laws, prohibited from coasting or trading under severe penalties while on a fishing cruise. It is not probable therefore that they ever did so to any extent. It is the opinion of the Council that if such trade existed at all it was confined to the exchange of a few bushels of salt (which is free from any duty in this Island) for potatoes or other vegetables, or for fresh meat. This exchange would be easily effected in any settlement around the shores or coasts of this Island, where the fishermen would call ostensibly for wood or water, and it cannot be denied that such an exchange was sometimes made between the farmers and the fishermen. The fishermen, however, more frequently paid for those supplies in cash than in any other way. It is not known that they were prohibited from obtaining them by the local authorities; nor does it appear that the commanders of Her Majesty's ships on the fishing stations before the summer of 1870 ever exacted a rigid compliance with the letter of the treaty on this point.

The practice of transshipping fish is one of recent origin. It began after the inauguration of the Reciprocity Treaty. The impetus given to trade between this Island and the United States of America by the treaty led to the establishment of a line of steamers between this Island and Boston, United States. These steamers enabled the fishermen to send their fares more speedily to their destination than they could themselves carry them, while it also allowed them to spend that portion of their time on the fishing grounds which they formerly occupied in carrying each trip to the United States, thus practically lengthening that portion of the fishing season which they could spend on the fishing grounds. The transshipment of their fares at colonial ports made it necessary for them to refit there also. After the abrogation of the Reciprocity Treaty this practice still continued until last season, when the attention of the Council was specially called to it by a minute from Sir Robert Hodgson, administrator of the Government, dated the 3rd August, 1870. This minute the Council submitted to the Crown law officers for their opinion, in addition to which they also took that of Mr. Edward Palmer, a former Attorney-General, and a Queen's Counsel, who con-

curred with the Crown law officers in their opinion that the United States' fishing vessels have not the legal right to enter any of the harbours of this Island, for the purposes of entering at the Customs and of landing and transshipping their cargoes of fish. The illegality of the practice being thus brought prominently to the notice of the Council, the collectors of Customs were directed not to admit any foreign fishing vessels to entry until further orders. The Council also on the 2nd of September last adopted a minute (which was forwarded to the Colonial Office) expressing their opinion on this subject. The attention of the Council was further called to this practice by a Despatch addressed to the administrator of the Government about this time by Vice-Admiral George G. Wellesley. His Lordship the Secretary of State was, however, pleased, in reply to the Minute of Council, to authorize the Lieut.-Governor to suspend the restrictions which the local Government felt called upon to impose. The fishing season was, however, then at an end, and no case has arisen since that time. The United States' consul at this port was at once notified both of the refusal of entry to American vessels and of the removal of that restriction when the same was suspended. The Council are not aware that he took any official notice of these acts, or that he made them the subject of any official communication to his Government. He however appeared anxious to impress members of the Council with the opinion (when in conversation with him) that his Government would look upon the refusal of entry to American vessels as an unfriendly act on the part of this Government.

In conclusion, the Council would express their conviction that the three-mile limit should be strictly adhered to, so that no foreign vessel should be allowed to fish within its boundary until some equivalent privilege, by way of reciprocity or otherwise, is given us in exchange for the right to do so, or without first obtaining a licence for that purpose. The Council do not wish to debar American fishermen from transshipping in our ports fares legally taken outside the three-mile line, neither would they desire to see them prevented from refitting their vessels at the stores of our merchants if they desired to do so. This permission, if accorded them, while it would give us a considerable amount of trade which would otherwise go to enrich a foreign country, would also tend to keep up that good feeling which happily has so long prevailed between the people of this Island and the citizens of the neighbouring Republic.

(Signed) JAMES C. POPE, President, Executive Council.
T. HEATH HAVILAND.
L. C. OWEN.
FREDK. BRECKEN.
EMANUEL McEACHEN.
JAMES DUNCAN.
GEORGE W. HOWLAN.
A. A. MACDONALD.

Enclosure 2 in No. 3.

Enclosure 2
in No. 3.

MEMORANDUM.

Vice-Admiralty Court, Prince Edward Island.

The United States' fishing schooner 'Union,' Warren D. Bunker, master, was seized on the 20th day of July, 1852, by Her Majesty's schooner 'Telegraph,' the Hon. Henry Weyland Chetwynd, commander, for fishing within the three-mile limit.

Vessel condemned on the 24th September of same year—the judge by interlocutory decree pronouncing "the said schooner 'Union' to have been fishing contrary to the provisions of the Act of Parliament made and passed in the fifty-ninth year of the reign of His late Majesty King George III., intituled 'An Act '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,' and as such or otherwise subject and liable to forfeiture and condemnation, and condemned the said schooner, her tackle, apparel, and furniture, goods and merchandise found laden on board the said schooner at the time of her seizure as forfeited to our Sovereign Lady the Queen accordingly."

Appearance was filed for the defendants in this case, "but nevertheless under protest to the jurisdiction of this court." Upon argument, the Judge overruled the protest and decreed that the parties should appear absolutely. No appearance however was filed.

I cannot find from any papers in this case, at present in the registry of this court, that this vessel was ever interfered with by Government officers for transshipping fish or purchasing supplies.

The schooner 'Florida,' of Gloucester, United States, Edmund Pyne, master, was seized on the 3rd day of August, 1852, by Her Majesty's schooner 'Telegraph,' Lieut. the Hon. Henry Weyland Chetwynd, commander, for fishing within the three-mile limit.

Appearance filed for defendants in this case, but under protest to the jurisdiction of this court. Upon argument, the Judge overruled the protest and decided that the defendants should appear absolutely.

The defendants' solicitor submitted and admitted the cause of the suit and prayed for an early condemnation. Vessel condemned by consent, and decreed forfeited to Her Majesty, for the same reasons as in the case of the schooner 'Union.'

I cannot find from any papers in this case, at present in the registry of this court, that this vessel was ever interfered with by Government officers for transshipping fish or purchasing supplies.

The schooner 'Caroline Knight,' of Neburyport, United States, Benjamin Small, master, was seized on the 11th day of September, 1852, by Commander Colin Yorke Campbell, of Her Majesty's steam-sloop 'Devastation,' for fishing within the three-mile limit.

The schooner condemned by consent, and decreed forfeited to Her Majesty for violation of the Act 59 George III., cap. 38.

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It does not appear from any papers in this case at present in the registry of this court, that this vessel was ever interfered with by Government officers for transshipping fish or purchasing supplies.

Of date 15th August, 1853, the following Minute of Court appears:—

Regina v. American Fishing Vessel 'Starlight.'

Affidavits made before the Judge in Chambers by Colin Yorke Campbell, captain commanding Her Majesty's steam-sloop 'Devastation,' John May, Esq., master, and George Rathbone, Esq., second lieutenant, and George Harris, Esq., midshipman of the same.

No further entry in this case appears on the record of the court, and I presume therefore that the prosecution of the 'Starlight' was abandoned.

(Signed) CHARLES DES BRISAY, Registrar.

Enclosure 3 in
No. 3.

Enclosure 3 in No. 3.

SIR,

Custom House, Prince Edward Island, March 15, 1871.

In reply to your letter of 14th last, I beg to state that the only record I can find of vessels seized for infringement of the Treaty of 1818 is contained in the late Controller of Customs, Mr. Goodman's, letter-book, by which it appears that on the 2nd and 15th days of August, 1852, Lieut. Chetwynd, commander of Her Majesty's armed schooner, 'Telegraph,' seized the American schooners 'Union' and 'Florida,' for an infraction of the Treaty of 1818; the vessels were brought into the port of Charlottetown and delivered over to Mr. Goodman for safe keeping.

I cannot find any record of any vessel having been seized for landing or transshipping cargoes, or for purchasing bait or supplies.

Hon. A. A. Macdonald,
&c. &c. &c.

I have, &c.,
(Signed) WM. E. CLARK, Controller.

Enclosure 4 in
No. 3.

Enclosure 4 in No. 3.

SIR,

Charlottetown, Prothonotary's Office, March 21, 1871.

I have to acknowledge the receipt of your letter of yesterday's date, inquiring if "there is any record in my office of actions taken against foreign vessels for any infractions of the Treaty of 1818, or of the Island Statute 6 Vict., cap. 14, relating to the fisheries."

In reply, I beg to state that no proceedings have been instituted in the Supreme Court of this Island against foreign vessels for any infraction of the Treaty of 1818, or of the Island Statute 6 Vict., cap. 14, relating to the fisheries, since I have held the office of Prothonotary, now a period of more than forty years, nor can I find any record or entry of any such proceedings.

The Hon. Andrew A. Macdonald,
&c. &c. &c.

I have, &c.,
(Signed) W. HODGSON.

No. 4.

No. 4.

Lieutenant-Governor ROBINSON to The EARL OF KIMBERLEY.

(Confidential.)

Government House, May 4, 1871.

MY LORD,

(Received June 1, 1871.)

* Page 170.

IN my Confidential Despatch of the 2nd March* I communicated to your Lordship the opinion of my Government on the question of admitting United States' fishing vessels into the ports of this Island for the purposes of trade. In my Confidential Despatch of the 29th of March† I forwarded to your Lordship a second Minute of Council on the subject of the fisheries, in which my Government repeated their previously expressed opinion that American fishermen ought not to be debarred from refitting their vessels at the stores of the local merchants, or from transshipping fares legally taken outside the three-mile line; but that the privilege of the inshore fisheries ought not to be granted, except on the condition of adequate trade concessions in return.

† Page 171.

2. I observe from the journals of the Legislature that during the session which terminated on the 15th ultimo, the Legislative Council and House of Assembly passed Resolutions (copies enclosed) confirmatory of the opinions above quoted. I have not been requested either by the Legislature, or by my Advisers, to communicate these Resolutions to your Lordship; at the same time I think I cannot do wrong in acquainting you that my Government accurately reflected the feeling of the country when they advocated the continuance of amicable trade relations, and the protection of the inshore fisheries.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieutenant-Governor.

EXTRACT from JOURNAL of the LEGISLATIVE COUNCIL.

The Legislative Council in Committee of the whole House . . . report that they are gratified at the satisfactory result of the appeal made by the late Government of this Island to Her Majesty's Principal Secretary of State for the Colonies, whereby United States' fishing vessels are now permitted to entry in the ports of this Island, and are allowed to land and transship fish therefrom, inasmuch as the exclusion of the said fishing vessels from our said ports operated injuriously upon our trade and revenue. The people of the Colony generally would therefore regret the reimposition of the restrictions placed upon United States' fishing vessels during the principal part of the summer of last year.

The Committee, however, are strongly opposed to granting foreign fishing vessels the great privilege of our inshore fisheries without receiving commensurate commercial advantages in exchange therefor.

EXTRACT from JOURNAL of HOUSE of ASSEMBLY.

The Committee of the whole House . . . report that they are gratified at the result of the appeal made by the late Government to the Secretary of State, whereby American fishing vessels are admitted to entry in the ports of the Colony, and permitted to land and transship the fish from them, inasmuch as the exclusion of the said fishing vessels from the ports of this Island operated prejudicially upon its trade and revenues. The inhabitants of this Island generally would therefore view with regret the reimposing the prohibition which was enforced in the latter months of the past year. The Committee, however, express a strong opinion against allowing such vessels the privilege of our inshore fisheries without the United States granting us adequate trade concessions in return.

No. 5.

Lieutenant-Governor ROBINSON to The EARL OF KIMBERLEY.

No. 5.

(Confidential.)

Government House, May 29, 1871.

MY LORD,

(Received June 15, 1871.)

Not doubting but that your Lordship would wish for early information as to the state of public feeling here on the subject of the Treaty of Washington, I this morning sent the following cipher telegram to your Lordship:—

“Public feeling here is not very favourable to Treaty of Washington, nevertheless I anticipate that should Canada confirm it, Prince Edward Island will do the same.”

2. My opinion as to the state of public feeling on this question is formed from articles which have appeared in the local press since the publication of the full text of the Treaty, and from which extracts are annexed. With one exception, your Lordship will observe, the press would appear to be dissatisfied with the provisions of the Treaty so far as they will affect Prince Edward Island, and I believe that in thus expressing itself the press on this occasion reflects correctly the general feeling of the place.

3. If Canada rejects the Treaty, I conclude the Legislature of this Island will not be required to express an opinion upon it. If Canada confirms it, I shall have no anxiety as to the result in Prince Edward Island.

4. I shall hold myself in readiness to summon the Legislature on receiving your Lordship's instructions to that effect, and I will now only add that I am fully alive to the gravity of the question that will be brought to its consideration, and that no efforts shall be wanting on my part in order to the attainment of a result satisfactory to Her Majesty's Government.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieutenant-Governor.

Enclosures in No. 5.

TREATY OF WASHINGTON.

‘The Islander,’ Friday, May 19, 1871.

The full text of this important document was received here on Wednesday last. The treaty is now under the consideration of the United States' Senate, and the result of their deliberations will be known in a few days. In order to make room for that portion of the treaty which refers to the fisheries (which we subjoin), we have been obliged to lay aside some editorial matter prepared for this day's issue.

Whatever may be the fate of the proposed treaty in the Senate, we are fully persuaded that neither the Dominion Legislature nor, we sincerely trust, the Legislature of Prince Edward Island, will ever sanction any treaty giving to American fishermen equal privileges with our own on terms so preposterous as those now proposed. We shall revert to this subject in a future issue.

‘The Islander,’ Friday, May 26, 1871.

The Treaty of Washington appears to find little favour in the eyes of the people of the Dominion. We do not know the reason which induced Sir John A. Macdonald to give his assent to a treaty which would deprive us of our valuable fisheries without any equivalent. The right of fishing upon the shores of the United States is valueless to the people of this Island; it is not worth one *cent*, and the privilege of taking our island-caught fish and fish-oil into the States free of duty would soon be worth but little more. Give our fisheries to the people of the United States, and in a few years’ time the quantity of island-caught fish and fish-oil which would be exported would be small indeed.

If motives of Imperial policy have influenced Sir John A. Macdonald to propose the spoliation of this Island, let us, at least, urge our claim for pecuniary consideration before quietly surrendering so very valuable a heritage. If we cannot be allowed to hold and enjoy our fisheries,—if we must part with them,—let us have a guarantee that we shall be paid for them. If Canada should reject the treaty, it is not probable that we should be required to declare our approval or disapproval of it; but should the Legislature of the Dominion accept it, we may make up our minds that we shall have to give way. We are quite willing to admit our American neighbours to our fishing grounds and harbours, but we require an equivalent,—a substantial equivalent,—something more than the right to fish upon the coast of the United States, or the privilege of taking, duty free, into that country the few fish which the Americans would leave us.

THE WASHINGTON TREATY.

‘The Examiner,’ Charlottetown, May 22, 1871.

THE FULL TEXT OF THE OFFICIAL DOCUMENT.

“ We give as much as we can this week of the treaty which we will soon be called upon to discuss and legislate upon. The concluding part we will give next week. Our readers will then be in a position to read it and carefully consider it for themselves. We should not decide hastily in regard to the action which our Legislature should take concerning it, because there is a good deal to be said in favour of our acceptance of the treaty, and more perhaps against it. The advantages of having the Americans come to our shore, and purchase many of their supplies, is evident enough. It will also benefit our fishermen to be able to send their fish duty free to the American market. But will these advantages compensate us for giving up all? The fisheries of Prince Edward Island are amongst the most valuable in the world. The northern shores of the island are whitened every summer with American sail, which come up to the very extremity of the three-mile limit. So far let them come, but no farther. For a hundred years no Colony has had to struggle as we have had. All others have had Crown lands in countless acres. We have had none but the three-miles’ limit which girth our shores. To any foreigners who ask us for the privilege of fishing there, without full compensation, the great majority of the people will give an indignant refusal. We rejoice to find that the Island will not stand alone, and that we will be backed up by the public sentiment of Nova Scotia, New Brunswick, and, we doubt not, Newfoundland.

‘The Examiner,’ Charlottetown, May 29, 1871.

The treaty will not be of any great service to our fishermen, and it offers nothing to our farming interests. If we hold on to our fisheries for some time longer, and the three-mile limit is enforced, we can get far better terms from the Americans than are provided for in the treaty. By accepting the treaty, we give up all, and have nothing further to give to induce the American people to renew the old Reciprocity Treaty. Unless the money compensation is very great, and unless the Commission to settle the amount is a mixed one, with representatives of this Island to have their word in the matter, we trust the treaty will be rejected by our Legislature.

THE FISHERIES.

‘The Herald,’ Wednesday, May 17, 1871.

If the telegraphic text of the treaty arranged between the Joint High Commission of Great Britain and the United States, which was received from Washington last week, and which will be found in another part of to-day’s paper, is correct, then the fishery question has been settled, but settled upon a basis by no means satisfactory to the people of these provinces. The British Commissioners, of whom Sir John A. Macdonald was one, appear to have surrendered everything to the shrewd Yankees. The latter are permitted to fish wherever they like and whatever they like, with the exception of shell-fish, salmon, and shad; they can come into our harbours to obtain shelter; they can land on our shores to procure wood and water, to dry their nets, cure their fish, and for all other purposes connected with the fishing business, as freely and unreservedly as British subjects. In exchange for these great privileges, the *only* equivalent they give the colonists is that of admitting their fish into the United States’ markets duty free. The permission given to British subjects to fish on the eastern coasts and shores of the United States, north of the thirty-ninth parallel of latitude, is a pure humbug. The colonists neither ask nor desire the privilege to fish tom-cods, perch, and very inferior mackerel on the eastern coast of the United States; and the British Commissioners appear to have had a glimmering idea that in establishing reciprocity in fishing upon that basis they surrendered a substance for a shadow, a reality for a myth. For all practical purposes, the Americans might just as well permit the colonists to fish around the shores of Alaska instead of on the Atlantic coast, north of the thirty-ninth parallel of latitude. So, to adjust the difficulty, we have

provision made for a Mixed Commission to determine the money value of the excess of privileges granted to the Americans. This part of the treaty is deserving of serious consideration by the people of this Colony. Our fisheries, valuable as they are, can of course find their equivalent in dollars and cents; but we are strongly of opinion that they are not likely to do so through the agency of a Commission in whose appointment we shall possibly have no voice, and over whose actions we can exercise no control. If, however, the quid pro quo were something handsome, the interesting question would arise, How is the money to be divided? How many dollars is Prince Edward Island to receive as her share of the compensation? If justice were done, and the full value of the fisheries which she surrenders taken into consideration, her proportion would be fully one-half, or more, of the subsidy—a proportion, however, which the Dominion will never be called upon to give, nor the Island to receive. Sir John A. Macdonald must have been mad to agree to so stupid and complicated an arrangement. How much simpler and better it would have been, when the question of compensation was brought up, to allow the American Government to deal directly with the Governments of those Colonies around whose coast its fishermen desired to fish, and make the best bargain it could? The arrangement might have been from year to year, or for a limited number of years; but, in either case, the fisheries, like every other marketable article, would then have realized their true value, and all causes of dissatisfaction and trouble, between the Colonies themselves, as well as with United States, would have been avoided. This is one of the suggestions which the Legislatures of this Island and that of the Dominion, to which, we presume, the question will be referred in the course of a few weeks, should insist upon, and press the American and British Governments to adopt. We have already seen that by boldly maintaining our rights we have had the American markets thrown open to our fish, and the American coast on the Atlantic seaboard, north of the thirty-ninth parallel of latitude, opened to our fishermen. We have also had presented to us the prospect of fair compensation for access to our fisheries; and it only remains for ourselves to take a firm stand to obtain *justice* in the settlement of this question. On no other basis will satisfaction be secured to either party.

The treaty, such as it is, will be of material advantage to this Colony, and with the suggestions which we have just given embodied in it, will no doubt prove acceptable to its inhabitants. The blatant patriots who cravenly advised the complete surrender of our fisheries without any compensation whatever, and assumed credit to themselves for so doing, heaped unmeasured abuse upon all those who aided or abetted the measures taken last summer to prevent the Americans encroaching within the three-mile limit; but it is quite evident now that had not the provisions of the Treaty of 1818 been as rigidly enforced as they were, no such concessions as we have an immediate prospect of obtaining would ever have been granted. Captain Hardinge received from his Sovereign a fitting reward for the faithful discharge of his delicate and oftentimes unpleasant duties by being promoted to the command of one of the first gunboats in the navy. The people of this Island will also owe him a debt of gratitude, if his services, in connection with those of others while on this station, have been productive of a treaty which settles a vexed question upon a basis which guarantees the provinces their full rights and privileges. We take credit to ourselves for having advocated the real interests of the people when this question was being discussed, both in the press and in the Legislature; and, looking at the result of the policy adopted, we can afford to smile at the abuse which was levelled at us by a clique of half-baked political philosophers who assumed to themselves all the patriotism and wisdom of the provinces. The lesson they have received might be of some service to them in teaching them a little modesty, were it not that they are beyond improvement; but, at all events, the people should see that those who are loudest in proclaiming themselves patriots, and all who do not agree with them traitors, are not always their best friends. Had Sir John A. Macdonald, to whom the colonists specially looked for a just and equitable arrangement of the fishery question, managed the compensation clause of the treaty so as to secure to each Colony the full value of the privileges which it surrendered, he would have been regarded as one of the first statesmen on this continent, and the real friend of British America. As it is, whatever reputation he enjoyed as a politician is irrevocably lost amongst those who dwell by the sea. We trust that his colleagues will repair the blunder which he has made, and give us a treaty which will inaugurate an era of prosperity in this Colony, and to which her past history has been a stranger.

THE HIGH COMMISSION.

‘The Progress,’ Summerville, Monday, May 15, 1871.

Our readers will see by a telegram in another column that the High Commission has finished its labours, and that the treaty has been signed. From the outline of that document which has reached us, we conclude that it is very one-sided—that the Americans have received a great deal and given very little. We, as a people, are much more directly interested in the fishery question than in any of the others treated of by the Commission. We hardly think that the settlement arrived at will be satisfactory to the people of the maritime provinces. Our inshore fisheries have, it appears to us, been signed away, and no equivalent has been required. These fisheries, it is needless to say, are very valuable—as valuable as any in the world. We look upon the privilege of fishing off the American coast as perfectly valueless to our fishermen. We, however, may be mistaken in this. If the Commission had procured for us the privilege of the American coasting trade, we would have had something like a fair return for the inshore fisheries. We are, however, convinced that unrestrained intercourse with American fishermen will be of great advantage to all classes of men on the Island. When they are permitted to purchase provisions and other supplies in our markets,—when they can land their fares for transshipment, or any other purpose,—our farmers and merchants may expect brisk times and greatly increased prosperity. After all, the protection of our inshore fisheries has hitherto been very little better than a mere sham. In practice the Americans fished where they pleased. We have been very all along sustaining the disadvantages consequent upon the trespass, without enjoying the benefits of unrestricted intercourse. This latter will, we believe, be found to be very great. This, then, is the result of the retaliatory policy of our neighbours. Their inhospitable treatment of the Americans, and their tenacious adherence to what they considered their strict legal rights, has resulted in

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the Americans obtaining, on our shores and in our harbours, far greater privileges than they ever before enjoyed. No doubt Captain Hardinge's Dogberry rule in our Island waters hastened the consummation. Those envious men who set that officer on American citizens to worry and ruin them, now see how shortsighted their malice has been. It was on the Island, last summer, little better than a crime to be an American citizen, if that citizen was in any way connected with the fisheries. When the new treaty becomes law, the men who were persecuted like criminals a few months ago, will possess every privilege enjoyed by British subjects, in addition to their peculiar rights as American citizens. We protested against the *impolicy* as well as the injustice of last summer's proceedings, and were soundly abused by those who considered themselves the most loyal of British subjects and the most sagacious of politicians. Their tune, we fancy, will be changed now. But we may not expect a very stout resistance from so slavish a crowd. Those who saw in a British man-of-war captain the impersonation of the authority and dignity of the Home Government, will not be likely to oppose very stoutly the conclusions come to by live lords, ambassadors, and baronets. We see that that defender of Dominion bumptiousness, the 'Halifax Reporter,' has already struck his colours, and we have no doubt the rest of the valiant host will very complacently "eat the leek." What will Admiral Mitchell do now that his occupation is gone? and what will become of his powerful fleet of fore-and-afters? Will he take heart of grace—repudiate the action of his chief—declare the independence of the Dominion, and nail his colours to the mast?—or will he contentedly settle down into the harmless preserver of salmon, and become the valiant defender of the rights of clam-diggers and lobster-catchers? What a falling off was there, my friends!

We know that the new treaty is subject to the approval of the Parliament of the Dominion and the Legislature of this Island; but if the treaty receive the sanction of the Parliament of Great Britain and the Senate of the United States, it is not very likely that the Legislatures of the dependencies will venture to repudiate it. Such a course pursued by the Dominion Legislature would be a virtual declaration of independence. As the fisheries are under Imperial jurisdiction, and as the protection of the Empire is a matter of Imperial concern, it is by no means probable that the Canadians will refuse their sanction to an arrangement which Imperial statesmen consider conducive to the peace and safety of the Empire. If they do so refuse, they must of course be prepared to take upon themselves all the consequences of such refusal. If they insist upon acting as an independent people, they must take upon themselves the responsibilities and the burdens of independence. In any future disputes with foreign nations, they must be prepared to assert what they consider their rights without counting upon the assistance of the mother-country.

FREE FISH AND FREE FISHING.

'Eastern Advocate,' Thursday, May 18, 1871.

We are overjoyed to learn that the treaty negotiated by the Joint High Commission recognizes the principle of free fish and free fishing. We have previously argued that this was the only feasible settlement of the fishing question. It is a settlement that will redound greatly to the prosperity of this Island. We shall try and show this to be the case in our next issue, as our space is this week limited. We will give a synopsis of the treaty next week.

Elsewhere will be seen an article respecting the doings of the Joint High Commission, which was in type before the synopsis of the treaty reached us, and in which we claimed recognition for Prince Edward Island in the final settlement of the fishing question. It will be seen, however, that the rightful status of our Island has not been ignored, and that we shall be consulted through our Parliament. This concedes our free and independent position as a province under the fostering care of the mother-country.

One significant circumstance is observable, however, respecting Newfoundland. She is utterly ignored in the treaty. Two reasons have conduced to this result. 1st. The Americans seem to fear the influx, free of duty, of such immense quantities of cod-fish and oil as she produces, which would compete unfavourably with their own productions of the same kind. 2nd. Newfoundland, to reap any benefit from this treaty, must become confederated. It is altogether likely that the British Commissioners, knowing the wishes of the mother-country in the premises, and being guided by Sir John A. Macdonald in the matter, purposely left Newfoundland out in the cold, feeling satisfied that Newfoundland would soon apply for admission to the Dominion fireside. Thus the promises held out to Newfoundland before the late general election by the Confederates, that if Newfoundland would join the Dominion, she would thus obtain access to American markets for her fish, is likely to be realized.

THE TREATY OF WASHINGTON.

'Island Argus,' Tuesday, May 23, 1871.

The provincial and American press are now busily discussing the merits of the proposed treaty. The American public generally regard it with favour, and there will probably be no difficulty in securing the approval of the Senate. The ultra-Radical party, led by the irrepressible Ben Butler and his co-worker, Banks, on the other hand, are extremely violent in their denunciation of its provisions respecting the fishery question, and are putting forth all their efforts to prevent its ratification by the Senate. Their interference will not have much influence with that body. The prospect of peaceably settling the fishery difficulty is a matter of deep regret to such noisy and unscrupulous demagogues as Butler. The *spoony* hero of New Orleans realizes the fact that he is in danger of being rudely dismounted from one of his best political hobbies, with no prospect of being able to supply the loss. Having failed to provoke a war between the United States and Great Britain to gratify his political patrons, he will now for their benefit turn his attention to some other political humbug. A crusade against the unoffending and industrious Chinese might suit the *wants* of his supporters.

While a respectable majority of the American press highly commend the result of the Commission, the provincials are by no means satisfied, and we think they have some ground for complaint. Those among them who anticipated a renewal of the Reciprocity Treaty are especially opposed to the scheme propounded for the settlement of the fishery question. They maintain that by persisting in refusing to the Americans the privilege of fishing within the legal limit, we should coerce the people of the United States into free trade with these provinces. This view of the matter they adopt without due consideration. It is our boast that we will not yield to coercion on the part of the United States, and we ought at least concede to them equal public spirit. While we do not believe in the doctrine of coercion, we think ourselves entitled to justice. The provisions of the present treaty in our opinion clearly indicate that the British Commissioners either were outwitted by the shrewd Americans, or compromised our rights in their eagerness to re-establish friendly relations with the United States. It is notorious that on all commissions and arbitrations respecting these provinces, whether in the settlement of commercial difficulties or the adjustment of national boundaries, the shrewd Yankees invariably manage to get the better of the bargain. How can we account for the fact? Are the Americans better skilled in diplomacy? On the contrary, we believe that on the present Commission especially greater talent was ranged on the British side. In no way can we account for the apparent superiority of the Americans over the British in treaty-making, other than that the British have not made themselves sufficiently acquainted with the resources of these provinces to appreciate their importance. Had the fishing grounds been located along the English coast, we suspect that the American press would not to-day be in a position to be so much enamoured with the liberality and democratic proclivities of the British Commissioners. It is true that a Mixed Commission and umpire is to value the respective fishing grounds; and should ours be found more valuable, we are to receive a compensation in money. Should we receive a fair equivalent for the privileges we concede, we would not be in a position to complain; but this need not be expected. Our fishery resources are only beginning to be developed, and consequently it is very difficult to estimate their value. British and American Commissioners are the least likely to award us sufficient compensation. Besides, the Americans do not admit that our fisheries are more valuable than theirs; and before the Commissioners to be appointed to estimate their respective values can come to settlement there will likely be another compromise of our rights for the benefit of the mother-country. Provincial and American Commissioners bring about an equitable settlement of provincial questions, and should be allowed to arbitrate all such matters. Although the treaty is not all that we can desire, yet, we think, it would not be wise to reject it. It is not as favourable to us as it might be, yet it will be much more advantageous to us than the way our fisheries were managed in the past. We will return to this subject next week.

No. 6.

No. 6.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(Confidential.)

Government House, June 20, 1871.

(Registered 11th July, 1871.)

MY LORD,

(Answered, Confidential, 18th July, 1871, page 190.)

I HAVE the honour to submit herewith a copy of a letter which I addressed to the leader of my Government on receiving yesterday from the Lieutenant-Governor of New Brunswick an intimation that two members of the Government of that Province have been appointed to confer with the Governments of Nova Scotia and Prince Edward Island on the subject of the fisheries.

2. I hope that I have anticipated your Lordship's wishes and instructions in endeavouring to prevent my Government from pledging itself beforehand to adopt a policy adverse to the confirmation of the Treaty of Washington.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

P.S. Since writing the above I have seen Mr. Pope. He has promised me that, whatever may be the ultimate decision of its Legislature, the Government of Prince Edward Island will not identify itself with New Brunswick and Nova Scotia in any movement antagonistic to the treaty. This (considering the state of public feeling here, as reported in my Confidential Despatch of the 29th May*) is, I think, as much as I can ask or expect at present.

* Page 175.

W. R.

MY DEAR MR. POPE,

Government House, June 19, 1871.

I enclose a letter which I received this morning from the Lieut.-Governor of New Brunswick, informing me that the Attorney-General and the President of the Council of that Province have been appointed to confer with the Governments of Nova Scotia and Prince Edward Island on the subject of the fisheries, and that they will probably be in Charlottetown early this week.

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Judging from what I have seen in the New Brunswick papers, I apprehend that the object of the delegates will be to procure from you, if possible, an expression of opinion adverse to the confirmation of the Fishery Treaty, but I think you will agree with me that it would be premature for this Government to pledge itself in any way in the matter just at present. I see no reason why you should refuse to hear what the New Brunswick Committee have to say, obtaining from them all the information you can respecting their fisheries, and giving them in return whatever information they may require with respect to ours; but I should wish to caution you against expressing any decided or formal opinion about the treaty at this stage of the proceedings, especially against enabling the delegates to report that the members of this Government, as such, are opposed to the Treaty of Washington, or that they intend, when the time comes, to advocate its rejection by the Legislature.

As of course I shall not be present myself at any of the conferences between the New Brunswick delegates and the members of my Government, I lose no time in acquainting you with my opinion as to how the question which I conclude will be discussed ought to be dealt with at present, and I have to request that you will be so good as to communicate this note to your colleagues confidentially.

Hon. James C. Pope,
President of Executive Council.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

SIR,

Government House, New Brunswick, June 13, 1871.

I have the honour to inform you that two members of my Government, the Attorney-General and the President of the Council, have been appointed to confer with the Governments of Nova Scotia and Prince Edward Island, on the subject of the fisheries, and that they will probably be in Charlottetown early next week.

His Excellency the Lieut.-Governor,
&c. &c. &c.,
Prince Edward Island.

I have, &c.,
(Signed) L. A. WILMOT, Lieut.-Governor.

No. 7.

No. 7.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(No. 55.)

Government House, July 12, 1871.

MY LORD,

(Received 26th July, 1871.)
(Answered, No. 27, 8th August, 1871, page 190.)

* Page 189.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 22,* of the 17th of June, enclosing a copy of the Treaty of Washington and other documents relative thereto.

2. I have had several conversations with the leader of my Government upon the important question of admitting American fishermen to the privileges of our inshore fisheries provisionally and pending the consideration of the Treaty by the Legislature, and it affords me the greatest satisfaction to inform your Lordship that my Advisers seem disposed to meet the views of Her Majesty's Government in the matter, and to order the Colonial officers not to enforce the fishing laws against American fishermen during the present season. The question has not yet been formally considered in Council, but Mr. Pope informed me this morning that he thought his colleagues, with whom he had discussed it, would be prepared to concede the point which I urged upon him in the name of Her Majesty's Government.

3. I anticipate that the necessary instructions will be issued at the next meeting of the Executive Council, and that I shall be in a position to address your Lordship in detail and with certainty upon the subject by the mail of this day fortnight. Meanwhile I am sure that your Lordship will be gratified at the probability of the Government of Prince Edward Island responding promptly and loyally to the wish of Her Majesty's Government, as conveyed to me in your Lordship's Despatch under acknowledgment.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

The Earl of Kimberley,
&c. &c. &c.

No. 8.

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No. 8.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(No. 59.)

Government House, July 25, 1871.

(Received August 8, 1871.)

(Answered, No. 32, September 3, 1871, page 191.)

MY LORD,

IN continuation of my Despatch, No. 55,* of the 12th inst., I have now the honour to forward a Minute prepared by my Advisers, in which they record the result of their deliberations on the subject of the Treaty of Washington and the other important documents which were forwarded to me with your Lordship's Despatch, No. 22,† of the 17th June last.

* Page 180.

† Page 189.

2. It is stated in the Minute that "the different Governments and Legislatures of this Colony have always hoped that these fisheries" (the fisheries of Prince Edward Island) "would have done much to secure the advantages of another Reciprocity Treaty, or of some tariff concessions authorizing the free admission" (into the United States) "of the products of our agriculturists, who form the majority of our population, and which would have resulted in promoting the prosperity of the Colony;" and that in the opinion of the Council the inhabitants of Prince Edward Island are now asked "to surrender to the citizens of the United States these invaluable fisheries without receiving in return any just or fair equivalent such as was hoped to be obtained." In deference, however, to the strongly expressed wish of Her Majesty's Government in the matter, the Committee of the Executive Council (without giving any pledge as to the ultimate action of the Legislature) recommend "that the application made by the United States' Government be acceded to, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty;" and I have the honour to report that the Custom House officers were yesterday instructed to discontinue the enforcement of the fishery laws for the present season and until further orders.

3. I caused the United States' Consul at this port to be notified accordingly, and I simultaneously dispatched a similar notice to Sir Edward Thornton by telegraph.

4. I may add that in the event of the Acts necessary to give effect to the Treaty being passed by the Legislature of Prince Edward Island, my Government will apply to your Lordship for permission to send a representative to Halifax for the purpose of conferring with the agent of the Imperial Government, whose appointment is provided for in the concluding paragraph of Article 23 of the Treaty, and of urging upon him the claims of this Island to a just share, proportionate to the value of our fisheries, of whatever compensation may be awarded as an equivalent for the privileges which the colonists are asked to surrender. My Government are, of course, aware that Great Britain and the United States are to be represented before the Halifax Commission each by one agent only, but they believe that it would be competent to Her Majesty's Government to authorize the Imperial agent as aforesaid to receive information on the subject of our fisheries from a representative to be appointed by the Government of Prince Edward Island; and this, should the Legislature assent to the Treaty, is what my Government hope that your Lordship will be pleased to accord.

5. I am confident that your Lordship will receive with much satisfaction the intimation contained in this Despatch, and that the prompt and loyal action of the Government of Prince Edward Island will predispose Her Majesty's Government to comply, as far as possible, with any reasonable request which my Advisers may consider it to be their duty to prefer.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

Enclosure in No. 8.

Council Chamber, July 17, 1871.

Enclosure in
No. 8.

At a meeting of a Committee of the Executive Council of Prince Edward Island—present, The Hon. Mr. Pope, the Hon. Mr. Colonial Secretary, the Hon. Mr. Attorney-General, the Hon. Mr. Owen, the Hon. Mr. Richards:

The Committee of Council having under consideration Despatch, No. 22, dated at Downing Street, the 17th of June, 1871, from the Right Hon. Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies, to his Honour Lieutenant-Governor Robinson, together with copies of the treaty signed at Washington on the eighth day of May, and of protocols of the conferences held by the Commission, of two

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notes which have passed between Sir Edward Thornton and Mr. Secretary Fish, and of a Despatch addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents, Her Majesty's Government in the Despatch first referred to strongly urge upon the Government of this Island that, for reasons stated in the Despatch from the Earl of Kimberley to Lord Lisgar, the same course should be pursued as in 1854, and the application made by the United States' Government acceded to by Prince Edward Island, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the treaty,

Have respectfully to submit that Prince Edward Island is the most fertile and productive province in British North America, in proportion to its extent; that the natural market for its principal productions is to be found in the United States, as was very satisfactorily proved during the continuation of the Reciprocity Treaty of 1854; that the fisheries of this Island are the best and most valuable in America, and are much appreciated by the fishermen of the United States; that the different Governments and Legislatures of this Colony have always hoped that these fisheries would have done much to secure the advantages of another Reciprocity Treaty, or of some tariff concessions authorizing the free admission of the products of our agriculturists, who form the majority of our population, and which would have resulted in promoting the prosperity of the Colony. That by the treaty now under consideration, the inhabitants of this Island are asked to surrender to the citizens of the United States these invaluable fisheries, without receiving in return any just or fair equivalent such as was hoped to be obtained. The Earl of Kimberley, in his Despatch to Lord Lisgar, alludes to "the great importance to Canada of the right to convey goods in bond through the United States, which has been secured to her by Article 29, and the free navigation of Lake Michigan under Article 28, and the power of transshipping goods under Article 30, as valuable privileges which must not be overlooked in framing an estimate of the advantages which Canada will obtain."

Valuable to Canada as may be these privileges, the Committee submit that they do not at all affect Prince Edward Island. That the chief benefit to this Island would be the admission of fish and fish-oil into the markets of the United States, and this would not be generally felt by the people, inasmuch as this trade is now principally in the hands of a few American citizens. That the surrender by the United States of the right of fishing down to the 39th degree of latitude is comparatively worthless to the people of this Island, and as the United States' Government assert that the privileges accorded to the citizens of the United States under Article 18 of this treaty are of no greater value than those accorded by Articles 19 and 21 to the subjects of Her Britannic Majesty, the amount of any money compensation that would be given to this Island would be insignificant.

The Earl of Kimberley, in his Despatch to Lord Lisgar, says,—“In some respects a direct money payment is perhaps a more distinct recognition of the rights of the Colonies than a tariff concession, and there does not seem to be any difference in principle between the admission of American fishermen for a term of years in consideration of the payment of a sum of money in gross, and their admission under the system of licences calculated at so many dollars per ton, which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty. In the latter case it must be observed that the use of the fisheries was granted without any tariff concession whatever on the part of the United States, even as to the importation of fish.”

The Committee submit that a commercial arrangement with the United States in consideration of the use of the fisheries would have been most acceptable, but as the Royal High Commissioners were unable to induce the American Government to change its commercial policy, the people of this Island being extremely loyal, and devotedly attached to British institutions, would be most unwilling to throw any obstacle in the way of an amicable settlement of all causes of difference between Great Britain and the United States, and would therefore willingly accept any reasonable money compensation, in addition to the privileges granted, as an equivalent; but under the treaty nothing of the kind is guaranteed them.

The Committee deem it to be their duty further to state that the system referred to of granting licences to American fishermen for a money consideration was never approved of by the Government of this Island, but merely sanctioned in deference to the strongly expressed wish of the British Government in the matter,—and for the same reason the Committee now recommend that the application made by the United States' Government be acceded to, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the treaty, without any pledge, however, on the part of the Government that the Legislature will pass the Acts to give effect to the treaty, in which they feel that the interests of Prince Edward Island have not been fairly considered.

Adopted in Council, July 24, 1871.

(Certified)

WILLIAM C. DES BRISAY,
Assistant Clerk, Executive Council.

No. 9.

No. 9.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(No. 63.)

Government House, August 10, 1871.

(Received Sept. 6, 1871.)

(Answered, No. 37, Sept. 20, 1871, page 192.)

MY LORD,

I HAVE the honour to enclose a copy of a Memorial recently presented to me by certain members of the Legislature of Prince Edward Island, together with a copy of my reply.

2. It will be seen from the correspondence that I was asked to summon a special

Session of Parliament in order that the tenders for the construction of the proposed railway might be submitted to the Legislature, and that the Legislature might have an early opportunity of considering those portions of the Treaty of Washington which affect the interests of this Colony.

3. My reasons for declining to comply with the prayer of the Memorial are fully explained in my letter to the memorialists of the 24th ult., and I do not think that I need trouble your Lordship with any further remarks upon the subject on this occasion.

4. Your Lordship will observe with satisfaction that the memorialists express themselves not unfavourably as regards the Treaty of Washington; that they evince a desire to assist the Imperial Government in removing any causes of irritation between the mother-country and the United States; and that approving in advance of the provisional arrangement referred to in the last paragraph of my reply, their acquiescence in the legislation necessary to give effect to the Treaty may be expected, when the time comes for the consideration of that question by the Legislature.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

Enclosure 1 in No. 9.

Enclosure 1
in No. 9.

To His Honour WILLIAM FRANCIS CLEAVER ROBINSON, Esq., Lieutenant-Governor, &c.,
of Prince Edward Island.

The Memorial of the undersigned Members of the Legislative Council and House of Assembly respectfully sheweth,—

1. That your Memorialists have observed in the newspapers advertisements calling for tenders for the construction of a railway from Alberton to Georgetown, under the Act passed last session, in which advertisements Wednesday, the 19th July inst., is named as the last day for the reception of tenders.

2. That the work for the construction of which tenders are being called will involve an outlay amounting to at least from six to eight years' revenue of the Colony.

3. That the Act authorizing this undertaking was passed almost at the close of a long session, and was opposed in both Houses by a very respectable minority, and has not yet, as far as we know, received the Royal assent.

4. That the question of building a railway has never been submitted to the people at the polls, and that only two electoral districts have as yet had an opportunity of expressing, in a constitutional manner, their opinion of the measure.

5. That one of these districts, the Fourth of Queen's County, has, by a large majority, rejected the Hon. James Duncan, a member of the Executive Council and Chairman of the Railway Board.

6. That inasmuch as the contemplated line of road has not yet been located or surveyed, its actual length cannot be given, and an examination of the specifications, &c., now in the office of the chief engineer, shows conclusively that any intending contractor must submit his tender in ignorance of the number and character of the stations and bridges he may be required to build, and of the extent of the grading he would have to make.

7. That a widespread feeling prevails throughout the Colony that sufficient time has not been given to parties from a distance to compete for the work, even if they were willing to do so, and that sufficient data have not been furnished to enable intending contractors fairly to estimate the cost of the road, or prepare tenders which, while doing justice to themselves, would also deal justly with the country.

8. That several gentlemen who came to this island for the purpose of gathering information, and who consulted the engineer, and the specifications and other documents submitted to them, are reported to have gone away expressing their opinion that it was impossible to tender honestly with such a lack of particulars.

9. That a few months' delay cannot possibly result in any injury, and would, in all probability, be productive of great good.

10. Under these circumstances your memorialists, some of whom voted for the passing of the Railway Bill, feel it to be their duty as representatives of the people, to remonstrate against the hasty manner in which the contracts for a work of such magnitude are proposed to be entered into, and to submit to your Honour their earnest but respectful protest against such precipitate action, praying that your Honour will withhold your acceptance of any tender until all those received are laid before the Legislative Council and House of Assembly for their consideration.

Your memorialists would further remind your Honour:

11. That the Washington Treaty lately entered into by the Joint High Commissioners of Great Britain and the United States of America contains provisions seriously affecting the interests of this island, which provisions, in so far as they may benefit us, are to remain inoperative until they receive the sanction of our Legislature.

12. That it is eminently desirable that the representatives of the people should have those provisions of the Treaty submitted to them for their consideration before the present fishing season expires, in order that the Colony may be in a position, if the Legislature should ratify the Treaty, to reap during this summer whatever benefits or privileges may be thereby secured to this Island.

13. That a disposition on our part to assist the Imperial Government in removing any causes of irrita-

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tion between the mother-country and the United States of America would, we feel sure, meet with the hearty approval of our gracious Sovereign and of your Honour as her representative in this Colony.

Your memorialists therefore respectfully pray that your Honour will call a special session of the Legislature at as early a period as circumstances will permit, to take into consideration the momentous questions to which we have drawn your Honour's attention.

DONALD MONTGOMERY, P.L.C.
ROBERT P. HAYTHORNE, M.L.C.
GEORGE BEER, M.L.C.
JAMES MUIRHEAD, M.L.C.
JOHN BALDERSTON, M.L.C.
JOSEPH WIGHTMAN, M.P.P.
BENJAMIN DAVIES, M.P.P.
PETER SINCLAIR, M.P.P.
CORNELIUS HOWAT, M.P.P.
ANGUS McMILLAN, M.P.P.
DANIEL DAVIES, M.P.P.
H. J. CALLBECK, M.P.P.
HENRY BEER, M.P.P.
DAVID LAIRD, M.P.P. (elect).
WILLIAM HOOPER, M.P.P.
J. R. McLEAN, M.P.P.
JOHN YEO, M.P.P.
JAMES ROBERTSON, M.P.P.
WM. S. McNEILL, M.P.P.

Enclosure 2
in No. 9.

Enclosure 2 in No. 9.

REPLY.

Government House, July 24, 1871.

GENTLEMEN,

The Lieut.-Governor has not failed to give his most attentive consideration to the Memorial in which you request him to withhold his signature from the railway contracts now about to be entered upon, and to summon a special session of Parliament in order that the tenders for the construction of the railway may be submitted to the Legislature, and that the Legislature may have an early opportunity of considering those portions of the Treaty of Washington which affect the interests of this Colony.

2. The Lieut.-Governor has come to the conclusion that he cannot with propriety comply with your request.

3. The Act authorizing the construction of the railway was passed in the Legislative Council by a majority of 8 to 4, and in the House of Assembly by a majority of 18 to 11; and by your own showing, judging, that is to say, from the signatures attached to the Memorial, the present Government still command majorities in both branches of the Legislature. Moreover, were Parliament at this moment in session, the responsibility of dealing with the tenders and contracts would rest, according to the Act, with the Executive Government and not with the Legislature. This being so, and having regard to the circumstance that no contract can be entered into by Government for the construction of the railway conditioned for the payment of any greater sum than that authorized by the Legislature, the Lieut.-Governor does not consider that there exists any sufficient necessity for inviting the Legislature to amend the Act—the only means by which the contracts could be brought under its control—and assume functions which the Executive Government have been called upon, by law, and are now about to perform.

4. The Lieut.-Governor entirely concurs with you in thinking it most advisable that this Colony should be enabled to avail itself at once, and during the present fishing season, of the advantages which are proposed to be conferred upon it by the Treaty of Washington. But for this a special Session of the Legislature will not be required, for the Lieut.-Governor has much satisfaction in informing you that arrangements have been made between Her Majesty's Government and that of the United States, in which the Government of this Colony have already concurred, which will have the effect of securing the very desirable result which you advocate in the present Memorial.

The Hon. DONALD MONTGOMERY,
" ROBERT P. HAYTHORNE, and others.
" JOSEPH WIGHTMAN,
" BENJAMIN DAVIES, and others.

I have, &c.,
(Signed) KILDARE C. ROBINSON,
Private Secretary.

No. 10.

No. 10.

Lieut.-Governor ROBINSON to The Earl OF KIMBERLEY.

(Confidential.)

Government House, August 10, 1871.

(Received September 6, 1871.)

(Answered, Confidential, September 20, 1871, page 191.)

MY LORD,

WITH my Despatch, No. 63,* of this date your Lordship will receive a copy of a Memorial recently presented to me by certain members of the Legislature of Prince Edward Island, together with a copy of my reply.

* Page 182.

2. I think it right to forward to your Lordship, in a Confidential Despatch, a Minute of Council containing the advice which my Government tendered to me on this occasion.

3. Writing unreservedly, the Memorial may be described as an attempt on the part of the Opposition to embarrass the existing Government. Having opposed the railway policy of the Government during the last session of the Legislature unsuccessfully, the memorialists could hardly expect that I would depart in their favour from the established principles of Constitutional Government, and summon a special session for the purpose of affording to an admitted minority an opportunity of discussing anew a question on which they were defeated a few months previously. My reasons for considering it unnecessary to summon a special session for the immediate consideration of the Treaty of Washington are stated in the last paragraph of my reply to the Memorial. I do not know, indeed, that under any circumstances I would have been justified in submitting the Treaty to the Legislature without having first received from your Lordship an intimation that the proper time for so doing had arrived. Certainly I did not feel that I ought to run any risk, or incur any such responsibility at the request of a Parliamentary minority, whom I could not but see were inclined to take advantage of my anxiety respecting the Treaty to bring about a meeting of the Assembly—in point of fact for the consideration of a different question altogether. Moreover public feeling is becoming gradually less unfavourable to the Treaty, and a delay of a few months in bringing it before Parliament, allowing our people in the meanwhile to feel and appreciate the advantages which they will derive from the free admission of their fish into the United States, and from free intercourse with American fishermen during the present season will have by no means a prejudicial effect, but, on the contrary, go far towards securing the ultimate adoption of the Treaty by the Legislature.

4. My refusal to afford the Opposition an opportunity of reconsidering the Railway Act has, of course, been condemned by one section of the local press and defended by the other. I will not trouble your Lordship with the controversy as carried on in the Island papers, but I would beg leave to enclose an article upon the subject which has appeared in the 'Halifax Chronicle,' the organ of the Liberal party in Nova Scotia, a paper, I may add, by no means favourable to the present Government in Prince Edward Island.

I have, &c.,

The Earl of Kimberley,
&c. &c. &c.

(Signed) WILLIAM ROBINSON,
Lieutenant-Governor.

Enclosure 1 in No. 10.

Enclosure 1
in No. 10.

Council Chamber, July 24, 1871.

At a meeting of a Committee of the Executive Council of Prince Edward Island—present, The Hon. Mr. Pope, the Hon. Mr. Colonial Secretary, the Hon. Mr. Attorney-General, the Hon. Mr. Macdonald, the Hon. Mr. Owen, the Hon. Mr. Howlan, the Hon. Mr. MacEachen, the Hon. Mr. Richards:

The Committee of the Executive Council having had under consideration a Memorial of certain members of the Legislative Council and House of Assembly, praying,

First. That the Lieutenant-Governor will withhold his acceptance of any tender for building a railway through this Island until all tenders received are laid before the Legislative Council and Assembly for their consideration:

Second. That the Lieutenant-Governor will call a special session of the Legislature at as early a day as circumstances will permit to take into consideration the momentous questions to which they draw his attention:

Beg to submit to the Lieutenant-Governor their opinion thereupon.

The Committee are of opinion that the memorialists have not in their Memorial alleged any sufficient reason why the Lieutenant-Governor should withhold his acceptance of any tender for the building of the railroad until all tenders received shall be laid before the Legislative Council and Assembly for their consideration, or why he should call a special session of the Legislature.

The Railway Act declares that the Lieutenant-Governor in Council shall have authority to accept any offer for the construction of a railway from Alberton to Georgetown, and that he should not be bound to accept the lowest offer which may be made if, in his judgment, the public interest would be secured, by accepting a higher tender, and inasmuch as it was the intention of the Legislature that the railroad should be commenced during the present season, the Committee cannot advise the Lieutenant-Governor to withhold his acceptance from such of the tenders now in the possession of his Government, the acceptance of which, in his judgment, would best promote the public interest.

The subject of a railway, after being fully discussed in the most important districts of the Island, was brought to the attention of the Legislature in the speech with which the Lieutenant-Governor opened the last session of Parliament. The Bill to authorize the construction of the railroad was carried in both branches after lengthy discussions, in which the gentlemen whose names are attached to the Memorial (with two exceptions) opposed it, founding their opposition mainly on allegations similar to those set forth in their Memorial.

The action taken by the Lieutenant-Governor in Council upon Earl Granville's Despatch relative to

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the Washington Treaty will procure without delay for the inhabitants of this Island all the advantages which the Treaty offers, so far as they can be procured until after the meeting of the United States' Congress. The Committee therefore are of the opinion that it is inexpedient to call a special session of the Legislature to take into consideration the Washington Treaty.

Adopted in Council, July 24, 1871.

(Certified)

WILLIAM C. DES BRISAY,
Assistant Clerk, Executive Council.

Enclosure 2
in No. 10.

Enclosure 2 in No. 10.

THE 'HALIFAX CHRONICLE' ON THE MEMORIAL.

In all countries possessing representative institutions the Parliamentary Opposition is allowed a liberal latitude in its efforts to turn out the existing Government, and therefore few will condemn the members of the Opposition in Prince Edward Island for having presented to Lieutenant-Governor Robinson a Memorial praying him to accept their advice instead of his Government's, and to summon a special session of the Legislature to consider the railroad tenders and the Treaty of Washington; but it is surprising that they should attack him for declining to do so.

Five members of the Legislative Council and fourteen members of the House of Assembly signed the Memorial, the twelve clauses of which may be stated briefly as follows: 1. That the memorialists had observed advertisements inviting tenders for constructing the railway. 2. That the work would involve an outlay amounting to at least from six to eight years' revenue of the Colony. 3. That the railway Act was passed late in the session. 4. That the railway question had never been submitted to the people at the polls, and that only two electoral districts had an opportunity of expressing their opinion of the measure. 5. That one district rejected the Chairman of the Railway Board, the Hon. Mr. Duncan, by a large majority. 6. That no surveys had been made, and consequently there was not sufficient information for contractors to base tenders on. 7. That the time allowed for the reception of tenders was too short. 8. That several gentlemen who contemplated tendering were reported to have left the Colony, satisfied that no honest tender could be offered on the information available. 9. That a few months' delay could do no harm, and might do good. 10. That no tender ought to be accepted before being submitted to the Legislature. 11. That the Washington Treaty required the consideration of the Legislature. 12. That the treaty should be considered before the expiration of the fishing season, so that the Island might receive the benefits of free trade in fish with the United States. 13. That the memorialists had a disposition, which they felt sure would be approved by the Queen and her representative, to assist Her Majesty's Government in removing the causes of irritation between Great Britain and the United States.

The question submitted to the Lieutenant-Governor was a grave constitutional one, but, fortunately, not a difficult one, as precedent and common sense alike pointed out that there could be but one answer to the Memorial—a respectful and courteous refusal of its prayer. Had Governor Robinson acceded to their request, the question must have arisen in the mind of every colonist whether Responsible Government was not merely “responsible humbug,” as some of its early opponents called it. Whether the Railway Act was a good or bad measure was not the question. We agree with the opponents of the Bill that the legislation was somewhat hasty, and the information respecting cost of construction and maintenance of the road very inadequate. But the time for discussing these points had passed. All the arguments of the Memorial had been urged with ability in the Legislature and in the press, and in the face of them the Bill passed by a majority of 8 to 4 in the Legislative Council, and of 18 to 11 in the House of Assembly. The people's representatives, by a decisive vote, approved of the railway policy, and the subsequent partial elections could have given the Governor no reason to believe that his Responsible Advisers had forfeited the confidence of the country. Two elections had been held at the time the Memorial was drawn up, and before the Governor's reply was written a third took place. The result was that in one case the Government candidate was defeated by a handsome majority, and in the other two the Government were handsomely sustained. Calculating the votes of the three elections together, there appeared—

For the railroad	-	-	-	-	1843
Against the railroad	-	-	-	-	1569
A majority of					274

for the Government's railway policy. If constitutional practice did not clearly point to a refusal of the memorialists' request, the facts that we have stated must have led his Excellency to adopt that course. We had a somewhat similar case in Nova Scotia ten years ago, when an energetic opposition got up petitions to the Earl of Mulgrave, informing him that his Government and the House of Assembly supporting them did not possess the confidence of the country. Earl Mulgrave's reply was: “You may rest assured the moment I conceive that a constitutional necessity for a dissolution exists, I shall not hesitate to make an appeal to the country; but so long as I remain Her Majesty's representative in Nova Scotia, I shall claim to be the judge of when that time has arrived.” We believe that most of those who signed the petitions in 1861 will to-day say that Lord Mulgrave was right; and in the future the signers of the Prince Edward Island Memorial will do justice to the position taken by Governor Robinson.

No. 11.

PRINCE
EDWARD
ISLAND.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

No. 11.

(No. 72.)

Government House, September 30, 1871.

(Received October 16, 1871.)

MY LORD,

I HAVE the honour to submit a copy of a letter addressed to me by Mr. J. C. Hall, an American merchant largely engaged in the exportation of fish from Prince Edward Island to the United States, together with a copy of my reply.

2. Mr. Hall is apprehensive that the refusal of Canada to assent to the provisional arrangement proposed by the United States and assented to by this Colony, as reported in my Despatch,* No. 59, of the 25th July, may work adversely to the interest of those persons in Prince Edward Island who have this year made large investments in the fishing business, in the expectation of receiving back the duties collected in the United States on fish oil and fish exported from this Island into that country during the present fishing season.

* Page 181.

3. I do not in the least apprehend that the action of Canada in withholding assent from an arrangement in respect of which it was necessary that each Colony concerned should decide for itself, will in any way prejudice the interests of Prince Edward Island, or that the Government of the United States will be thereby deterred from recommending and urging upon Congress to refund the duties collected during the stipulated period on fish oil and fish from this Colony; and I felt justified in informing Mr. Hall that I considered his apprehensions unfounded.

4. An assurance to this effect from your Lordship, if one could be procured in time from the United States' Government, and your Lordship should think proper to ask for it, would be most satisfactory and reassuring to that section of the mercantile community to which Mr. Hall belongs, and would serve to counteract the depressing influence which the apprehensions now entertained may otherwise have on the late autumn trade of the Colony.

5. For previous correspondence on the subject of the provisional arrangement mentioned in this communication, I beg leave to refer your Lordship to the Despatches of the numbers and dates noted in the margin.

Sec. of State
to Lt.-Gov.,
No. 22 of
June 17, 1871,
page 180.
Lt.-Gov. to
Sec. of State,
No. 59 of
July 25, 1871,
page 181.

The Earl of Kimberley,
&c. &c. &c.

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

Enclosure 1 in No. 11.

Enclosure 1
in No. 11.

SIR,

Charlottetown, Prince Edward Island, September 26, 1871.

After the action of your Government, giving effect to the Treaty of Washington so far as the fisheries are concerned, admitting fish from the United States, as bait or otherwise, free of duty into this Colony, and giving to United States fishing vessels free access to the shore fisheries around this Island, those persons here who are engaged in the fishing business had supposed that their right, on the meeting of Congress, to receive back the duties paid on all fish and fish oils exported by them to the United States since the first day of July could not be questioned.

Recent reports from the United States would, however, lead to the belief that the refusal of the Dominion of Canada to give effect to the Treaty of Washington may work adversely to the interests of this Island, and prejudice her claim to such return of duties.

As your Honour is probably aware, large investments have this year been made in the fishing business, based upon the expectation of receiving the benefit of this treaty, and a heavy loss to this Island must result if the duties are not returned.

I would therefore esteem it as a great favour if your Honour can give me any information bearing upon this subject.

William C. F. Robinson, Esq., Lieut.-Governor,
&c. &c. &c.

I have, &c.,
(Signed) ISAAC C. HALL.

Enclosure 2 in No. 11.

Enclosure 2
in No. 11.

SIR,

Government House, September 29, 1871.

I am directed by the Lieutenant-Governor to acknowledge the receipt of your letter of the 26th inst., on the subject of the Treaty of Washington.

2. The Government of the United States requested Her Majesty's Government to urge the Governments of Canada, Newfoundland, and Prince Edward Island, to make, for the present season, within their respective jurisdictions, such relaxations and regulations as it might be in their power to adopt, with a view to the provisional admission of American fishermen to the liberty which is proposed to be secured to them

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by the Treaty of Washington; the Government of the United States undertaking in return to recommend and urge upon Congress, at their next session, to refund to the parties paying the same any duties collected in the United States on and after the 1st July on fish oil and fish (with certain exceptions) the produce of the fisheries of the above Colonies respectively, if a similar arrangement should be made with respect to the admission into the Colonies as aforesaid of fish oil and fish (with like exceptions) being the produce of the fisheries of the United States.

3. Prince Edward Island assented to the proposed arrangement; Canada did not assent to it, and you are apprehensive that such refusal on the part of Canada may work adversely to the interests of those persons in Prince Edward Island who have this year made large investments in the fishing business, in the expectation of receiving back the duties paid by them on fish oil and fish exported from this Island into the United States during the present fishing season.

4. The Lieutenant-Governor is of opinion that your apprehensions are unfounded. An arrangement, sanctioned by Her Majesty's Government, has been entered into between the Governments of the United States and Prince Edward Island; and the Lieutenant-Governor does not apprehend that the action of Canada in withholding her assent from a similar arrangement will be attended with the prejudicial result which you have recently been led to anticipate.

Isaac C. Hall, Esq.

I have, &c.,
(Signed) KILDARE C. ROBINSON,
Private Secretary.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 1.)

SIR,

Downing Street, January 2, 1871.

* Vide Papers
printed confi-
dentially,
Feb., 1871, p.
pp. 54, 56.

I HAVE the honour to acknowledge the receipt of your Despatches, Nos. 16 and 17,* of the 25th and 28th November, reporting the circumstances under which the United States' fishing schooner 'Clara F. Friend' was, whilst in the custody of the Marshal of the Vice-Admiralty Court, seized by some of her former crew, taken out of port, and subsequently recaptured by Her Majesty's ship 'Plover' off the coast of Nova Scotia.

I have to convey to you my approval of the steps taken by you on this occasion with a view to the recapture of the vessel.

Lieutenant-Governor Robinson,
&c. &c. &c.

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

No. 2.

No. 2.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(Confidential.)

SIR,

Downing Street, January 16, 1871.

I HAVE received from the Board of Admiralty a copy of a Despatch dated the 22nd of November last, from the Vice-Admiral in command on the North American station, respecting the protection of the fisheries, and forwarding the Reports of the naval officers in command of Her Majesty's ships engaged in this service during the past season.

I understand that the Vice-Admiral has forwarded to you copies of such of these documents as relate to Prince Edward Island, and I should be glad to be made acquainted with the views of your Responsible Advisers upon the points raised in the papers, so far as they relate to the exclusion of United States' fishing vessels from the waters of Prince Edward Island.

You will observe that Admiral Fanshawe reports in favour of the admission of United States' fishing vessels into the ports for the purposes of trade.

Lieut.-Governor Robinson,
&c. &c. &c.

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

No. 3.

PRINCE
EDWARD
ISLAND.

No. 3.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(Confidential.)

SIR, Downing Street, February 4, 1871.
I HAVE the honour to transmit to you a copy of a Despatch which I have addressed to the Governor-General of Canada on points connected with the North American fisheries.

*Confidential,
Feb. 1, 1871,
page 94.*

From this Despatch you will observe that Her Majesty's Government attach great importance to receiving accurate information as to the practice which prevailed between the date of the Convention of 1818, and the ratification of the Reciprocity Treaty in 1854, with respect to the admission of United States' fishing vessels to the ports of the British possessions in North America, for the purposes of trading, transshipping fish, &c.

The three heads on which information is especially desired are mentioned in the concluding paragraphs of this Despatch, and I request that you will supply me with this information, so far as the Colony under your government is concerned.

Lieut.-Governor Robinson,
&c. &c. &c.

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

No. 4.

No. 4.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(Confidential.)

SIR, Downing Street, March 17, 1871.
I HAVE the honour to acknowledge the receipt of your Despatch marked Confidential, of the 17th of February,* relating to the fisheries.

* Page 109.

I approve of the observations on this subject which you addressed to the Legislature in the Speech with which you recently opened the Legislative Session.

Lieut.-Governor Robinson,
&c. &c. &c.

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

No. 5.

No. 5.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 22.)

SIR, Downing Street, June 17, 1871.
I HAVE the honour to enclose herewith copies of the Treaty signed at Washington on May 8th by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States;—of the Instructions to Her Majesty's High Commissioners, and Protocols of the Conferences held by the Commission; of two Notes which have passed between Sir E. Thornton and Mr. Fish,† and of a Despatch of even date herewith,‡ which I have addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents.

† These Parliamentary Papers are attached at the end of this Correspondence.

‡ Page 99.

With reference to that part of my Despatch to Lord Lisgar which bears upon the proposed arrangement for the immediate provisional admission of the United States' fishermen to the Colonial fisheries, I have to observe that Her Majesty's Government strongly urge upon the Government of Prince Edward Island that, for the reasons stated in the Despatch, the same course should be pursued as in 1854, and the application made by the United States' Government should be acceded to by Prince Edward Island, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

Lieut.-Governor Robinson,
&c. &c. &c.

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

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No. 6.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

No. 6. (No. 23.)

SIR,

Downing Street, June 28, 1871.

WITH reference to my Despatch, No. 22,* of the 17th of June, forwarding to you a copy of the Treaty recently concluded at Washington with the Government of the United States, I have the honour to transmit to you, for your information, and for that of your Government, copies of the correspondence noted in the margin between the Admiralty and this Department respecting the suspension of Instructions to the British naval officers employed in the protection of the North American fisheries.

Lieut.-Governor Robinson,
&c. &c. &c.

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

Admiralty,
May 12, 1871,
page 128.

C. O. to
Admiralty,
May 24, 1871,
page 129.

Admiralty,
June 1, 1871,
page 129.

Admiralty,
June 6, 1871,
page 129.

C. O. to Admi-
rality, June 10,
1871, page 130

C. O. to Admi-
rality, June 12,
1871, page 131

No. 7.
† Supra.

Vide Encl-
sure to Admi-
rality Letter of
the 1st July,
1871, page 131

(No. 25.)
SIR,

Downing Street, July 6, 1871.

WITH reference to my Despatch, No. 23,† of 28th June, enclosing copies of a correspondence with the Board of Admiralty respecting the instructions to the officers in command of Her Majesty's ships engaged in the protection of the North American fisheries, I have the honour to transmit to you, for your information, a copy of a Despatch received through the Admiralty from Vice-Admiral Fanshawe, reporting the orders given by him on this subject.

Lieut.-Governor Robinson,
&c. &c. &c.

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

No. 8.

No. 8.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(Confidential.)

SIR,

Downing Street, July 18, 1871.

I HAVE received your Confidential Despatch of 20th June,‡ enclosing a copy of a letter which you had addressed to the leader of your Government on the subject of a proposed conference of the Governments of New Brunswick and Nova Scotia with that of Prince Edward Island relating to the fisheries.

I approve the course you adopted in writing that letter, and the terms of it, which appear to me to be judicious.

Lieut.-Governor Robinson,
&c. &c. &c.

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

No. 9.

No. 9.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 27.)

SIR,

Downing Street, August 8, 1871.

I HAVE received your Despatch, No. 55,§ of 12th ult., acknowledging mine of the 17th June,|| in which I forwarded to you a copy of the Treaty of Washington.

I have learnt with much satisfaction that your Government are likely to accede so promptly and readily to the wishes of Her Majesty's Government, that the United States' fishermen should be admitted provisionally to the inshore fisheries of Prince Edward Island during the present season.

Lieut.-Governor Robinson,
&c. &c. &c.

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

§ Page 180.

|| Page 189.

No. 10.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 32.)

SIR,

Downing Street, September 3, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 59,* of the 25th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington so far as concerns the Colony under your government. Her Majesty's Government have learnt with much satisfaction that the Prince Edward Island Government have so willingly acceded to their wishes in this respect. With regard to the observations contained in the Minute of Council which you have forwarded, to the effect that the Prince Edward Island Government would readily accept any reasonable money compensation in addition to the privileges granted as an equivalent, but that under the Treaty nothing of the kind is guaranteed, I do not understand why the Prince Edward Island Government should object to the reference of the question of the money compensation to arbitration, which seems to be the fairest way of determining such a point, more especially as the fact stated in the Minute, that the rights of fishing conceded by the United States are comparatively worthless, is, it must be presumed, capable of distinct proof. I will communicate with Lord Granville as to the wish of your Government, in the event of the Act necessary to give effect to the Treaty being passed, to appoint a representative to give information to the Commission which is to meet at Halifax.

* Page 181.

Lieut.-Governor Robinson,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 11.

No. 11.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 34.)

SIR,

Downing Street, September 5, 1871.

WITH reference to my Despatch, No. 32,† of the 3rd inst., in answer to yours of the 25th of July,‡ relating to the Treaty of Washington and to the fisheries, I have the honour to transmit to you, for your information and guidance, a copy of a letter from the Foreign Office on the subject of your Despatch, and relating also to questions raised in a Despatch received from the Governor of Newfoundland.

† Supra.

‡ Page 181.

Foreign Office,
Aug. 31, 1871
(Newfound-
land corres-
pondence),
page 164.Lieut.-Governor Robinson,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 12.

No. 12.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(Confidential.)

SIR,

Downing Street, September 20, 1871.

I HAVE the honour to acknowledge the receipt of your Confidential Despatch of the 10th of August,§ explanatory of the course you adopted in declining to accede to the prayer of the Memorial recently presented to you by certain members of the Legislature in which they requested you to summon a special session of Parliament.

§ Page 184.

In my public Despatch of this day's date I have conveyed to you my approval of your proceedings in this matter.

With reference to that part of your Despatch which relates to the Treaty of Washington, I have to inform you that I am disposed to agree with you that a delay of a few months in bringing the Treaty before the Legislature will be advantageous.

Lieut.-Governor Robinson,
&c. &c. &c.I have, &c.,
(Signed) KIMBERLEY.

No. 13.

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No. 13.

* Page 182.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 37.)

SIR,

Downing Street, September 20, 1871.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 63,* of the 10th of August, forwarding a Memorial from certain members of the Legislature of Prince Edward Island praying you to summon a special session of Parliament in order to consider the Treaty of Washington and the construction of the contemplated railway line.

I have to express my approval of the course you adopted in declining to accede to the prayer of this Memorial.

Lieut.-Governor Robinson,
&c. &c. &c.

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

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND
THE FOREIGN OFFICE.

No. 1.

No. 1.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, March 25, 1871.

WITH reference to my letter of the 18th inst.,† forwarding copies of correspondence respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further Despatch received from the Lieut.-Governor of Prince Edward Island respecting the question of the admission of United States' fishing vessels into the ports of that Island for the purposes of trade.

Lord Kimberley would suggest that this Despatch should be communicated to the High Commissioners at Washington with reference to the Lieut.-Governor's previous Despatch, and his Lordship desires me to observe in forwarding it that in any arrangement respecting the fisheries the rights of Prince Edward Island and Newfoundland should be borne in mind as well as those of Canada.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 2.

No. 2.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, April 28, 1871.

WITH reference to the correspondence noted in the margin upon the Canadian fisheries question, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the enclosed copies of Despatches which have been received from the Governor of Newfoundland and from the Lieut.-Governor of Prince Edward Island, respecting the practice which prevailed between the date of the Convention of 1818 and the ratification of the Reciprocity Treaty as to the admission of United States' fishing vessels to the ports of those Colonies for the purposes of trading, transshipping fish, purchasing bait, and so forth.

Lord Granville may perhaps think it desirable to communicate these papers confidentially to Her Majesty's High Commissioners at Washington.

I am to enclose a copy of the Despatch from Lord Kimberley to which the Despatches now forwarded are in reply.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

† This letter will be found in the Canadian portion of the Correspondence, page 110.

Lt.-Governor Confidential, March 2, 1871, page 170.

Governor, Confidential, March 24, 1871. Newfoundland, page 136.

Lt.-Governor Confidential, March 29, 1871. Prince Edwd. Island, page 171.

To Governors Prince Edwd. Island and Newfoundland, Feb. 4, 1871, pages 189 and 152.

Colonial Office to Foreign Office, Mar. 9, 1871, page 110

Colonial Office to Foreign Office, Mar. 25, 1871, supra.

No. 3.

The COLONIAL OFFICE to the FOREIGN OFFICE.

PRINCE
EDWARD
ISLAND.

No. 3.

SIR, Downing Street, June 14, 1871.

WITH reference to my letters of the 25th of March* and 28th of April,† enclosing copies of Despatches from the Lieut.-Governor of Prince Edward Island relating to the fishery question, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further Despatch from the Lieut.-Governor on the subject.

* Page 132.
† Page 132.

Governor, Confidential, May 4, 1871, page 174.

I am, &c.,
(Signed) H. T. HOLLAND.

The Right. Hon. E. Hammond,
&c. &c. &c.

No. 4.

The COLONIAL OFFICE to the FOREIGN OFFICE.

No. 4.

SIR, Downing Street, August 1, 1871.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Lieut.-Governor of Prince Edward Island, in acknowledgment of Lord Kimberley's Despatch forwarding a copy of the Treaty of Washington.

Lt.-Governor, No. 55, July 12, 1871, page 180.

It will be seen that the Government of the Colony are inclined to accede to the recommendation of Her Majesty's Government that the United States' fishermen should be admitted, provisionally, to the inshore fisheries of Prince Edward Island during the present season.

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

The Under Secretary of State,
Foreign Office.

No. 5.

The FOREIGN OFFICE to the COLONIAL OFFICE.

No. 5.

SIR, Foreign Office, August 22, 1871.

I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, with reference to your letter of the 1st instant,‡ the accompanying copy of a Despatch and of its enclosures, from Mr. Pakenham, reporting the decision of the Government of Prince Edward Island not to enforce the fishery laws during the present season.

No. 3, Aug. 1, 1871, ‡ Supra.

I am, &c.,
(Signed) ODO RUSSELL.

The Under Secretary of State,
Colonial Office.

Enclosure in No. 5.

Enclosure in No. 5.

(No. 9.)

MY LORD,
The telegram from the Lieut.-Governor of Prince Edward Island, copy of which I enclose, reached me on the 25th inst., and I communicated the substance of its contents to the Acting Secretary in charge of the State Department in the note of which I transmit a copy. Mr. Fish acknowledges the receipt of the intelligence in a note, copy of which is also enclosed.

Washington, August 1, 1871.

I have, &c.,
(Signed) F. PAKENHAM.

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

Charlotte Town, Prince Edward Island, July 25.

"Government of Prince Edward Island, having considered proposal made by United States' Government through British Minister, has this day decided not to enforce fishery laws during present season, and pending consideration of treaty by Legislature."

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

Sir E. Thoruton,
&c. &c. &c.

PRINCE
EDWARD
ISLAND.

SIR,

I have the honour to inform you that intelligence has reached me from the Lieut.-Governor of Prince Edward Island, to the effect that that Government yesterday decided not to enforce the fishery laws during the present season, and pending the consideration of the treaty by the Legislature of that portion of Her Majesty's dominions.

Washington, July 26, 1871.

Hon. J. C. Bancroft Davis,
&c. &c. &c.

I have, &c.,
(Signed) F. PAKENHAM.

SIR,

I have the honour to acknowledge the receipt of your note of the 26th inst., announcing the decision of the Government of Prince Edward Island not to enforce the fishery laws during the present season, and pending the consideration of the treaty by the Legislature of that Province.

Department of State, Washington, July 28, 1871.

Hon. F. Pakenham,
&c. &c. &c.

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

No. 6.

No. 6.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, September 12, 1871.

I AM directed by the Earl of Kimberley to transmit to you the enclosed copies of, and extracts from, Despatches received from the Lieut.-Governor of Prince Edward Island, respecting a Memorial presented to him by certain members of the Island Legislature, having reference to the Treaty of Washington, and requesting him to summon a special session of Parliament for its consideration.

With reference to the Lieut.-Governor's remarks respecting the Treaty, contained in his Confidential Despatch, Lord Kimberley proposes, with Lord Granville's concurrence, to forward to him the Despatch, of which a draft is annexed, by the mail of Friday the 22nd instant.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 7.

No. 7.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,

Foreign Office, September 18, 1871.

IN reply to your letter of the 12th instant,* I am directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship concurs in the Despatch which it is proposed to address to the Lieut.-Governor of Prince Edward Island, the Draft of which was enclosed in your above-mentioned letter; and, in accordance with your request, I am to return to you the other original documents which accompanied it.

The Under Secretary of State,
Colonial Office.

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

No. 8.

No. 8.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR,

Downing Street, October 21, 1871.

WITH reference to previous correspondence respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Lieut.-Governor of Prince Edward Island, enclosing a copy of a correspondence between himself and Mr. I. C. Hall, an American merchant, largely engaged in the exportation of fish from that Island to the United States.

No. 63.
Aug. 10, 1871,
page 182.
Confidential.
Aug. 10, 1871,
page 184.

Confidential,
Sept. 20, 1871,
page 191.

* Supra.

No. 72.
Sept. 30, 1871,
page 187.

It will be observed that Mr. Hall is apprehensive that, in consequence of the refusal of Canada to admit American fishermen to the privileges of the Treaty of Washington during the season of this year, the United States' Government may not allow the refund of the duties collected in the United States on fish oil and fish exported from Prince Edward Island during the fishery season.

Lord Kimberley thinks it would be desirable to ascertain from the United States' Government that the proposal will be made to Congress to refund the duties as regards Prince Edward Island and Newfoundland.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

PRINCE
EDWARD
ISLAND.

LETTER FROM THE ADMIRALTY.

No. 1.

No. 1.

SIR,

Admiralty, August 11, 1871.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Earl of Kimberley, that Vice-Admiral Fanshawe, in a letter dated 28th July last, reports that, in consequence of a telegram received from the Lieut.-Governor of Prince Edward Island, to the effect that the fishery laws would not be enforced during the present season, Her Majesty's ships employed on fishery service will not visit the coast of Prince Edward Island for the present.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) VERNON LUSHINGTON.

P.S. A similar communication has been made to the Foreign Office.

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