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CONFIDENTIAL.

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P A P E R S

RELATIVE TO

THE FISHERIES

OF

BRITISH NORTH AMERICA.

PART II.

Colonial Office, }
4th May, 1854. }

LONDON:

PRINTED BY HARRISON AND SONS.

SCHEDULE.

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P A P E R S
R E L A T I V E T O T H E
F I S H E R I E S O F B R I T I S H N O R T H A M E R I C A.

C A N A D A.

C A N A D A

(Confidential.)

No. 1.

No. 1.

COPY of a DESPATCH from the Right Hon. Sir J. S. PAKINGTON, Bart., to
the Right Hon. the Earl of ELGIN and KINCARDINE.

Downing Street, October 30, 1852.

MY LORD,

(Answered, December 4, 1852.)

HER Majesty's Government and the Government of the United States of America being about to enter into a negotiation upon the broadest basis for reciprocal and equivalent concessions in trade, I wish to observe to your Lordship that it is highly desirable that the Colonial Legislatures of the British Provinces should not now take any active measures on the subject of the fisheries or of trade, as the proceedings of Her Majesty's Government might be thereby embarrassed. Your Lordship will understand that Her Majesty's Government do not wish to check the expression, through yourself, either to them, or more directly to Her Majesty's Minister at Washington, of the local requirements of the province under your Government, but only to prevent any Legislative or other action which might possibly give rise to difficulties in the course of the negotiation.

I have, &c.

The Right Hon. (Signed) JOHN S. PAKINGTON.
the Earl of Elgin and Kincardine,
&c. &c. &c.

Similar Despatches addressed to the Governors of the other North American provinces.

(Confidential.)

No. 2.

No. 2.

COPY of a DESPATCH from the Right Hon. the Earl of ELGIN and
KINCARDINE to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Quebec, December 4, 1852.

(Received, December 21, 1852.)

SIR,

I HAVE had the honour to receive your confidential despatch of the 30th October, and beg to state in reply, that I shall use my utmost endeavour to prevent any steps from being taken in this colony which can possibly embarrass the negotiations now pending between Her Majesty's Government and the Government of the United States of America for reciprocal and equivalent concessions in trade.

I have, &c.

The Right Hon. Sir J. S. Pakington, Bart. (Signed) ELGIN AND KINCARDINE.
&c. &c. &c.

CANADA.

No. 3.

No. 3.

COPY of a LETTER from the QUEEN'S ADVOCATE to H. MERIVALE, Esq.

SIR.

Doctors' Commons, June 28, 1853.

WITH reference to a conversation which I had with you at the Colonial Office on the 24th, during an interview on the subject of the legal questions relating to the fisheries in the North American Colonies, I am desirous of stating, officially, how much it would facilitate the despatch of the public business, and also conduce to the convenience of the Law Officers of the Crown, and to the settlement of the law on the subject, if the Colonial Office could obtain by circular, or otherwise, from each of those colonies, a strictly correct "return" or answer to the question, "What are the regulations or laws now in force in the colony of _____ with reference to the fisheries? and especially in connection with the Convention with the United States of 20th October, 1818, and the Statute 59 George III, cap. 38, sec. 1?" printed copies to be furnished.

The Statute 59 George III, cap. 38, sec. 1, contemplates the making of such "regulations" by means of Orders in Council, but it appears to be uncertain as to which particular colonies any such Order has ever been issued, and this uncertainty should be cleared up.

So far as relates to New Brunswick, it would appear from a letter of the Advocate-General, dated 19th May, 1853, sent with the papers relating to the New Brunswick Fishery Laws, now submitted to the Law Officers, that no such Order has ever been issued; and these papers appear to afford the means of answering the question as to that colony (which papers should be kept together, and perhaps printed for future reference).

With respect to Prince Edward's Island, the Colonial Act, 6th Victoria, cap. 14 (printed copy with these papers), and the Order in Council, 3rd September, 1844, made thereupon, appears to afford the requisite information. Some more copies of this Act should be supplied, and the reference to the Order in Council, in the note at the end of it, verified.

With respect to Nova Scotia and Newfoundland, I am at present without sufficient information. The frequent recurrence of these cases, and the serious inconvenience and delay resulting from the want of what the Law Officers in each colony can easily supply for that particular colony, induces me to consider this representation as deserving your prompt attention.

I have, &c.

(Signed)

J. D. HARDING.

H. Merivale, Esq.
&c. &c.

The Order in Council was sent to Canada June 6, 1827. Newfoundland, June 21, 1819. To Nova Scotia the Convention only was sent, April 7, 1819; but in 1836 a local Act was passed, sanctioned at home, and an Order in Council passed, declaring the rules and regulations contained in the Act valid and effectual. In Prince Edward's Island an Act was passed, and an Order in Council sent, in 1844.

No. 4

No. 4.

COPY of a DESPATCH from the Right Hon. Sir J. S. PAKINGTON, Bart., to the Right Hon. the Earl of ELGIN and KINCARDINE.

MY LORD,

Downing Street, July 22, 1853.

H^{ER} Majesty's legal advisers having represented that it would greatly facilitate the despatch of public business, and conduce to their convenience in delivering their opinion on the questions repeatedly submitted to them relating to the fisheries in the British North American Colonies; if strictly correct, returns or answers could be obtained from each of the colonies on the following question: "What are the regulations or laws now in force in the colony of _____ with reference to the fisheries? and especially in connection with the Convention with the United States of 20th October, 1818, and the Statute 59 George III, cap. 38?"

I have directed a collection to be made of the different regulations, laws, and Orders in Council, within the cognizance of this Office, on this subject, which I propose to communicate to the Law Officers of the Crown for their

information and guidance. But previously to forwarding this collection to them, I have to request you to direct the Law Officers of your Government to examine the accompanying copy which I send you, and, if it is complete, to verify the fact with their signatures. If there are any omissions in the collection, you will request them to make it perfect.

It is important that there should be no delay in attending to this instruction, and returning the collection.

The Right Hon. (Signed) JOHN S. PAKINGTON.
the Earl of Elgin and Kincardine,
&c. &c. &c.

CANADA.

No. 5.

No. 5.

COPY of a LETTER from A. STAFFORD, Esq., to H. MERIVALE, Esq.

SIR, Admiralty, November 11, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Secretary Sir John Pakington, copy of a letter dated the 28th ultimo, from Vice-Admiral Sir George Seymour, inquiring how the proceeds of certain American fishing vessels, which were condemned for infractions of the Fisheries Convention, are to be disposed of, and my Lords would beg to be favoured with Sir John Pakington's opinion of the case.

I have, &c.

H. Merivale, Esq. (Signed) AUG. STAFFORD.
&c. &c.

Enclosure in No. 5.

Encl. in No. 5.

SIR, "Cumberland," at Halifax, October 30, 1852.

SEVERAL American fishing vessels having been this season detained by Her Majesty's ships employed in protecting the Fisheries, for breaches of the Convention of 1818 with the United States, which were subsequently condemned in the Courts of Vice-Admiralty, under the 59 Geo. III, cap. 38, I have the honour to request the instructions of the Lords Commissioners of the Admiralty as to the mode in which the proceeds of the said vessels are to be disposed of.

By the Queen's Proclamation for the distribution of prize-money, the net proceeds of captures, seizures for breaches of the Customs and Navigation Laws, &c., &c., not otherwise especially apportioned, are divided amongst the crews of Her Majesty's ships; but by the Colonial Act, 6 Will. IV, cap. 8, clause 6, an abstract of which is contained on page 6 of the inclosed pamphlet, one half is apportioned to the Colonial Treasury, and the other half to the officer or person seizing the same.

Referred to in 59
Geo. III.

Four of the seizures in question were made by the "Netley" and "Telegraph," tenders to the "Cumberland," and I am desirous of instructions as to whether, according to the former practice observed in cases of captures, the ship sending out the tender is entitled to share in the proceeds of their seizure. In two of these cases, I should add, the tender was on detached service, under the orders of Commander Campbell of the "Devastation."

This Act is similar
in Nova Scotia,
New Brunswick,
and Prince Edward
Island.

The proceeds are now in the hands of the Comptroller of the Customs at Prince Edward's Island, and St. John's, New Brunswick, and I request their Lordships will be pleased to direct what proportions of the seizures I am to obtain, and to prescribe the mode of distribution.

I have, &c.

The Secretary of the Admiralty, (Signed) G. F. SEYMOUR,
&c. &c. &c. Vice-Admiral and Commander-in-Chief.

No. 6.

No. 6.

COPY of a LETTER from H. MERIVALE, Esq., to the LAW OFFICERS.

SIR, Downing Street, December 11, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you (jointly with the Attorney and Solicitor General) copies of communications received from the Lords Commissioners of the Admiralty and the Lieutenant Governor.

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of Prince Edward's Island, and to request that you will (jointly with the Attorney and Solicitor General) inform him whether, in your opinion, the proceeds of the seizures made by the tenders to the "Cumberland" (assumed to have been made within the jurisdiction of Prince Edward's Island) are distributable under the Queen's Proclamation for the distribution of prize-money referred to by the Vice-Admiral, or under the Colonial Act, 6th Wm. IV, c. 8, of which copy is annexed, or (as appears to be suggested by the Lieutenant-Governor of Prince Edward's Island) under the 3rd and 4th Wm. IV, c. 59, or in any other manner?

I have, &c.
(Signed) H. MERIVALE.

No. 7.

No. 7.

COPY of a LETTER from H. MERIVALE, Esq., to A. STAFFORD, Esq.

SIR,

Downing Street, December 28, 1852.

I AM directed by Secretary Sir John Pakington to acknowledge the receipt of your letter of the 11th ultimo, relative to the disposal of the proceeds of certain American fishing vessels, seized and condemned for infractions of the Convention of 1818; and I am to acquaint you, for the information of the Lords Commissioners of the Admiralty, that the Law Officers of the Crown have reported to Sir John Pakington their opinion* that the proceeds of the seizures in question are distributable under the Queen's Proclamation for the distribution of prize-money, dated 13th of July, 1849.

• Page 100.

I have, &c.
(Signed) H. MERIVALE.
A. Stafford, Esq. &c. &c.

No. 8.

No. 8.

COPY of a LETTER from A. STAFFORD, Esq., to H. MERIVALE, Esq.

SIR,

Admiralty, November 23, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Secretary Sir John Pakington, copies of a letter from Vice-Admiral Sir G. F. Seymour, dated the 4th instant, No. 186, and of an address presented by the inhabitants of Bonaventure, in the district of Gaspé, to Commander Campbell, of Her Majesty's steam sloop "Devastation," for his services in protecting the fisheries on that part of the coast of Canada.

I have, &c.
(Signed) AUG. STAFFORD.
H. Merivale, Esq. &c. &c.

Encl. 1 in No. 8.

Enclosure 1 in No. 8.

SIR,

"Cumberland," at Halifax, November 4, 1852.

I TRANSMIT herewith, to be laid before the Lords Commissioners of the Admiralty, a copy of an address presented by the inhabitants of Bonaventure, in the district of Gaspé, which I forward as an additional proof of the diligence and zeal with which he conducted the protection of the fisheries on that part of the coast of Canada.

I have, &c.
(Signed) G. F. SEYMOUR,
The Secretary of the Admiralty, &c. &c. &c. Vice-Admiral and Commander-in-Chief.

Enclosure 2 in No. 8.

County of Bonaventure, District of Gaspé,
October 18, 1852.

Encl. 2 in No. 8.

SIR,

WE, the undersigned magistrates, merchants, ship-owners, and other inhabitants of this county and district, deem it our duty to make known to you the high sense we entertain of the valuable services you have rendered to the inhabitants generally on this coast during the past summer. To your untiring perseverance and active zeal we owe the disappearance of American fishermen from the waters of the Bay of Chalenes; and for the first time during the last fifteen years our waters have teemed with mackerel. The benefits which you have conferred on our fishermen can only be appreciated and understood by those who, like yourself, have studied the subject, and been eye-witnesses of the evils arising from the encroachments of strangers who have no earthly right to trespass on our fishing-grounds.

To the present advisers of our most gracious Sovereign we are indebted for this tardy and long-sought-for act of justice, as well as for the judicious selection of a steam-sloop, commissioned by so well-qualified and efficient a commander. Your duty has been both delicate and harassing, and we feel fully justified in asserting that, though enforcing the terms of the Treaty, you have carefully and studiously avoided all harsh or arbitrary acts.

We likewise beg leave, through you, to tender our sincere acknowledgments to the officers under your command for the efficient manner in which they have seconded your exertions, more especially in the dangerous and arduous task of boat duty, which has been so judiciously and effectively performed.

Most sincerely do we hope that the good work thus commenced will be persevered in by the Home Government, and that Her Majesty's steam-ship "Devastation" will return to our shores under your command next spring.

We have, &c.

(Signed)

JOHN FAUVEL, Merchant.

ALFRED CARCAUD, Do.

PHILIP VIBERT, Do.

JNO. J. THOMPSON, C.J.

JN. WILKIE, Proctor.

S. D. DUBORD, Surgeon.

C. Y. Campbell, Esq., H.M.S. "Devastation."

And thirty-five others.

No. 9.

No. 9.

COPY of a CIRCULAR DESPATCH to the GOVERNORS OF THE NORTH
AMERICAN COLONIES.

MY LORD,

Downing Street, December 7, 1852.

I TRANSMIT herewith, for your Lordship's information and guidance, an extract of a despatch from Vice-Admiral Sir George Seymour, addressed to the Lords Commissioners of the Admiralty, stating his intention of suggesting to the Governors of Her Majesty's North American Colonies the expediency of taking certain steps with a view to the better protection of the British Fisheries during the next fishing season.

Her Majesty's Government consider the recommendations of Sir George Seymour on this subject of great value and importance, and I have to instruct you to take the necessary steps, in concert with your Executive Council, for carrying them into effect.

I am, &c.

(Signed)

JOHN S. PAKINGTON.

No. 10.

No. 10.

COPY of a LETTER from A. STAFFORD, Esq., to the Earl of DESART.

MY LORD,

Admiralty, November 24, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Secretary Sir John Pakington, a copy of a

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letter from Vice Admiral Sir George Seymour, dated the 4th instant, No. 185, proposing certain regulations for the future protection of the North American Fisheries.

Lord Desart,
Colonial Office.

I have, &c.
(Signed) AUG. STAFFORD.

Encl. in No. 10

Enclosure in No. 10.

SIR,

"Cumberland," at Halifax, November 4, 1852.

I HAVE to report that the "Devastation" steam sloop arrived here on the 29th ultimo, and the tenders on the 31st, and having paid off the "Arrow," and dismantled the "Netley," I should have sailed on the 1st, but have been detained by heavy gales from the southward; I expect, however, to get to sea to-morrow. The "Devastation" and "Bermuda" will proceed to the southward, as well as the "Cumberland."

With regard to the circumstances reported in my letter, No. 177, of the 27th ultimo, the general irregularity of the Nova Scotian vessels, which the custom-houses have not sufficiently checked, appear to be now acknowledged, as well as the difficulties in which Commander Campbell was placed from those acts of irregularity.

I have in consequence conferred with the Lieutenant-Governor of this Province on the subject, and have suggested to him that if the same necessity shall exist next season of protecting the colonial fisheries, the task will be much lightened if the fishing-vessels of a certain tonnage are numbered, and bear their numbers on the hull and mainsail, like the pilot vessels in the Channel, which I think, with the proper enforcement of the Customs' regulations, and more care about granting of British registers, may check the growing disposition to carry on an American trade under British colours, with the assistance of the labouring fishermen, who are indifferent under what flag they serve.

As Sir Gaspard le Marchant approves this proposal, I shall communicate it to the Governor-General, and the Lieutenant-Governors of New Brunswick and Prince Edward's Island.

The Secretary of the Admiralty
&c. &c. &c.

I have, &c.
(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

No. 11.

No. 11.

COPY of a LETTER from CAPTAIN HAMILTON, R.N., to H. MERIVALE, Esq.

Admiralty, December 21, 1852.

(Received, January 13, 1853.)

SIR,

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Secretary Sir John Pakington, the copy of a letter from Vice Admiral Sir George Seymour, dated 18th ultimo, No. 193, and of its inclosed Report by Commander C. Y. Campbell, of the "Devastation" on the Fisheries in the Gulf of St. Lawrence.

H. Merivale, Esq.,
Colonial Office.

I am, &c.
(Signed) W. A. B. HAMILTON.

Encl. 1 in No. 11.

Enclosure 1 in No. 11.

SIR,

"Cumberland," at Bermuda, November 18, 1852.

I HAVE the honour to transmit herewith, to be laid before the Lords of the Admiralty, a copy of a Report, dated 10th instant, made by Commander C. Y. Campbell, of Her Majesty's steam-ship "Devastation," on the fisheries in the Gulf of St. Lawrence, and of his observations during the six months he was employed in their protection.

I beg to call their Lordships' attention to the zeal and activity displayed by Commander Campbell whilst on this difficult service, and to the increased productiveness of the Colonial fisheries at Prince Edward's Island, Gaspé, and Chaleur, during the present season. I have also to draw their Lordships' notice to the favourable terms in which the services of Mr. John Jenkins, mate of the "Devastation," are mentioned in the Report.

With regard to Commander Campbell's opinion that the encroachments of foreigners

could be most advantageously prevented by boats, I should acquaint their Lordships that I do not consider boats should be employed on any service beyond the reach of support.

A disposition to resistance may not be unlikely to prevail amongst the United States fishing vessels.

I would therefore repeat the recommendation I offered to their Lordships in my letter, No. 83, of the 5th August, 1851, that small vessels with steam power should be sent out early in the next season, supplied with two or more good boats, the latter to be employed within the boundaries upon which the vessels will be engaged.

I inclose an estimate of the expense of the fuel consumed by the "Devastation," "Basilisk," and "Buzzard," during the last summer, which will show that it is desirable in point of economy, that smaller vessels should be substituted for the protection of the North American fisheries, and of a light draft of water, which would enable them to enter the harbours to which the fishing vessels usually resort.

Their Lordships will observe in Commander Campbell's abstract of the deficiencies in the papers of the English vessels, the explanation he offers of the cause of their detention at Port Hood; but the result of his proceedings proves the case would have been more judiciously settled by one or two examples of seizure, and by a representation of the general irregularities in the documents of the vessels, which would have enabled the Colonial Government to have met the evil in another season, instead of adopting the course he pursued on that occasion.

I shall transmit copies of the Report to the Earl of Elgin, and to the Lieutenant-Governors of the British Provinces, to point out the position which Commander Campbell considers most favourable to the development and extension of the fisheries.

I have, &c.

The Secretary of the Admiralty,
&c. &c. &c.

(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

Enclosure 2 in No. 11.

Encl. 2 in No. 11.

SIR,

H.M.S.S. "Devastation," Halifax, November 10, 1852.

I HAVE the honour to state, that having in pursuance of your orders arrived in the Gulf of St. Lawrence, for the protection of British fisheries, on the 20th May, I visited the principal fishing stations along the coast from time to time, and beg to forward a report of my observations while on that service.

Up to the middle of July there was no encroachment by the Americans on the fishing grounds; the cause is, that the inducement does not present itself until the commencement of the mackerel fishing, about that time, when they arrive in great numbers.

There is no part of the gulf where fish of all kinds abound more than on the shores of Prince Edward's Island; it is, however, extraordinary, but no less true, that during the summer months a vessel may in fine weather pass along the whole shore without seeing twenty boats, until arriving off the North Point, where a considerable fishery has been lately established at Tiguish, a well-chosen station; for having boats on each side of the point, they can even in strong winds have shelter on either side, and have this year succeeded well.

It is to be hoped that this will be an encouragement for enterprize on other parts of the coast, for it is indeed to be lamented that so much wealth should be lost to the Island; true it is, that from position and soil, Prince Edward's Island may be called the garden of North America, and that the people are principally engaged in agricultural pursuits; but having the one advantage, they seem to overlook the additional, and certainly the greater one, of a coast teeming with fish, an advantage which in less favoured lands is counterbalanced by a sterile and unfruitful soil.

If appreciated sufficiently to arouse exertion, the wealth of that island, through its fisheries, might be great; this would immediately provide the circulation of money now so much required.

During July, when the mackerel strike in, the Americans arrive in their very fine schooners in pursuit of them. The fish are only to be taken close along shore, so that if they do not encroach they must be unsuccessful; in former years I am assured these vessels have been in the habit of taking away two, and sometimes three, cargoes from the gulf, and as from the 1st August to 7th October, in fine weather, you cannot run the north shore down without seeing 100 United States fishing vessels, sometimes 150, which carry on an average 500 barrels, worth say at least 200*l.* sterling per barrel. Supposing only that 100 vessels fill up once, the smallest possible estimate of the value taken away annually from the coast of that island alone is 100,000*l.* sterling. The mackerel as the season advances are both more numerous, and of a finer quality; indeed the spring fish are very poor, and it would add greatly to the value of the fisheries if they were not taken early.

Nature has provided that at this their spawning season they do not readily take bait; but from seining, and other means adopted by the Americans, if it had not been checked, the fish would have been exterminated in a few years, while the protection of the coast this year will in all probability cause a great increase in future seasons.

The water already abounds with small mackerel, about three inches long; this, I am

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told, has not occurred before to any extent, and is imputed to the protection of the spawning fish during spring.

It seems to be a clearly established fact, that not only is the mackerel valuable in itself, but where that fish is plentiful the cod is also so.

Proceeding north from Prince Edward's Island, the Bay Chaleur is the next important fishing-ground. At its mouth, on the south side, is the Island of Miscou, where there are two considerable fishing establishments connected with Jersey houses.

On Shippigau island up the bay, on the same side, are also several establishments. Again, higher on the mainland, is Caraque, from which there are 150 boats; the people are all of French extraction and speak the language. They sell their fish to the Jersey merchants, of whom they loudly complain in summer for grinding them down as to prices, but in winter are often kept from starvation by advances from these houses. They appear to be a most improvident and thoughtless people.

These islands, Miscou, Shippigau, and the mainland, form a bay of great extent; the water is shallow, and, from being land-locked, is usually very smooth. This is a very favourite spawning ground for the mackerel in spring, but the Americans have in former years flocked in after them, capturing them in incredible numbers.

The offal thrown over while cleaning the mackerel has had a most injurious effect on the cod fishing, for, as I before remarked, the large number of mackerel would insure a good cod fishing were it not that they are fed in this way, and prevented from taking bait; so that what would, if the Treaty were observed, be a certainty of success to the British fishermen, has thus been made the cause of failure.

It is highly essential that this ground should (in spring and the early part of summer especially) be rigidly protected, not only on account of its great local importance, but if the mouth of Chaleur Bay is protected, it is all protected.

Crossing Chaleur Bay, there is a considerable fishing carried on at Port Daniel, by a race peculiar to that place. They are descended from some French settlers who attached themselves to Indian women; they are very indolent and improvident, and could not succeed if the fisheries were ever so productive; they also find a market in the Jersey houses.

Higher up, at Paspébiac, are the large fishing establishments of Messrs. Robin and Co., and Messrs. Le Boutillier, of Jersey, whose vessels, amounting to about 2500 or 3000 tons, assemble in early spring, moor and dismantle; the crews are then dispersed among these fishing-boats and curing establishments till the autumn, when they return to their vessels, load, fit them out, and proceed to the Mediterranean and South American ports.

The cod-fishing at Paspébiac has been as good as in former years, and for the first time for many seasons the mackerel have appeared; for although, from the number of American schooners which infested their coast formerly, the people were aware the mackerel were there, they never were permitted to see them close to the shore.

This change gives them great hope for the future, for they attribute all their want of success of late years to the Americans taking the mackerel, and especially to their cleaning them in their waters.

Few, however, of the intruders have entered the bay this season, and if they can be kept out in future great results are expected.

The next and by far the most important fishing establishments are at Percé, Point St. Peter, and Gaspé Bay, chiefly connected with Jersey houses. They have been this season more successful, with fewer men employed, than for many years past, and attribute it to the Americans having been kept off completely by a boat from this sloop, which, for the whole season, was stationed at Point St. Peter by your orders.

So effectually was the duty performed by this boat that, I am assured, scarcely an American vessel encroached within the limits between Percé and Cape Gaspé.

To the attention, energy, and zeal of Mr. Jenkins, mate of this sloop, the service is alone indebted for the very satisfactory performance of this important duty, as well as for the creditable and steady behaviour of the boat's crew, of whom there was not a single complaint during the season.

I would respectfully suggest the expediency of stationing a boat at that Point each season, as from it, in clear weather, the officer can see a great extent of the most important fishing ground in the gulf.

A great number of the fishermen employed on this part of the coast are from Quebec; but much time is lost in consequence of their not arriving early enough in the season.

In Chaleur Bay, round as far north as Gaspé, the fishing is exclusively carried on in open boats.

Round the shores of Anticosti, cod fish are very numerous, but, from the want of harbours even for boats, the pursuit of them would be hazardous.

There is, however, at the South-West Lighthouse, a fine harbour for boats, and a fishing might be established there without difficulty, and with great advantage.

On two occasions, while this sloop was hove-to off there, the ship's company were most successful, catching great quantities of cod even when under the disadvantage of having no proper bait.

Along the coast of Labrador, between the Bay of Seven Islands and Cape Whittle, there are no fishing establishments; but in former years the Americans were in the habit of frequenting Seven Islands very much; they last year, mustering 100 sail of vessels, committed excesses in stealing and destroying wood, the property of the Hudson Bay Company's agent, the only European resident there. This year, however, only seven or

eight vessels have appeared, and they only for a few days. The "Arrow," hired tender, was fortunately there on their arrival, and on removing her to the Bay of Chaleur I was enabled, in consequence of the cordial co-operation of the Canadian armed brigantine "Alliance," to keep that coast perfectly protected.

Seven Islands is an excellent harbour, and as, during the early part of summer, mackerel abound within the shelter of that beautiful bay, it will be a valuable rendezvous for the British fishing vessels in future seasons, but they do not appear yet to frequent it.

A boat's-crew would be sufficient to prevent their being molested.

The cod fishery is good along this coast, but as the country is not inhabited it is only followed by a few small vessels from the neighbouring provinces and the Magdalen Islands.

The harbour of Mingan is a very excellent one, and the fisheries in the neighbourhood would, if followed up, be very valuable, while the great number of islands would be most advantageous for shelter.

Round the Magdalen Islands the fisheries have been very productive in former years, and the people are quite dependent on them.

The herring and mackerel fishery commences here in June, and the Americans begin to arrive at this time. A considerable number of vessels also arrive from the British provinces, and as the fishing is all carried on by nets in spring, the number laid down is enormous, especially in Pleasant Bay. The fish at this time are making for the close neighbourhood of the shore to spawn, and the people seem surprised that the fishing is less productive every year, but it is only wonderful that any escape, and that they are not exterminated.

It would be greatly to the advantage of these islands, and to that of the fisheries generally, if the spring fishing were confined by law to the ground fish (cod, &c.), and if the mackerel were only pursued during the fall of the year; by this means, the fishery would revive, and a far greater quantity of fine fish would reward the labour than those of an inferior kind, now decreasing every season.

The herring would still be required for a supply of bait, but they are not nearly so important for commercial purposes as the mackerel, and would be well bestowed in that way.

The people of the islands do not generally complain of the Americans; on the contrary, they seem to receive them much more warmly than the people from the provinces. This is easily accounted for: the Americans employ a number of them, and pay them well, while they buy their little farm produce and also their fish, and bring them articles free of duty. The people from the provinces, on the contrary, leave nothing, and take much away.

These islands seem much in want of some kind of government. At present there is no law, except that administered by a few Magistrates, who are more acknowledged as such by sufferance than by right. If they require to enforce the law, they have no one to carry it into effect by the apprehension of criminals (no one daring to act), while, if they could arrest, there is no prison in the islands.

It does not seem expedient, where several conflicting interests annually meet, that this state of things should continue.

During the late season the people came to an agreement against seining on the shores of the islands, but the Magistrates appeared doubtful whether they could enforce even that very necessary regulation against the provincial and American vessels.

In St. George's Bay, Newfoundland, the principal fishery is the herring, which commences towards the end of April, and lasts about three weeks, during which time, this spring, the vast quantity of 21,000 barrels were caught and cured. This great fishery has the effect of making the people careless as to any other; and indeed, though the actual season lasts so short a time, the preparation for it is a work of considerable labour, for in many cases the people make their own barrels, and are employed for a long time after the "catch" in curing.

It is a very fortunate provision that this fishery is at a season while the weather is yet cold, for if it were not so, advantage could not be taken of the great quantity caught in so short a space of time.

I am informed that by herring alone an industrious man may realise from 50*l.* to 70*l.* sterling.

The cod fishery is little followed here, and scarcely at all for exportation; a great many eels are caught for winter use.

The salmon fishing had not been good this season, and it is never very productive.

The law is very loosely administered, but on my visit everything was quiet and the people contented; in consequence, I presume, of a plentiful herring season.

Agriculture is more followed here every year. The short duration of the lucrative fishery, as well as the season of the year at which it is followed, is favourable to this.

Throughout the gulf there is no fishery so valuable as that on the Cape Breton shore, especially between Wolf Island and Port Hood, from about the 1st of October to the end of the season. At this time the mackerel, being very numerous and of the finest quality, draw to a point nearly all the fishing vessels, both colonial and American.

The latter, this season, have been very persevering in their efforts to evade the Treaty, and have run great risks for that purpose.

Immediately on arriving there, I saw the necessity of placing a boat at Wolf Island; for taking advantage of the liberal interpretation of the Treaty of the British Government,

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the Americans were in the habit of anchoring, even in fine weather, for the night, close to the island, 100 sail at a time, and weighing the next morning (if no cruiser was near); of throwing their bait over, and drifting off shore, keeping the fish attracted for a considerable distance, making the best of the opportunity that circumstances would admit, renewing this scheme each morning. A boat, however, from this sloop, in charge of Mr. Jenkins, mate, at once put a stop to it, and shelter under the island was no longer sought, to any extent, by them.

Finding themselves foiled by this and other boats, the American flag disappeared almost entirely about the 26th October, being at least a month earlier than in former seasons; another proof that, to succeed, the Treaty must be evaded.

Full and free possession would at this time have been secured to the British Colonial fishermen, which could not have failed to have been very lucrative, had it not been that a system of collusion and fraud was got up at some of the out-ports in Nova Scotia and Prince Edward Island, by which American vessels were supplied with the British flag and papers,—the latter, in most instances, disguised with ingenuity worthy of a better cause.

Having had so large a share in the execution of your orders in performing the duty of keeping the Americans off under the United States' flag, I considered it at least as imperatively my duty to prevent their assuming the British flag to cover their depredations. Having observed the number of vessels under English colours increase greatly in the course of a few days, and it being apparent, from this and other indications, that fraud to a great extent was going on, I took advantage of the 13th, 14th, and 15th ultimo, of a large number of vessels anchoring in Port Hood, to examine their papers, generally an easy matter, and one (especially where British vessels are concerned) requiring a very short space of time.

On boarding the vessels, however, I found, from the lax state of the administration of the customs laws in some of the provinces, that it was impossible to detect those really fraudulent among so many which were sailing (perhaps through carelessness) contrary to law; and the weather at the time being very stormy, aggravated my difficulty.

Under such circumstances, when the weather cleared up, on the 20th, having taken the description of each vessel, and the particulars of her illegal papers, I considered it right to release all except the "Creole," now in the Vice-Admiralty Court at Halifax, and two vessels without certificates of registry (afterwards released).

I beg to annex a summary of the defects in the papers of the vessels detained, which will show the amount of difficulty I was involved in, and the cause of the length of the detention.

I consider it my duty to call your attention respectfully, but earnestly, to this abstract, which shows that fraud to an enormous extent is perpetrated, and that from the almost total disregard of the several Acts of Parliament for regulating the mercantile marine of Great Britain and the Colonies, especially at the out-ports, it is carried on with comparative impunity, and that it must be so till the correctness of the papers of vessels of real British ownership enables an officer to detect fraud, which is impossible under existing circumstances.

I have also to represent how beneficial it would for the service if the Colonial armed vessels employed for the protection of the fisheries were instructed to assist Her Majesty's ships in the execution of the duty; a provision which in the case of the "Canadian" brigantine was attended with such beneficial results.

I cannot close this part of my report without mentioning my reasons for dwelling so much on the mackerel fishery.

1stly. That fishery is the only cause of foreign encroachment in the part of the gulf in which Her Majesty's sloop has lately been stationed.

2ndly. The mackerel affords the best bait to our fisheries; and while the Americans have encroached, not only have they been deprived of it, but the cod fisheries have been ruined by the offal thrown over on the ground.

3rdly. The mackerel can alone be taken within the limit prescribed by the Treaty, so that while the shore is protected, that fishery is a rich and exclusive privilege of the British colonist.

The preservation of the mackerel may therefore be considered the preservation of all the other fisheries.

It has been remarked, and with truth, that a number of the best colonial fishermen have hitherto preferred serving in United States vessels; and the reasons are obvious.

The United States vessels have fished, although contrary to Treaty, close to the shore for years, almost without hindrance, and their masters have now great experience. They are superior vessels for the purpose, the capital of the owners being generally larger, and the bait, an article of value, being more plentiful, the "catch" is greater.

In each case, the men are paid on what is called the half-head system; that is, each man has half his own "catch," paying for his proportion of the bait used. The American vessel is more successful, therefore the fisherman goes to her, and is paid in hard cash,—the master buying his share, which is taken into market, free of a heavy duty which, if serving in a provincial vessel, he would have indirectly to pay.

The remedy is simple, viz.—to keep the Americans off, according to the Treaty; the provincial vessel then becomes not only more, but alone successful, and it will be the interest of the experienced fisherman to return to his natural employer, in whose vessel he enjoys an exclusive privilege, more in value tenfold than the amount of duty which the United States vessel frees him from.

To Great Britain, in connection with her North American Colonies, this suggests an important consideration; for it cannot be desirable that so many young men should be employed in United States vessels; and if they are, it cannot be supposed that their loyalty will not be shaken when they continually hear republicanism loudly applauded.

Again, it is obvious that if the British fisheries are protected, and a rich advantage secured to the colonist (though he be tainted by such pernicious intercourse), he knows when he becomes a citizen he loses it.

It is a matter of no consequence whether the United States fisherman comes in by Treaty, contrary to Treaty, or by the last means attempted, under false colours, if he does come in and take away the unbounded wealth which he has of late years been taking. The colonist feels that he has not the exclusive advantage which he ought to have, and thinks, as he has been heard to say, that if not protected he might as well have the advantage of a free United States market.

The effect on the man who looks to self-interest only, is therefore clear: he does not gain by being a British subject, and has nothing to lose on becoming a citizen of the United States.

In short, I respectfully submit that the protection of the fisheries forms the closest bond of union between Great Britain and North America. I have been deeply impressed with this opinion during my intercourse with the people, and feel it a duty to represent it.

Before concluding, I beg leave to make a suggestion, which I believe, if carried out, would not only be the most efficient, but the most economical means of protecting the fisheries along the shores of the gulf.

The efficiency of boats has been proved in several instances during the late season, even to the extent of obliging the American vessels to give up attempting to fish near where a boat has been placed. The reason is, that it is in light winds that the mackerel vessels are most successful, and if at that time a boat is near, an encroaching vessel must be captured.

I would therefore suggest, that from ten to twelve serviceable cutters or large whale-boats should be stationed at different points along the shores of the gulf. The proper positions for such boats could be at once pointed out by any officer who has once been employed on the service; and I have no hesitation in stating my belief that with twelve boats well manned, and in charge of officers possessing energy and zeal, the Americans might be entirely kept off all the fishing-grounds of that part of the gulf on which the "Devastation" was lately stationed. A steam-vessel would then alone be required to go round and relieve the sick and supply provisions.

It may be thought that boats would be resisted; but I do not conceive it would be so; for within the limits, evidence of it would always be at hand; and the interest of the crew is not sufficient to induce them to run the risk, whatever that of the master may be.

If this plan were adopted, the men should be steady; and it would be advisable that they should have a small gratuity at the end of the season, if their conduct deserved it.

Colonial grants would be well bestowed for this purpose.

Trusting that my experience during the late season, and the extreme importance with which I view the question of protection to the British fisheries, will be held to excuse my presuming to offer the remarks and suggestions contained in this letter.

I have, &c.

Vice-Admiral Sir G. F. Seymour, K.C.B.,
&c. &c. &c.

(Signed)

C. Y. CAMPBELL,
Commander

Sub-Enclosure to Enclosure 2 in No. 11.

Sub-Encl. in No. 11.

ABSTRACT of the state in which the Papers of Vessels under the British Flag were found at Port Hood, between the 13th and 23th of October, 1852, as referred to in page 11 of Commander Campbell's Report on the Fisheries in the Gulf of St. Lawrence.

Vessels with Master's names not endorsed on Certificate of Registry	22
Vessels without any Name on their Stern	5
Vessels on the Certificate of Registry of which Owner's Names do not appear	2
Vessels having the Name of Master different on Certificate of Registry and Clearance	7
Vessels without any Fishing Certificate or Clearance	9

Scarcely in one instance was the tonnage marked on main beam, in accordance with the Act of Parliament.

(Signed)

C. Y. CAMPBELL,
Commander.

Light-houses visited in the Gulf of St. Lawrence during the summer, St. Paul's Island. On the north point is a very good fixed light, 140 feet above the level of the sea, can be seen from the deck 21 miles from N. by E. to E. by N.

On the south end of the island is a revolving light which was seen 20 miles from the deck of this sloop; it is visible from W. to S. by E.; a bell is tolled at this lighthouse by machinery in foggy weather.

Anticosti.—On the S. W. point is a revolving light 100 feet above the sea; was seen 19 miles from the deck of this sloop; it is visible from N. N. W. round by W. to S. E.

All these lights were found in good order.

(Signed)

C. Y. CAMPBELL,
Commander.

List of Places Visited by Her Majesty's Steam Sloop "Devastation," between the 19th of May and 12th October, 1852.

NAME OF PLACE.	TIME OF ARRIVAL.	REMARKS.
Ship Harbour	19 May	
Charlotte Town (Prince Edward's Island) ..	20 ..	
Egmont Bay	23 ..	
Gaspé Bay	27 ..	
Mingan	30 ..	
St. Peter's	3 June	
Paspebiac	4 ..	
Magdalen Island	7 ..	
Maraban River	9 ..	
Cardigan River	10 ..	
Picton	12 ..	
St. Paul's Island	17 ..	
St. George's Harbour	18 ..	
Rod Coy	21 ..	
Miscou	23 ..	
Paspebiac	24 ..	
Port Daniel	25 ..	
Douglas Town (Gaspé Bay)	26 ..	
Gaspé Harbour	29 ..	
Grand Greive	30 ..	
South West Point of Anticosti.. .. .	30 ..	
Miogan	1 July	
St. John's River	7 ..	
Magdalen Island	9 ..	
Picton	10 ..	
Surveyor Inlet	14 ..	
Cardigan River	15 ..	
George Town	16 ..	
Pleasant Bay	20 ..	
Point Peter	21 ..	
Douglas Town	22 ..	
St. Peter's	23 ..	
Port Daniel	23 ..	
Paspebiac	23 ..	
Miscou Road	25 ..	
Off Charlotte Town (Prince Edward's Island)	26 ..	
Charlotte Town	27 ..	
Port Hood	29 ..	
Cable River (Prince Edward's Island) ..	29 ..	
Miscou	31 ..	
Port Daniel	31 ..	
Paspebiac	1 August	
Gaspé Harbour	2 ..	
Port Daniel	3 ..	
St. Peter's	4 ..	
Seven Island Bay	5 ..	
St. John's River	7 ..	
Mingan	7 ..	
St. John's River	10 ..	
St. Peter's	11 ..	
Mal Bay	11 ..	
St. Peter's	12 ..	

List of Places visited by Her Majesty's Steam Sloop "Devastation," between the 19th of May and 12th October, 1852.—Continued.

CANADA.

NAME OF PLACE.	TIME OF ARRIVAL.	REMARKS.
Port Daniel	13 August	
Cardigan Bay	15 "	
Pictou	15 "	
Cob Point (Prince Edward's Island)	22 "	
Off Cape Aylesbury	23 "	
Port Daniel	24 "	
Little Rustico	25 "	
Richmond Bay	26 "	
Little Rustico	26 "	
Mal Bay	28 "	
Paspebiac	29 "	
Miscou	1 Sept.	
South West Point of Anticosti	2 "	
Seven Island Bay	3 "	
Percé	4 "	
Richmond	5 "	
East Point (Prince Edward's Island)	5 "	
Off Pictou	6 "	
Charlotte Town	7 "	
Off North Point, (Prince Edward's Island)	11 "	
Off Point Peter	14 "	
Port Daniel	14 "	
Charlotte Town	16 "	
Pictou	19 "	
George Town Harbour	24 "	
Cascumpigne	28 "	
Mal Bay	30 "	
Port Daniel	1 October	
Paspebiac	1 "	
Off Cascumpigne	4 "	
Off Pillar Rock	5 "	
Richmond Bay	5 "	
Off East Point (Prince Edward's Island)	6 "	
George Town	7 "	
Sea Wolf's Island	8 "	
Port Hood	9 "	
Sea Wolf's Island	11 "	
Port Hood	12 "	

(Signed) C. Y. CAMPBELL,
Commander.

No. 12.

No. 12.

COPY of a LETTER from Captain HAMILTON, R.N., to H. MERIVALE, Esq.

SIR,

Admiralty, December 21, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Secretary Sir John Pakington, the copy of a letter from Vice Admiral Sir George Seymour, dated 19th ultimo, No. 198, and of its inclosures, reporting on the Fisheries in the Bay of Fundy.

I have, &c.

H. Merivale, Esq.,
Colonial Office.

(Signed) W. A. B. HAMILTON.

Enclosure 1 in No. 12.

Encl. in No. 12.

SIR,

"Cumberland," at Bermuda, November 19, 1852.

I HAVE the honour to transmit herewith the Report, dated the 27th October, delivered to me by Lieutenant Kynaston, late commanding the "Nettley" tender, regarding the fisheries in the Bay of Fundy.

I have pleasure in informing the Lords Commissioners of the Admiralty, that Lieutenant Kynaston has concluded the service in a manner which entitles him to approbation, and has given much satisfaction in New Brunswick, during both the last season when he commanded the "Persian," and in the present year.

I think the suggestion of distinguishing the fishing vessels of the British provinces by numbers on the sails, may conduce to prevent foreign vessels from fishing under the English character, and I have recommended its adoption to the Lieutenant-Governors of the North American colonies.

The Secretary of the Admiralty,
&c. &c. &c.

I have, &c.
(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

Sub-Encl. in No. 12.

Sub-Enclosure to Enclosure in No. 12.

H.M.S. "Bermuda," Halifax, Nova Scotia,
October 27, 1852.

SIR,

ON rejoining your flag, I have the honour, in compliance with your directions, to lay before you a general statement of the fisheries in the Bay of Fundy, during the season now at a close, together with such remarks on the subject which I have gleaned during the period I have been detached on this service in the present year.

On the whole, the season may be said to have been favourable to the interests of the fishermen.

If the line, or deep sea-fishing, may not have been so profitable as in some preceding years, the immense catch of herrings, hitherto probably unprecedented, has been a source of wealth, more especially to the weir-holders in Grand Manan and the Quoddy River; on the other hand, on the coasts of Nova Scotia, the success has been more partial.

At Digby, more especially during the latter part of the season, the herring has been scarce, while at Bryer's Island, and farther south, the well-known energy and industry of the fishermen, both with lines and nets, has been fairly repaid.

The deficiency of herrings above alluded to, I have heard variously accounted for.

It is said, and apparently with reason, that the long continuance of northerly and north-easterly winds in the spring, had the effect of blowing the shoals of fish from the weather shore, together with their common food; and by the vast quantities of shrimp which have enlivened the waters on the New Brunswick shores, where the herring has been likewise so abundant, the reason appears feasible enough.

Again the pollock, hitherto looked upon as the main stay of the fishermen of the Passamaquoddy, have totally failed during the present year; this can only be accounted for by the different courses taken by fish during their annual migrations.

The measures taken to deter foreign vessels from intrusion within the limits prescribed by the Treaty of 1818, have been apparently successful during the present year; to render them lasting, however, there is much yet to be effected; while the provincial fishermen are content to share the labours and profits of those of the United States, who besides being in the enjoyment of a bounty, are for the most part gifted with superior energy and enterprise, intrusions will still continue to be practised with impunity, now the law of the United States expressly stipulates that to become entitled to the bounty, three-fourths of the crew must be *bonâ fide* American citizens; whereas it has frequently come under my notice, about Grand Manan, and the adjacent fishing grounds, that the law is reversed, and three-fourths of the crew of American vessels are actually British subjects; and the latter, being well acquainted with the best fishing grounds, and moreover connected with parties on shore, are wont to encourage encroachments within the forbidden limits. Ask the British fisherman why he prefers the service of the foreigner to the more plausible method of working out an independent livelihood under his own flag, he will invariably plead the want of capital as an excuse.

There are certainly objections to the principle of bounties in general, but to judge by my own experience and from intercourse with the parties themselves, I consider that a moderate bounty of temporary duration on "tonnage," not on the "catch of fish," would be a great boon to the fishermen, to be continued only for a reasonable period. Once fairly on his loss, and knowing that the bounty was for a while only, he would be the more inclined to redouble his exertions during its continuance; we should then see more substantial and better found vessels on the coast (although perhaps not for a time equal to those of the Americans), in the room of the miserable craft now creeping about the shores and earning a scanty livelihood, fearful to venture on the "soundings," or "off-shore" fishing grounds. Moreover, at seasons like the present one, when fish is scarce in the Bay of Fundy, the Gulf of St. Lawrence and the Bay of Chaleur might yield to the enterprize of the British fishermen the profits which have so long been chiefly engrossed by Americans.

The latter, among other methods of evading the terms of the "bounty," employ one which is worthy of note. To become entitled to such benefit, it is indispensable that the fisherman continue his occupation during the whole season; he may, however complete his last load within the allotted time: he then adopts the plan of what is termed "fishing out the bounty," which is nothing more or less than letting go his anchor in British limits, and then setting a line or two until the end of the season (it is immaterial whether the hook be baited or not); his cargo is already completed, and the law is thus satisfied.

With regard to the better mode of guarding against intrusions of foreign vessels in

general, besides making an occasional example by seizure, I have found that the most simple method is by stopping their supply of herring bait on the shore. This the Americans have long obtained clandestinely, and generally with the free consent of the inhabitants, who for certain private considerations are willing to connive at such breach of the Treaty, while no benefit to the fishing interest could have accrued by the system of "barter," the evils of it are obvious; the introduction of spirits of the worst description, and other modes of illicit traffic, have hitherto been carried on with impunity while the more lawful trade of the fishermen has been often neglected. Of one truth I am well assured, which is this, that were there proper officers for carrying out the revenue laws, and penalties held out to our own subjects who connive at any violation of the Convention of 1818, so open by the fourth clause of the same Treaty, there would be fewer occasions of complaint of foreign intruders in the Bay of Fundy. At present the total want of boats and proper Custom-House executives in the different parts of the provinces, must cause the revenue laws to be evaded in every form. Wardens and overseers, it is true, have since last year been appointed to the fisheries on a certain fixed salary, but up to the present time, I am given to understand, the salary remains unpaid, an omission which offers but little encouragement to their zeal and future exertions.

The subject of herring weirs has long since been one of discussion and opposition by the parties whose interest is not connected therewith; much may be said against this wholesale mode of fishing, whether we view it as a discouragement to the more laborious class of fishermen, as a check to general industry, owing to the smaller number of labourers employed in the weirs, or as the law may term these uncertain cases as "obstacles" to the free enjoyment of a public right. On the other hand, take the present season as an example, when the ordinary modes of fishing, especially that of the pollock, have been so unsuccessful; but for the weirs, the fisheries in most parts of the Bay of Fundy must have ended in comparative failure.

The system of weir-holding I am still of opinion requires a check, or at least some kind of legal supervision, I allude more especially to the Island of Grand Manan. It would be impossible to place restrictions on the number of weirs near Quaddy, or the boundary line, while the Americans on the opposite shore are continually adding to the number of their own. Such mode of proceeding would only tend to increase the supply of fish in the markets of the United States, to the evident disparagement of our own. Grand Manan, on the other hand, from its isolated position cannot be viewed in the same light. When we consider the weirs at this latter place are almost exclusively constructed by American hands, subsequently rented, bought, and fished by the same parties at the same profit or loss as the islanders themselves, it is evident that a considerable source of British capital must find its way into foreign hands without any equivalent benefit to ourselves.

The very questionable privileges in a legal point of view, namely, the right of disposal of property "beyond low-water mark," are at present transferred by lease or purchase by a mere nominal agreement. New weirs are constructed, to the obstruction of the navigation of the principal channels and thoroughfares for ships and boats, at the will and pleasure of the parties concerned. I could bring forward an instance of one weir being in the exclusive possession of a native of Eastport, for which no rent has been exacted, and which during the season has been known to ship off 1000 boxes of herrings to the States, estimated at a value over 1000*l.*, a sum to raise which might have engaged the industry and improved the fortunes of many needy families among the Grand Manan fishermen. Moreover, during three months of the fishing season, viz., from the 15th July to the 15th October, the chief resort of the herring or "spawning ground," which occupies a considerable space, is judiciously interdicted to every class of fishing boat; while, during the same period, the weir-holders still continue to monopolize and reap a bountiful harvest in almost every other inch of ground where the herring is known to play, many of the fishermen complain they are in want of bait, while owing to the neglect of ordinary precautions, vast quantities of the smaller kind of herring unfit for curing have been allowed to rot in the weirs during the present season. It is unnecessary to quote examples which have come to my knowledge, but all goes to prove the want of some kind of supervision.

The appointment of an active resident magistrate, unconnected with either trade or party interest, has been long since recommended, and would do much for the island of Grand Manan; the saving to the revenue only, by such appointment alone, might go far towards defraying the expense of a bounty to give a lift to the fishermen without a capital to start with. At present, cases of unlawful wrecking and violence to person and property are continually brought before the commander of the man-of-war in the Bay, to the annoyance of one who has no magisterial authority on shore, and may have sufficient on his hands to occupy his attention afloat. The task of the cruizer, as well as of the shore authorities (where there are any), might be simplified materially were a law to be passed compelling fishing vessels in the provinces to wear, on some conspicuous part of their hull, a certain number or distinguishing mark, to designate the port from which they hail; a list of the vessels and their distinguishing numbers to be furnished by the Custom House to the Naval officer, wardens, and overseers of the fisheries, and a severe penalty denounced against the masters or owners of vessels, for effacing, changing, or being without the recognized number. By such a law being acted up to, the identity of vessels might be proved and intruders singled out without recourse to boarding,—a difficult process where

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the executives are unprovided with a boat. As it is, vessels are found on the fishing grounds, few with their national colours, and many without even license or register, sometimes with a name on their stern, but constantly without any distinguishing mark; sometimes, it is to be feared, under a false name,—a plan which, I have no doubt (if not already adopted), will eventually be resorted to, by the fishermen of both countries, to elude the vigilance of our cruizers, now that intrusions are likely to be visited with less leniency. In any case, great facilities are given to smuggling, and other illicit transactions, by the omission of so important a clause of our revenue laws; and to this point I have turned much attention during my late service, more especially on the coast of Nova Scotia.

With regard to the different light-houses which I have visited in the Bay of Fundy, they are in very creditable order, and much improvement has been effected in that on Gannet Rock, since my report of last year concerning it. They are for the most part furnished with guns or horns for fog signals, a few only with bells. I have heard the horn of the Gannet Rock a distance of five miles, and I consider that guns and horns should be supplied to all without exception, where the expense of a bell has been disallowed.

I would suggest a still further improvement to conduce to the safe navigation of the Bay of Fundy at a trifling expense, namely, to paint large numbers or figures on the various prominent cliffs of the coast, on either side of the Bay, say at every five miles, which would tend to render fog navigation far more practicable.

Every cape, headland, or adjacent cliff to be thus lettered, and the particular letter or other mark registered, in common with the light-houses, and a list furnished to each trader or cruizer. In my own experience, I have derived much assistance, at night and during fogs, by noting the whitewashed marks on the different cliffs, as left by surveying vessels, when all other attempts at identifying the coast have failed, and I would strongly recommend the above suggestion being acted up to by the Provincial Government. I am convinced that seven or eight vessels, stranded during the present year, many near the boldest shores of the Bay, without any apparent cause, might have been spared the catastrophe had the above system been in vogue.

Vice-Admiral Sir G. F. Seymour, K.C.B.,
Commander-in-Chief.

I have, &c.
(Signed) A. F. KYNASTON,
Lieutenant and Commander.

NOVA SCOTIA.

NOVA SCOTIA.

NOVA SCOTIA.

No. 1. (No. 29.)

No. 1.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to the Right Hon. Sir J. S. PARKINGTON, Bart.

Government House, Halifax, Nova Scotia,
November 22, 1852.

(Received, December 7, 1852.)

SIR,

I HAVE the honour to acknowledge the receipt of your despatch marked confidential, and dated the 23rd ultimo, acquainting me that Her Majesty's Government are about to enter into negotiations with the Government of the United States, with a view to effect a settlement of the questions now pending between Great Britain and those States with regard to the trade and Fisheries of the British North American Provinces, and calling for a full exposition of my views on the subject generally, as also on any particular point in relation thereto, which it would be desirable, in my opinion, to include in the proposed Treaty between Great Britain and the United States; and, in reply thereto, I have the honour to acquaint you that I have brought this subject, one of the highest importance to the interests of all classes throughout the province of Nova Scotia, before the members of my Executive Council: a copy of their minute I beg leave to transmit for the consideration of Her Majesty's Ministers, together with such observations of my own that I have been led to entertain, after giving the question my fullest consideration and attention.

2. In the year 1849 the Government of New Brunswick proposed a meeting of delegates from the other North American provinces to be held at Halifax, for the purpose of considering whether any, and what, measures could be devised to revive and extend the trade of the North American provinces; and at the conference held on the 3rd and 4th of September of that year, and attended by delegates from all the neighbouring provinces with the exception of Newfoundland (the Executive Government of that island declining their attendance, on the ground that no advantage to be derived from reciprocal free trade with the United States would compensate for the concession to the citizens of that Republic of a participation in the Fisheries of that colony), the following resolutions were agreed to, viz.:—

1. That in consequence of the recent changes in the commercial policy of the British Empire, it is the opinion of this meeting that it has become necessary to obtain a more extended market for the natural products of the British North American colonies, and that a reciprocal free exchange of such products between those colonies and the United States of America would be highly advantageous to both.

2. That Her Majesty's Government be moved to negotiate with that of the United States for the removal of existing duties on certain articles, the growth and production of the British North American colonies, allowing the like articles to be imported from the United States into those colonies duty free.

3. That the following be the articles to be so imported, viz.:—

Grain and bread stuffs of all kinds, animals, salted and fresh meats, butter, cheese, lard, tallow, hides, horns, wool, undressed skins, and furs of all kinds.

Ores of all kinds, iron in pigs and blooms, copper, lead in pigs.

Grindstones and stones of all kinds, earth, coals, lime, ochres, gypsum, ground or unground, rock salt.

Wood, timber and lumber of all kinds, firewood, ashes.

Fish, fish oil, viz., train oil, spermaceti oil, head matter and blubber.

Fins and skins, the produce of fish or creatures living in the waters.

4. That it be recommended to the respective Colonial Governments of British North America to propose to the Legislatures the removal of all duties on their natural products, as above enumerated.

These were subsequently agreed to in the following session of the local Legislature by a vote passed in the House of Assembly on the 1st March, 1850.

3. In the month of July of that year the Lieutenant Governor of this province, Sir John Harvey, addressed a despatch to the Governor General of Canada, a copy of which was forwarded to Earl Grey in a despatch, No. 184, dated the 25th July, 1850, with reference to the commercial relations between the United States and the North American provinces, and which may be taken as expressing the views of those now conducting the administration of Nova Scotia.

4. In that despatch it is observed that the people of Nova Scotia are desirous of establishing a reciprocal interchange of agricultural productions, and would be prepared to accept any terms, which Canada may obtain, having reference to these alone; if a measure mutually advantageous could be matured, requiring no peculiar sacrifice at either side.

5. The agricultural export of Nova Scotia will be chiefly confined to potatoes; her imports will be flour, corn, meal and breadstuff of all kinds, the advantage being largely in favour of the United States.

6. A reciprocal free trade in these productions, though very important to Canada and New Brunswick, would not warrant, though she is prepared and willing to accept it, on the part of Nova Scotia any peculiar sacrifice; and her Legislature and people would be content if Nova Scotia were included in any general measure which goes no further.

7. The fishery of Nova Scotia, however, is to her people an unfailing and valuable resource. In it a large amount of capital is invested, and, in 1850, it was calculated that it yielded an annual export of 403,045*l.* sterling, exclusive of the quantity consumed within the province; it employs a large amount of population, and is at once a firm basis of commercial operations, and a noble nursery for seamen.

8. The coal trade of Nova Scotia, next to its fishery, furnishes its most bulky and valuable export, the mines being inexhaustible, and easily approached by sea-going vessels, would, were the protective duties in the United States removed, supply that Republic with ten times the quantity now exported; but it is feared that the Congressional strength of Pennsylvania, and other coal-producing States, will be strong enough to exclude coal from the list of articles to be mutually exchanged, with a view to avert the consequences of free competition.

9. The right to register vessels built on any part of the extensive sea-coasts of the Republic in the British provinces has been confirmed by the Act 12 and 13 Vict., chap. 29; and Colonial vessels should have been entitled to the corresponding privilege; this, indeed, would appear to be the natural result of the British legislation, but, as yet, the American Government adhere to their restrictive policy.

10. The points above referred to formed the leading and prominent subjects in the despatch of Sir John Harvey to Lord Elgin, and, from its contents, Her Majesty's Government may readily comprehend the policy to which this Government were at that time, after mature reflection, disposed to adhere. "If the United States exclude the coal and iron of Nova Scotia, and will neither remove their bounties, nor admit her vessels to registry, or to participate in the coasting trade, then she will not, at least, not willingly, abandon her rights of fishery. If, without reference to any of these questions, reciprocity in the productions of the forest and soil can be arranged on fair and honourable terms, Nova Scotia is content to participate."

11. Since the date of that despatch, however, the public attention in Nova Scotia has been more closely directed to the subject of her Fisheries; and from the sentiments expressed at a public meeting of the inhabitants of this city, in the month of September last, it is my duty to acquaint Her Majesty's Government that any concession on their part for surrendering to the citizens of the United States the right of fishing on the coasts and within the bays of

NOVA SCOTIA. the British North American Colonies, from which they are now excluded by the Convention of 1818, would not only call forth loud and angry remonstrances, and occasion the greatest discontent throughout the whole of Nova Scotia, but it would, in my opinion, tend seriously to impair the present good feeling now existing between the parent State and her Colonies on this side of the Atlantic.

12. And I beg respectfully to recall the attention of Her Majesty's Government, in corroboration of these views, to the resolutions and addresses adopted at the meeting alluded to, and which formed the subject of my despatch to you on the 2nd September last, No. 13.

13. The additional naval force that has been employed this season in the protection of the Fisheries on these coasts has elicited a strong feeling of gratitude towards Her Majesty's Government; and the measures adopted by Vice-Admiral Sir George Seymour, to carry out that object, have been regarded with much interest and satisfaction; and great hopes are entertained that Her Majesty's Government will continue steadfast in their determination to remove all ground of complaint on the part of these Colonies, in consequence of the encroachments of the fishing vessels of the United States upon the reserved fishing grounds of British America; and from the success that has attended the operation of the naval force in the season just concluded, it is evident that a steady perseverance in the same policy will in a short period considerably enhance the value and importance of our Fisheries, one of the chief resources of Nova Scotia, and on which its commerce is mainly dependent; while, on the other hand, it will operate as a check to the competition of the Americans, and diminish to no slight extent the large profits they of late years have been making in the prosecution of this branch of industry, the knowledge of which has doubtless called forth all the agitation and excitement that recently prevailed in some parts of the States of America on this subject.

14. Under these circumstances, I trust that Her Majesty's Government will accede to the suggestion offered in their minute by my responsible advisers, the Executive Council of this province, as also to the prayer of the petitioners in the addresses above alluded to, that negotiations on this vitally important question may be stayed until the interests of this province have been more fully inquired into; and, moreover, as a false step taken by any departure from our present commercial policy may be irretrievable, I hope that prior to any final adjustment of the several questions adverted to in this despatch, an opportunity may be afforded to the inhabitants of Nova Scotia to express their views and sentiments through their representatives, before whom the subject will have to be discussed on the re-assembling of the local Legislature, whose next session will, in the ordinary course, be held in the early part of the coming year.

I have, &c.

(Signed) J. GASPARD LE MARCHANT.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl. in No. 1.

Enclosure in No. 1.

Memorandum.

HIS Excellency having submitted to Council the despatch of Sir John Pakington, dated 23rd October, 1852, and marked "confidential," stating that Her Majesty's Government being about to enter into negotiations with the Government of the United States, with a view to effect a settlement of the important questions now pending with regard to the trade and fisheries of the British North American provinces, and desiring to be furnished with a statement of the several points affecting the interest of the province, which it would be proper to consider in such negotiations, and instructing him to transmit confidentially, with as little delay as practicable, a full exposition of his views on the subject generally, and on any particular points in relation thereto, which it might be desirable to include in the proposed Treaty between Great Britain and the United States; after discussion it was resolved, that the letters addressed by his Excellency the late Sir John Harvey to the Right Honourable the Governor-General, dated 25th July, 1850, the communication made to Sir H. L. Bulwer on the 29th January, 1851, by Sir John Harvey, the despatch of Sir John Harvey to the Right Honourable Earl Grey, on the 19th February, 1852, transmitting a petition from certain merchants of this province to Her Majesty, praying that no concession of fishing privileges be granted or made to American citizens, and the address to Her Majesty of the merchants and inhabitants of Halifax, and

other parts of the province, adopted at a public meeting held at Halifax, on Tuesday, the 2nd September, 1852, contain the views of the Government and people of Nova Scotia on the subject of the fisheries to which the Council respectfully refer; and as the present House of Assembly has not taken any action on this important question, it would be prudent to submit the matter for their consideration with as little delay as possible.

Dated November 19, 1852.

(Signed)

JAMES B. UNIACKE.
M. TOBIN.
HUGH BELL.
JAMES M'NAB.
SAML. CREELMAN.

NOVA SCOTIA.

(No. 13.)

No. 2.

No. 2.

COPY of a DESPATCH from Sir G. LE MARCHANT to the
Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
February 17, 1853.

(Received, March 1, 1853.)

MY LORD DUKE,

(Answered, March 7, 1853, p. 22.)

I HAVE the honour to forward herewith to your Grace the accompanying address from the House of Assembly of Nova Scotia, to be laid at the foot of the Throne, praying that no treaty may be negotiated between Great Britain and the United States of America, which would surrender to foreigners the reserved fisheries on the sea-coasts of British North America, or any participation therein, without an opportunity being afforded to the Government and Legislature of this province to consider and express an opinion upon its terms.

I beg leave to place this address in the hands of your Grace, and I hope that your Grace may be pleased to recommend the same to Her Majesty's most gracious consideration.

I have, &c.

(Signed) J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

Enclosure in No. 2.

Encl. in No. 2.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of the House of Assembly of the Province of Nova Scotia.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Representatives of your Majesty's faithful people of Nova Scotia, beg leave to approach the throne with the renewal of the tender of affectionate support to your Majesty's person and government.

We have learned with deep interest that negotiations are pending between your Majesty's Government and the Government of the United States, involving not only questions of reciprocal trade between the two countries, but the surrender of national and colonial rights of a very important character.

Warned by the experience of the past, and the results of Treaty stipulations, in which the interests of British America have been seriously compromised, without the Provincial Governments and Legislatures being consulted, the House of Assembly pray that no Treaty may be negotiated by your Majesty, which would surrender to foreigners the reserved fisheries on our sea-coasts, or any participation therein, without an opportunity being afforded to the Government and Legislature of Nova Scotia to consider and express our opinion upon its terms.

(Signed)

W. YOUNG,
Speaker.

House of Assembly, February 17, 1853.

NOVA SCOTIA.

No. 3.

No. 3.

COPY of a DESPATCH from the Duke of NEWCASTLE to
Lieutenant-Governor Sir G. LE MARCHANT.

SIR,

Downing Street, March 7, 1853.

I HAVE to acknowledge the receipt of your despatch No. 13 of the 17th ultimo, transmitting an Address to the Queen from the House of Assembly of Nova Scotia relative to the negotiation now pending between this country and the United States on the subject of the fisheries on the sea-coasts of British North America.

I have laid this petition before the Queen, and Her Majesty was pleased to to receive it very graciously.

I have, &c.

Sir Gaspard Le Marchant,
&c. &c. &c.

(Signed) NEWCASTLE.

No. 4.

(No. 27.)

No. 4.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to
the Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
March 31, 1853.

(Received, April 11, 1853.)

MY LORD DUKE,

(Answered, April 16, 1853, p. 23.)

I HAVE the honour to transmit to your Grace the accompanying Address from the House of Assembly of Nova Scotia, now in session convened, thanking Her Majesty for the protection afforded to the fisheries of British America during the last season, and praying for a further continuance of the same, as they are firmly convinced that the admission of foreigners to a participation in these fisheries would have the most disastrous effects on the most vital interests of Her Majesty's subjects in these provinces; and I hope that your Grace will give your own support and that of Her Majesty's Government to the prayer of the petitioners on this occasion.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT

His Grace the Duke of Newcastle,
&c. &c. &c.

Encl. in No. 4.

Enclosure in No. 4.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of the Representatives of the People of Nova Scotia.

May it please your Majesty,

WE, your Majesty's faithful and loyal subjects, the Commons of Nova Scotia, with warm attachment to the Government and person of Your Majesty, express our gratitude for the protection afforded to the Fisheries of British America, and the regard given to Colonial interests, which have enabled British subjects during the last year to enjoy their rights and privileges free from foreign aggression.

Inspired with confidence, we humbly solicit a continuance of such efficient protection as will maintain inviolate the exclusive enjoyment of those fisheries, the inherent right of the British people, an inexhaustible source of commerce and a fostering nursery for the national marine of the British Empire.

Your Majesty's subjects in this part of your dominions are of opinion that the commerce of their country is supported chiefly by the fisheries, which constitute a source of incalculable wealth, and ought not to be participated in by any foreign Power on any consideration whatever.

That notwithstanding the advantages conferred on the citizens of the United States by the generous policy evinced by your Majesty, they still adhere to their illiberal and protective system, which they sustain with unyielding tenacity.

Whilst the shipping of America, built, manned, and equipped in the United States,

can be sold in the British Colonial ports without duty, and obtain British registers, American citizens deny any corresponding privilege to your Majesty's subjects. Whilst their vessels participate with British tonnage in the trade with Britain's Colonies supplying their productions and manufactures on the same terms as British, whilst they trade with the British North American Colonies in the islands of the Pacific, a British vessel cannot load from New York or Boston for the other States of the Republic, or trade from any American port to California or Texas.

Your Majesty's loyal subjects therefore pray your Majesty to continue the protection which was extended to them last season, and by force to repel all foreign aggression on their reserved fishing-grounds—the exclusive enjoyment of which is solemnly renounced to the British by the Convention of 1818, between your Majesty and the Republican Government; fully believing that the admission of foreigners to participation in that fishery would have a most disastrous effect, can be purchased by no equivalent, and would tend to weaken the confidence of your Majesty's subjects in the policy of a Government which does not protect your people in the enjoyment of their inalienable rights.

(Signed) W. YOUNG,
Speaker.

House of Assembly, March 30, 1853.

No. 5.

No. 5.

COPY of a DESPATCH from the Duke of NEWCASTLE to
Lieutenant-Governor Sir G. LE MARCHANT.

SIR,

Downing Street, April 16, 1853.

I HAVE to acknowledge the receipt of your despatch No. 27 of the 31st March, transmitting an Address to the Queen from the House of Assembly of Nova Scotia, praying that the measures adopted by Her Majesty's Government last season for the protection of the fisheries on the coasts of British North America may be repeated.

Having laid this Address before the Queen, I have to instruct you to inform the House of Assembly that Her Majesty has been pleased to receive the same very graciously.

Sir G. Le Marchant,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

(No. 28.)

No. 6.

No. 6.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to
the Duke of NEWCASTLE.

Government House, Halifax, March 31, 1853.

(Received, April 11, 1853.)

MY LORD DUKE,

(Answered, April 27, 1853, p. 35.)

I HAVE the honour to transmit the report of the Advocate-General of the case of the "Creole," seized by Commander Colin York Campbell, Royal Navy, and now pending in the Court of Vice-Admiralty, and as various constructions of the laws now in operation may embarrass those employed in preserving inviolate the rights of fishery so highly prized by the people under my Government, I beg leave to suggest that such amendments may be made if deemed requisite, as, should any act of violence be committed, the legal tribunals may be fully aware of the extent of their responsibility. The Convention of 1818 forms the basis of our present regulations: the 59th George III, cap. 38, gives the Sovereign the power of making regulations and to carry into execution so much of the said Convention as relates to the 1st Article; the Legislature of Nova Scotia, in 1836, passed the 6th William IV., cap. 8, reciting the 2nd Article of the Convention, which Act was assented to by His Majesty and has been the law under which the fishery was regulated, and which has been recognized by the law officers both here and in England. I inclose a copy of the 6th William IV., cap. 8, which you will perceive imposes many obligations on the claimants of vessels seized, and confers privileges on the prosecutors.

The law seems doubtful also about the detention of British vessels, and it appears to me important to have such ambiguity removed, so that they may be liable to seizure and confiscation, and some explicit law as to the ownership and

NOVA SCOTIA. build of vessels employed in the fishery; for I cannot think that whilst Great Britain confines the home fisheries to British-built vessels, manned entirely by British subjects, it could have been contemplated to admit such a participation by foreigners as the 12th and 13th Victoria, cap. 29, is construed to confer, whereby American fishing vessels, fitted out, equipped, and manned in American ports, for the fishery, may enter British ports, not for enjoying the privileges conceded by the Convention, but for sale, and by the change of owner and a few of the crew, become British fishing vessels, whilst a natural-born British subject resident in the United States may own vessels and employ them in a similar manner with only one British mariner to every 20 tons burthen. I conceive it my duty to call the attention of Government to this subject, so that Her Majesty by Order in Council, or Parliament by law, may remedy these imperfections should her legal advisers deem it important.

I inclose a suggestion as to the regulations which may be adopted if considered judicious.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

Encl. in No. 6.

Enclosure in No. 6.

SIR,

Halifax, March 31, 1853.

IN compliance with your Excellency's desire, I submit a few observations on the state of the present law for the protection of the British North American Fisheries. As they are in some measure extra-judicial, however, I must beg your Excellency to regard them as intended for the consideration of yourself and Her Majesty's Government only. Of the circumstances under which the "Creole" was seized you are already informed. Lord John Russell is also aware of them, as he recently acknowledged the receipt of a copy of a judgment given by me on a preliminary point in which they are narrated. The case itself is still under adjudication, the parties being at present engaged in proof. So far as I am concerned it will turn upon the question whether the "Creole" be in truth owned by citizens of the United States of America. Your Excellency will recollect that this vessel was seized within the limits proscribed to those citizens on the coast of this Province;— Captain Campbell, the seizer, believing that though British built and having a British register, she was foreign property. This, as I have already intimated, is the question on which my decree will be pronounced. But other questions have been made in the case of great importance, upon which my opinion does not coincide with Her Majesty's Advocate General's. On behalf of the seizer he insists, that if a vessel owned *bond fide* by British subjects be deficient in any the most minute particulars required by the laws of navigation and the Registry Acts, and found fishing within the British limits, she is condemnable under the 2nd Section of the Act of Parliament, 59 George III, Chapter 38. I think differently, and the Chief Justice, with whom I confidentially consulted on the subject, concurs with me. In accordance therewith will be my judgment on that point; and that no time might be lost in ascertaining the views of the law officers of the Crown in England thereon, I some weeks since intimated my opinion from the Bench to the Advocate General: for although their views will not affect my decree (which can only be set right by appeal to the Judicial Committee), the Imperial and Colonial Authorities will be enabled thereby to adopt such measures as the exigency of the case may require, and there can be no doubt of its importance. It is within my knowledge that the Chief Justice has granted a writ to arrest Captain Campbell on his return to this port, at the instance of the owner of one of the vessels detained by him last autumn; and this is, I apprehend, but the precursor of other writs of the same character. By referring to the abstract appended to Captain Campbell's letter to Vice Admiral Sir George Seymour, dated 10th November, 1852, your Excellency will perceive that he regarded violations of the laws of navigation and trade, and of the Registry Act, as authorizing him to seize and detain the vessels he refers to in his report. It would be a subject of great regret if Captain Campbell's zeal to protect our fisheries should subject him to pecuniary loss, and very disagreeable to the Provincial Legislature to be called on to reimburse him;—besides that an uncertainty on this point would naturally paralyze every officer employed for that purpose, Imperial and Colonial. But questions much more important than this have been raised by the counsel for the claimants in the case of the "Creole:" they allege that however a Colonial Legislature may bind by its laws those who inhabit the colony, to legislate for the ocean belongs to Imperial Sovereignty only; that whatever the extent may be to which the Crown may have conceded local self-government to this Province, it is beyond its power to confer upon it that attribute of Sovereignty;—that to sail on and fish in the waters of our shores within British limits, are rights common to British subjects; and, therefore, that the regulations of His late Majesty in Council, dated 9th July, 1836,

are invalid, except in so far as they are authorized by the Act of Parliament, 59 George III. NOVA SCOTIA: And they allege that in many particulars that Act gives no authority to the Crown; for example, the 8th Section of the regulations turns the *onus probandi* on the claimant, and while the 4th Section of the Act of Parliament prescribes pecuniary penalties only, those regulations inflict the forfeiture of vessels and cargoes to a larger extent than is provided by that Section, or the second Section of that Act.

Your Excellency will see, by referring to the despatch book of 1841 or 1842, how angrily the Government of the United States remonstrated against the fishery regulations, and especially the 8th Section. Whether in the event of future controversy it can be upheld is for the consideration of the Imperial Authorities; for myself I must say, that it appears to me to be essentially unjust. It may assume a momentous aspect if homicide occur, and your Excellency knows that the Americans will not be slow to vindicate their citizens;—and we Colonists believe that their Government will eagerly avail themselves of every opportunity to worry the Imperial Government upon the subject of the fisheries.

How important then is it, that immediately, by undoubted authority, a code of regulations be prescribed by which the officers of Her Majesty's Navy will be protected, the fisheries confined to British subjects, and no legitimate causes of complaint be left to the Government of the United States. Sir George Seymour is, I know, anxious on this subject, and its necessity is so obvious that the New York "Albion" has recently invoked the attention of Great Britain to it in the strongest terms.

I confess, however, that to frame such a code so as to prevent fraud consistently with the present registry laws will be a work of considerable difficulty. By those laws a British subject can become the owner of an American built vessel and obtain for her a British register, and this although he reside in the United States. To sail out of an American port with an American register and obtain in this province a British register is of not difficult accomplishment.

Referring for a moment to the letter of Doctor Harding, Sir F. Thesiger, and Sir F. Kelly to the Earl of Malmesbury, dated Doctors' Commons, 25th September, 1852, I would remark that the Americans will care but little for being warned to depart and interrupted in fishing, if this be not practically and efficiently enforced by seizure and confiscation. And for this the new code I suggest should carefully provide; and their reply to the second additional question of the Vice-Admiral Seymour in that letter gives peculiar significance to the opinion I entertain of the injustice (as between independent nations) of the 8th clause of the regulations of 1836. If I may without presumption suggest the course to be pursued, I would propose that a short Act of Parliament be introduced, giving Her Majesty in Council full powers to make any regulations relative to the fisheries; that before any to be made thereunder be adopted, full reports on the whole subject should be obtained from the Colonial Government and the Vice-Admiral, and if necessary, the former should be required to enact or modify the local laws as should be desired by the Imperial Government. And before it is adopted the code should be carefully considered by the Imperial law officers in all its relations and contingencies. As your Excellency appears to be desirous to address the Secretary of State by this mail, I have had no time to condense the very imperfect observations which I now have the honour to submit for your consideration.

I have, &c.
(Signed) ALEX. STEWART,
Judge of Vice-Admiralty Court.

His Excellency the Lieutenant-Governor, &c. &c. &c.

Enclosure 2 in No. 6.

Encl. 2 in No. 6.

Regulations for the Fishery of Nova Scotia.

THE provisions of 6 William IV should be retained, and if not in force, should be put in force by Order in Council.

No vessel should fish unless British owned, British built, and navigated by a British master, and at least three-fourths of the crew British-born subjects.

No British subject, who has his domicile or place of residence abroad, or in a foreign country, should be allowed to own a British vessel in the British North American fisheries.

And all vessels violating these regulations, shall be liable to seizure and confiscation.

All vessels engaged in the fishery shall carry such distinguishing marks as the Governor may from time to time appoint, under a penalty of say 25*l.*; and any foreign vessel imitating such distinguishing marks, shall be liable to seizure and forfeiture.

Any foreign vessel sailing under the colours of Her Majesty, or Her Majesty's mercantile marine, shall be liable to seizure and forfeiture.

Enclosure 3 in No. 6.

Encl. 3 in No. 6.

THE schooner "Creole" was seized on the 12th day of October, 1852, by Commander Colin Yorke Campbell, of Her Majesty's steam-sloop "Devastation," for fishing within three marine miles of the coast of Cape Breton, in violation of the Convention of

NOVA SCOTIA. 1818, and the laws, rules, and regulations made in consequence thereof. At the time of seizure, Commander Campbell imagined the "Creole" was a United States' vessel, sailing under British papers; she was sent to Halifax for prosecution, where she arrived on the 25th day of October, and was placed in the custody of Her Majesty's principal officer of the Customs, and directions given to the Crown officers to prosecute. On inquiry, it was ascertained that the "Creole" had been built in Nova Scotia in the year 1850; had been owned by Messrs. Locke and Churchill, run down at sea, and abandoned by master and crew on a voyage from the port of Philadelphia, United States, to Ragged Islands, Nova Scotia, towed into Gloucester, United States, derelict in August, 1852, sold for a salvage-claim, and produced 515 dollars by public auction, and after paying salvage expenses, 165 dollars, 60 cents was paid to Messrs. Locke and Churchill, who delivered the certificate of registry, and executed a bill of sale to one John W. Wheelock, a British subject, residing in the United States, the said "Creole" having been bid off by one Robert Fears, an American citizen; she was repaired, fitted out, and sailed for the fishery on the 17th day of September, 1852, under the original certificate of registry (no registry *de novo* having been obtained at the port of Halifax, Nova Scotia), endorsed as transferred unto John W. Wheelock by bill of sale, produced before Edmund A. Grattan, Her Majesty's Consul; also that Beriah B. Starrat was master. Thus commanded and equipped in the United States, she sailed for the fishing-ground, entered at a port in Nova Scotia, cleared for a fishing voyage in the Gulf of Saint Lawrence, having on board salt provisions, &c. The "Creole" was detained by Her Majesty's steam-sloop "Devastation," as has been said, for violation of the Convention of 1818. &c.; when boarded she was found without her name painted on the stern, without her tonnage carved on the main beam, not duly registered, her actual measurement exceeding that stated in the certificate of registry, her outfit American, and her crew mostly American, the captain saying that he had no agreement with the seamen, showing where he had taken them on board, &c.; and the "Creole" having passed the harbour of Halifax, and entered at Canso, and not applied for registry *de novo*, led Commander Campbell to the belief that she was fraudulently sailing with double papers, and he seized her, together with her cargo, 105 barrels of mackerel. She was libelled by the Advocate-General on the 23rd of November, and the libel was rejected on the 14th of December; a fresh libel was filed on the 24th of January, and opposed on admission on the 8th and 23rd of February, and admitted to proof on the 1st day of March, 1853.

In delivering his decision, his Worship, the Judge of the Vice-Admiralty, intimated an opinion that the 59th George III, chapter 38, was designed by Parliament to confer on the King the power to make rules and regulations under the 1st Article of the Convention; and that by the 2nd section of that Act, foreign vessels were alone liable to confiscation; that vessels not navigated according to the laws of Great Britain and Ireland, are not liable to forfeiture, but subject to penalties under the 4th section; and that the Court in which he presided had no jurisdiction. And further, that said Act did not give power to His Majesty to ordain the rules and regulations contained in the Provincial Act 6th William IV, chapter 8th, the enactments being more severe than the statute authorizes, both as regards foreigners and British subjects: and lastly, that a vessel originally British, cannot be condemned for engaging in the fishery, though she may have evaded all the enactments of the Registry Acts of Great Britain. That under the 12th and 13th Victoria, no residence however long in a foreign country incapacitates a natural-born British subject from holding a British-built vessel. That 12th and 13th Victoria, chapter 29, limits the number of British seamen to one for every twenty tons of the burthen of the ship. That foreign vessels fitted out for the fishery may be transferred to British subjects; and by placing a British master in charge, prosecute the fishery in the reserved waters of British America, provided there is on board one British subject for every twenty tons burthen (which latter opinion seems to be borne out by the case of the "Meridian"); and the Judge recommended that the attention of Her Majesty's Government should be called to the subject previous to the next fishing season, so that under the authority of Parliament, suitable rules and regulations may be adopted for the protection of rights so valuable to the people of British North America.

The foregoing is as correct as I can state from memory, the Judge having declined to furnish me with a copy, since which he has addressed a letter to your Excellency.

(Signed) JAMES B. UNIACKE,
Advocate-General.

Halifax, March 30, 1853.

Sub-Encl. in No. 6.

Sub-Enclosure to Enclosure 3 in No. 6.

Provincial Statute, 6 Wm. IV, cap. 8.

An Act relating to the Fisheries, and for the prevention of illicit Trade in the Province of Nova Scotia, and the coasts and harbours thereof.—(Passed the 12th day of March, 1836.)

Whereas by the convention made between His late Majesty King George III, and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen, and the statute made and

passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of His late Majesty King George III, all foreign ships, vessels, or boats, or any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks, or harbours whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first Article of the said convention, are liable to seizure. And whereas the United States did, by the said convention, renounce for ever any liberty 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 should 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 under such restrictions as might be necessary to prevent their taking and drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby preserved to them; and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this province are materially impaired. And whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this province, and the fishery carried on contrary to said convention and statute.

I. Be it therefore enacted, by the Lieutenant-Governor, Council, and Assembly, That from and after the passing of this Act, it shall be lawful for the officers of His Majesty's customs, the officers of import and excise, the sheriffs and magistrates throughout the province, and any person holding a commission for that purpose from his Excellency the Lieutenant-Governor for the time being, to go on board any ship, vessel, or boat within any port, bay, creek, or harbour in this province, and also to go on board of any ship, vessel, or boat hovering within three marine miles of any of the coasts, bays, creeks, or harbours thereof, and in either case freely to stay on board such ship, vessel, or boat as long as she shall remain within such port or distance, and if any such ship, vessel, or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel, or boat, into port, and to search and examine her cargo, and to examine the master upon oath touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this province such ship, vessel, or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel, or boat shall be foreign and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creeks, or harbours of this province, such ship, vessel, or boat, and their respective cargoes, shall be forfeited, and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him on such examination, he shall forfeit the sum of one hundred pounds.

II. And be it further enacted, that all goods, ships, vessels, and boats liable to forfeiture under this Act, shall and may be seized and secured by any such officer of His Majesty's Customs, officer of Impost and Excise, sheriffs, magistrates, or other persons holding such commission as aforesaid, and every person who shall in any way oppose, molest, or obstruct any officer of the Customs, officer of Impost and Excise, sheriff, magistrate, or other persons so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest or obstruct any person acting in aid or assistance of such officer of the Customs, officer of Impost and Excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, shall for every such offence forfeit the sum of two hundred pounds.

III. And be it further enacted, that all goods, ships, vessels, and boats, which shall be seized as being liable to forfeiture under this Act, shall be taken forthwith, and delivered into the custody of the Collector and Controller of the Customs at the Custom House next to the place where the same were seized, who shall secure and keep the same in such manner as other vessels and goods seized are directed to be secured by the Commissioners of His Majesty's Customs.

IV. And be it further enacted, that all goods, ships, vessels, boats, or other thing which shall have been condemned as forfeited under this Act shall, under the direction of the principal officer of the Customs or Excise where such seizures shall have been secured, be sold by public auction to the best bidder, and the produce of such sale shall be applied as follows; that is to say,—the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties, one of which shall be paid to the officer or other person or persons legally seizing the same, without deduction; and the other moiety to the Government, and paid into the treasury of this province; all costs incurred having been first deducted therefrom. Provided always, that it shall be lawful for the Commissioners of the Revenue to direct that any of such things shall be destroyed or reserved for the public service.

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V. And be it further enacted, that all penalties and forfeitures which may be hereafter incurred under this Act, shall and may be prosecuted, sued for, and recovered in the Court of Vice-Admiralty having jurisdiction in this province.

VI. And be it further enacted, that if any goods, or any ship, vessel, or boat, shall be seized as forfeited under this Act, it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizures with the consent of the person seizing the same, to order the delivery thereof on security by bond, with two sufficient sureties to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation; and such bond shall be taken to the use of His Majesty in the name of the Collector of the Customs in whose custody the goods, or ship, vessel or boat, may be lodged; and such bond shall be delivered and kept in the custody of such collector; and in case the goods, or the ship, vessel, or boat, shall be condemned, the value thereof shall be paid into the hands of such collector, who shall cancel such bond, and distribute the money paid in such manner as above directed.

VII. And be it further enacted, that no suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of His Majesty, and shall be prosecuted by His Majesty's Advocate or Attorney-General, or, in his absence, by the Solicitor-General for this province; and if any question shall arise whether any person is an officer of the Customs, Excise, sheriff, magistrate, or other person authorized to seize as aforesaid, *visâ voce* evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

VIII. And be it further enacted, that if any goods, ship, vessel, or boat shall be seized for any cause or forfeiture under this Act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall lie on the owner or claimant of such goods, ship, vessel, or boat, and not on the officer or person who shall seize and stop the same.

IX. And be it further enacted, that no claim to anything seized under this Act, and returned into His Majesty's Court of Vice-Admiralty for adjudication, shall be admitted unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered to the best of his knowledge and belief; and every person making a false oath thereto shall be deemed guilty of a misdemeanour, and shall be liable to the pains and penalties to which persons are liable for a misdemeanour.

X. And be it further enacted, that no person shall be admitted to enter a claim to anything seized in pursuance of this Act, and prosecuted in this province, until sufficient security shall have been given in the court where such seizure is prosecuted, in a penalty not exceeding twenty pounds, to answer and pay the costs occasioned by such claim; and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

XI. And be it further enacted, that no writ shall be sued out against, nor a copy of any process served upon any officer of the Customs, Excise, sheriff, magistrate, or other person authorized to seize as aforesaid, for anything done in the exercise of his office, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given, and in default of such proof the defendant shall receive in such action a verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff as the court shall direct.

XII. And be it further enacted, that every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in any of His Majesty's Courts of Record in this province, and the defendant may plead the general issue and give the special matter in evidence; and if the plaintiff shall become nonsuited or shall discontinue the action, or if upon a verdict or demurrer judgment shall be given against the plaintiff, the defendant shall receive treble costs and have such remedy for the same as any defendant can have in other cases where costs are given by law.

XIII. And be it further enacted, that in case any information or suit shall be brought to trial on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the judge or court before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution, shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized or the value thereof, shall be entitled to no more than twopence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

XIV. And be it further enacted, that it shall be lawful for any such officer of the customs, excise, or sheriff, or magistrate, or other person authorized to seize as aforesaid, within one calendar month after such notice to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas; and if the jury shall find the amends sufficient, they shall give a verdict for the defendant; and in such

case, or in case the plaintiff shall become non suit, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only. Provided always, that it shall be lawful for such defendant by leave of the court where such action shall be brought, at any time before or after issue joined to pay money into court as in other actions.

XV. And be it further enacted, that in any such action, if the judge or court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twopence damages, nor to any costs of suit.

XVI. And be it further enacted, that all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, may be commenced or persecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture shall be incurred, any law, usage, or custom to the contrary notwithstanding.

XVII. And be it further enacted, that no appeal shall be prosecuted from any decree, or sentence of any of His Majesty's courts in this province, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

XVIII. And be it further enacted, that this Act shall not go into force or be of any effect until His Majesty's assent shall be signified thereto, and an order made by His Majesty in Council that the clauses and provisions of this Act shall be the rules, regulations and restrictions respecting the fisheries on the coasts, bays, creeks or harbours of the Province of Nova Scotia.

Judgment of the Master of the Rolls in the case of the "Creole."

THIS vessel and cargo were seized by Captain Colin York Campbell, commanding His Majesty's Steam Sloop "Devastation," near Hunter's Bay, on the 12th October, 1852, for fishing within the limits prescribed to foreign vessels, brought into this port on the 26th, and placed in charge of the Comptroller of the Customs, where she now remains.

The vessel is claimed by John W. Wheelock and William Elliott, who allege that they are natural-born British subjects;—one half of the cargo is claimed by Elliott, and the other half by Beriah B. Starritt, the master, and crew.

At the time of seizure 105 barrels of mackerel (valued by consent of the Advocate General at the sum of 210*l.*) had been taken, which, with a small quantity of salt, have been delivered to the claimants on bail.

On the 6th November, on the application of the Advocate General, upon the affidavits of Captain Campbell, his officers, and some of the crew of the "Devastation," a monition was decreed against the vessel and cargo, and for penalties.

On the 23rd the Advocate General brought in the libel.

On the 30th Johnston and Stewart opposed its admission, and they were then heard in support of their motion, as well as the Advocate General against it.

The claimant's counsel assuming, and for the purpose of their argument admitting, the truth of the allegation, in the libel, submit that they are not bound to answer it. First, referring to its commencement and conclusion, and to the 7th section of the regulations for the protection of the fisheries, established by His late Majesty in Council on the 9th July, 1836, they insist that the Queen alone can call upon the claimants to answer for their violation thereof. That part of the 7th section on which they maintain their position runs thus:—

"No suit shall be commenced for the recovery of any penalty or forfeiture except in the name of Her Majesty."

The commencement of the libel is as follows:—

On the 22nd November, 1852, before you the Honourable and Worshipful Judge and Commissary of Her Majesty's Court of Vice Admiralty of Halifax, Her Majesty's Advocate General lawfully constituted and appointed the proctor on behalf of our Sovereign Lady the Queen, as for Colin York Campbell, Esquire, Commander of Her Majesty's Steam Sloop "Devastation," against the ship or vessel called the "Creole," whereof Beriah B. Starritt, now is or lately was Master, and her cargo, and also against John W. Wheelock, the registered owner, William Elliott, and the said Beriah B. Starritt, the Master, (the other claimants of the cargo appear not to be noticed either in the monition or the libel), intervening and claiming the same, and against all persons in general having any right, title or interest therein. The first article refers to the Act of Parliament, 59 Geo. III, cap. 38, empowering the Crown to make regulations to protect the fisheries, and in the 3rd article those regulations are referred to and relied on. The second article refers to and relies on three Acts of the Imperial Parliament, viz. :—the Acts passed in the 8th and 9th years of Her Majesty's reign, chapters 89 and 93, and to the Act passed in the 12th and 13th years, those of cap. 59, and the fourth article refers to and relies on chapters 15 and 94 of the Revised Statutes of the Legislature of this Province which passed in 1851.

The conclusion of the libel is as follows, viz. :—

The promonts pray that the judge will pronounce the vessel and cargo to have been,

NOVA SCOTIA. at the time of the seizure thereof, subject and liable to forfeiture and condemnation for breach of some, or one, or all of the provisions of the statutes, and rules, and regulations therein referred to and pleaded, and by reason that the said "Creole" was not navigated according to the laws of the United Kingdom of Great Britain and Ireland, and to condemn the same, her tackle, apparel, furniture and cargo, as forfeited to our Sovereign Lady the Queen, her heirs and successors. Accordingly and moreover, that the penalties due by law may be pronounced for, that is to say, that the sum of 200*l.* is due from the said Beriah B. Starritt, for having neglected and refused to conform to the regulations and directions made and given for the execution of the 59th George III, cap. 38, and for navigating said "Creole" contrary to the laws of Great Britain and Ireland, and of this Province, and for having engaged in illicit trade. And that the sum of 100*l.* may be pronounced for, as also due from the said Beriah B. Starritt for not truly answering the questions demanded of him upon said examination. And that the sum of 100*l.* may be pronounced for, as also due from the owner or owners, or master Beriah B. Starritt, for not having painted, or caused to be painted, in white and yellow, pursuant to law, the name by which such ship or vessel had been registered, and the port to which she belongs, in a distinct and legible manner, and for not keeping and preserving the same, and to condemn the said Beriah B. Starritt in such penalties, and the parties impugnant in this cause in the costs made and to be made on the part and behalf of our Sovereign Lady the Queen, by the definite sentence or final interlocutory decree to be made and given by the judge in this behalf. The libel is signed by J. B. Uniacke, Advocate General and Proctor, and he consented to the value of the mackerel as proctor for Colin York Campbell.

The fishing regulations were, without doubt, carefully considered in England before they were sanctioned by his late Majesty and the Privy Council; and it was, I apprehend, on this account that they confined prosecutions to the Crown and its high law officers. Cases might occur in which by their strict letter forfeitures might be enforced, but which the British Government would feel it ungracious to inflict upon the citizens of a foreign friendly State; and by preventing the interference of the seizing officer in prosecutions, the Crown, by directing a *nolle prosequi* to be entered, could arrest them. In this respect there is an essential difference between the rights of a seizer under these regulations and those of a seizer under the laws of the Empire for enforcing the Registry Act and other Acts relating to the trade and commerce of Great Britain and her colonies. Under these he acquired interests which the Crown could not prevent him from pursuing in a court of justice, as may be seen by the case of the Adams Edward's reports, page 303, where the Attorney General entered a *nolle prosequi* for that purpose in vain.

Thus the 59th Section of Chapter 114 of the Imperial Statutes, 6th George IV, under which the form of libel given in pages 148 and 149 of the appendix to the rules of practice of this Court, was prepared, is substantially the same as the 75th Section of the 93rd Chapter of the 8th and 9th Victoria, one of the Acts of Parliament under which these promovents are proceeding. By both, power is given to the seizer as well as to the principal Law Officers to commence suits for the recovery of penalties and forfeitures under any Act relating to the Customs or to Trade and Navigation. But though these regulations gave no such power to a seizer, they prevent him from incurring any risk; for by them he is to receive half the gross produce of the seized property, the expense of prosecution to be deducted out of the other half, and the remainder is to be paid into the Colonial Treasury for colonial purposes. Whereas all the expenses of prosecution are deducted in respect to forfeitures, and in the Acts of Parliament I have cited, before any division is made of the proceeds between the Crown and the seizer. The Advocate-General, however, insists that the monition is the *commencement* of the suit, and that in it the Queen's name only is used.—and that, therefore, he has literally complied with the regulations. To this it has been replied, and directly, that so runs the monition on revenue cases, but that the libel is framed in the name and on the behalf of the Crown and seizer in conjunction, because the Acts of Parliament allow that to be done, all penalties and forfeitures being in point of law adjudged to the Crown. But the objection I am considering is not to the monition but to the libel;—and if the Queen only can commence, the Queen only can go on with the prosecution, and, if so, what possible right can Captain Campbell have to be conjoined with Her Majesty in carrying it on, so far as relates to any forfeitures or penalties incurred under these regulations?

The monition is only a summons or citation, or process, to bring parties before the Court, and if they do not appear, judgment will be pronounced against them by default;—thus by the 4th Clause of the 27th Section of the Rules of Practice it is ordered as follows:—

"The monition having been served and no appearance given after the expiration of fourteen days from the return of the monition, the Judge is to proceed by interlocutory decree to condemn the property; and if the monition has been personally served, the Judge may, without requiring any further evidence than the affidavit to lead the monition, pronounce for the penalties due by him."

And this calls on me to notice that on concluding in the monition a claim against the Master for the penalty per 200*l.*, under the 4th Section of the 59th George III. The Advocate-General did so contrary to the injunctions of the Court, when it originally decreed the monition. I then explained that Act in respect of that penalty,—gave jurisdiction to the Supreme Court and not to this Court, consequently all that relates to it in the libel is void.

The Advocate General next urged that he was authorised to conjoin different parties

in one proceeding by the 27th Section of the Rules of Practice, referring to the last clause of that section; but it is expressly limited to revenue cases of small value, not exceeding in the aggregate 300*l.*—whereas, here the agreed value of the mackerel is 210*l.*, and the vessel probably thrice that amount.

These rules are made under the Imperial Act, 2nd William IV, cap. 51; and if required, as it did, this authority to make such a rule, as regards the property of small value, this section certainly does not help the Advocate General in this case.

Then he prayed the Court to reform the libel by striking thereout Captain Campbell's name, but the Court has no authority thus to reform it. The Advocate General and the seizer have deliberately united in this libel, and the claimants have as deliberately objected to this union. I can find no case where, under circumstances at all similar to those before the Court, it has undertaken to alter the parties to so formal a procedure as the libel, the foundation of the suit.

But, besides this, the claimants object further, that the causes of alleged forfeiture and as inductive of penalties are diverse and incongruous, and cannot in their nature be included in one libel.

I have already incidentally noticed the interest which the seizer and this province have conferred on them by the fishing regulations, the Crown having, in fact, thereby divested itself of all right therein, except as head of the Colonial Government. Now, in this libel the prosecutors rely, as grounds of forfeiture of the "Creole" and her cargo, on the violations of the Imperial enactments set forth in the Article, as well as grounds of forfeiture under the fishing regulations.

Under the Imperial enactments, in case of seizure by an officer of the navy, and this is such a seizure, the whole expense of prosecution is first deducted from the proceeds of the condemned property, and one half of the net proceeds is given to the seizer, and the other half is to be paid into the Imperial Treasury.

Shall the Courts allot the proceeds according to the fishing regulations or to the Imperial enactments, or condemn the property as forfeited to Her Majesty in right of the province of Nova Scotia and its officer, which Captain Campbell is, or to the Queen in right of Great Britain and Ireland, whose officer Captain Campbell much more emphatically also is.

If the fishery regulations (instead of confining prosecutions to the Crown) had directed that they should be commenced by its representative in the colony, what would be said of a libel against the "Creole" and cargo (had they been seized by a provincial officer —) filed in the name and on the behalf of his Excellency Sir Gaspard Le Marchant and such provincial officer — *founded upon a monition by which the prosecution was commenced by his Excellency alone.*

To hold that these grounds of forfeiture can be thus conjoined would subject claimants to very serious difficulties and embarrassments which were not in the contemplation of the Imperial authorities.

First: In all prosecutions under the laws of trade and navigation, if the seizer have not had sufficient grounds of seizure, he may be condemned in costs. Not so under the fishing regulations, for the Crown pays no costs;—all that would remain to an ill-used claimant under them would be an action against the seizer at Common Law.

Secondly: These regulations require a claimant before he is permitted to defend his property to give security for costs in the sum of 60*l.* currency, and in like manner the Imperial enactments require a similar security in the sum of 60*l.* sterling. Are the claimants of the "Creole" and her cargo thus multifariously libelled to give both these securities?

Thirdly: In order to enable the claimants to obtain the delivery of the seized property to them, they must, by the fishery regulations, give security by bond in double the value of it; and this must also be done under the Acts of Parliament in which the prosecutors rely. Are there two bonds each in double the value to be given for the "Creole" and her cargo? That these double securities have not been exacted in this case does not at all affect the legitimacy or the force of the argument in favour of this objection of the claimants.

Ayliffe says:—"A libel is a short and well-ordered writing, setting forth in a clear manner, as well to the Judge as the defendant, the plaintiff's intentions in judgment, so that a libel ought to be short and not verbose, for the law abhors a perplexity of words."

Rogers' Ecclesiastical Law, p. 662, and Dunlap in his work on the Practice of the Admiralty, p. 120, says:—"A libel or information should contain a clear and full statement of the facts constituting the cause of forfeiture on which the proceedings are grounded, there should be such a substantial statement of the offence that the adverse party claiming may know to what accusation he is to direct the defence, and that the Court may see with judicial eyes that the facts are within the law, for this is essential to the administration of justice in all Courts."

I wish I could consistently with my sense of duty abstain from saying that it is quite impossible that ordinary care could have been taken in preparing the present libel. I have already stated that that part of it which relates to the claims of a penalty under the Imperial Act, 50th George III, is absolutely void, but what is to be alleged in justification of claims for forfeitures and penalties under Acts of the Colonial Legislature which do not even mention this Court;—which give no penalty to be enforced by it, and subject no forfeitures to its jurisdiction, yet this is the simple fact. The 4th Article claims the decree of this Court—under chapter 15 of the Revised Statutes—in which the Court is not named at all. And

NOVA SCOTIA. as to chapter 94 of the same Statutes it is incompetent for the Provincial Legislature to enable this Court to enforce the Convention between Great Britain and the United States of America, or to affect Her late Majesty's regulations. That it has no such power is fortunate, for, by chapter 170 of the Revised Statutes, the Provincial Act relating to the fisheries, which passed in 1836, is repealed. But the authority of this Court to enforce the regulations for their protection still remains unaffected by any enactments the Colonial Legislature has passed or can pass. I might, without impropriety, here conclude, but the case is one of considerable importance, especially when it is regarded in connection with the measures recently adopted by Her Majesty's Government. I shall therefore rapidly examine the Articles of the libel, prefacing my inquiry with a brief reference to the circumstances under which Captain Campbell made the seizure, as they are developed by the libel and by the documents annexed, as well as those referred to in it, for I do not regard the objection that those thus referred to cannot be read as valid.

It appears that on the return voyage from Philadelphia to the Ragged Islands the "Creole" was run down at sea, wrecked, abandoned by the crew, afterwards towed into Gloucester, in the United States of America, and there sold on the 15th of August last, as a wreck, for 515 dollars, for the benefit of the underwriters, to whom she had been abandoned by the owners; that she was purchased in the name of a British subject, but in reality (as the promovents allege) by or for a citizen of that Republic named Robert Fears; that at the request of Elliott (whose firm of Elliott and Co. were the agents of the underwriters in selling the wreck) a bill of sale was made to Wheelock, for a nominal consideration by registered owners, and that it and the register were forwarded to Elliott, he pledging himself to the merchants here, by whom it was transmitted, that the register should not be used for any improper purpose; that she was repaired (as the promovents allege, enlarged so as to admeasure 71 tons, her original admeasurement here in 1850, when she received her register, being but 64 tons), at an expense of 2500 dollars. That she sailed from Boston on a fishing voyage on the 18th September, under English colours, which she retained till she was captured; that when she left, she had on board some salt, five half chests of tea, and four boxes of tobacco, with which the master was instructed to purchase mackerel or provisions.

The date of the bill of sale is 20th August, 1852; and on the 14th September, 1852, the British Consul at Boston made two endorsements on the register, one, that John Wheelock had become the owner, the other that B. B. Starritt had become the master of the vessel; that she arrived at Canso, in this province, on the 23rd September; remained (detained there by a storm) until the 27th, entered and cleared at the custom house there for the fisheries in the Gulf of St. Lawrence as a British vessel, where she fished until the 12th October, by which time 105 barrels of mackerel had been taken, when she was seized; that she commenced her voyage without having the name or place of registry painted on her stern; that her tonnage was not carved on the main beam; that she passed this port on her way to Canso, no application was made for a register, and the promovents allege that her whole crew, fifteen in number, and master also, are Americans; and that she is really owned by citizens of the United States of America; the fifth article of the libel charging specifically that the before-named Robert Fears is one of the owners. Now whether the true construction of the Act of Parliament, 59 Geo. III, and Her late Majesty's regulations be, that if a British vessel be deficient in the smallest particular required by the Laws of Navigation (*e. g.* if the amount of her tonnage be not accurately cut on her main beam), she may be seized and condemned as forfeited if she be found fishing within the limits proscribed to foreigners; just the same as a foreign vessel so employed would incur a forfeiture; it is certain that the object of Her Majesty's Government in sending a fleet to our coasts last summer, was not to enforce the Navigation and Registry Acts, but to keep foreign vessels from fishing in our waters.

That the circumstances I have mentioned, as well as others in this case, are suspicious, and (though they may not call for a condemnation, since it is possible they may be satisfactorily explained) will enable the Court to vindicate the seizure by Captain Campbell, is, I think, probable. And had this prosecution been rightly instituted, and confined to that which was the most prominent, if not the only ground of seizure, and, if well founded, of confiscation, the libel would have been easily framed, and the inquiry confined within a comparatively brief space.

The main charge would have formed the principal article of the libel, the exhibit documents and other circumstances being added in proof of such main charge, of which the form of a libel given in page 149 of the Appendix to the Rules of Practice furnishes an example; instead of which, the first four pages of the 5th article of this libel are filled with a narrative of the conversations of a subordinate officer, and the hearsay information and statements under which he was acting. For example, it is set forth that John Jenkins was informed by John Eden, who had been told something by Henry Gibbs, and that he had made a report of his doings to Captain Campbell, which is annexed to the libel. Surely, under no possible view of what a libel is or ought to be, can such a narrative, under the circumstances of this case, be legitimately inserted in a libel. Then follows in this same 5th article a great variety of statements, some relevant, and others and the greater number thereof, irrelevant and legally incapable of proof, charging violations of the Acts of the Imperial Parliament, inducing forfeiture, and of the fishing regulations, also inducing forfeiture, so inextricably interwoven, that after the most careful, repeated, and protracted examination, I have found it impossible to separate them. They swell this simple article

to more than 20 folios of 100 words each; and were there no other objections to this 5th article but this, as I could not reform, I must have rejected it; for I could not have justly imposed on the claimants a task to which I am myself unequal. NOVA SCOTIA.

The 6th article gives an account of a transaction, and refers to a letter, neither of which, so far as I can conjecture, has any legal bearing on the case, and is therefore incapable of proof.

In the 7th article the master is charged generally with not truly answering the questions demanded of him; not a single question of which is specified; but before a court of justice can condemn one of the Queen's subjects, far more a foreigner, to pay 100*l.*, it must see that he was bound to answer the question proposed to him.

Now, the evidence in this Court is taken in private by the Registrar, who is the examiner, not upon written interrogatories previously made known; the examiner makes himself master of the facts set forth in the libel, and then examines the witness by questions, which he frames at the time, so as to obtain upon each article of the libel separately the truth, so far as he possibly can.

The cross-examination is conducted by interrogations addressed to the adverse witnesses, and when the prosecutor's examination is closed, the witnesses are examined upon the interrogations delivered to the examiners, but not disclosed to the witness till after the examination in chief is concluded and signed, nor to the party producing him till publication passes; and each witness is enjoined not to disclose the interrogations, nor any part of his evidence, till after publication; and the examination and cross-examination of witnesses is kept secret till after the whole testimony is taken, when it is made public. Then, knowing nothing of what the prosecutor's witnesses will testify, except what may be conjectured from the article or articles of the libel to which those witnesses are examined, how are the claimants or the master to vindicate themselves or himself, and to what questions is he to direct his cross-examination of the prosecutor's witnesses?

So in the 8th article the "Creole" is charged with fishing within one and a half miles of the shores of Cape Breton, the said vessel not being navigated according to the laws of Great Britain and Ireland, but in what particulars is not specified or further disclosed.

The 9th article charges that the "Creole" at the time of seizure was not sailing under a British register, and was not entitled (it is not, and was not, *therefore, i. e.* in consequence of not having a register) to the privileges of a British ship; the generality of this article renders it difficult, if not impossible, for the claimants to defend themselves against it.

The 10th article does not allege any sufficiently clear or distinct offence which admits of proof. The cause of seizure is alleged to be, that the "Creole" (without any allegation of her being a foreign or a British vessel) "had sailed from Gloucester, in the United States, with false colours, namely, British colours" (if a British vessel, to do so it was no offence, or if she were foreign it is no cause of seizure under the statutes referred to), "with a cargo of tea and tobacco, foreign manufactured, and iron, and other foreign merchandise, without any clearance from any custom-house." But there is nothing in this offending against any of those statutes, whether the "Creole" were foreign or British; and British Courts have no right to enforce or inquire into the revenue or general laws of foreign states or their infringement;—"and arrived at the port of Canso, in Nova Scotia, and that the said master did not make entry of such cargo, and did make an untrue report." But this is too general and uncertain to give the defendant adequate nature of what the prosecution is for. The report itself ought to have been set out; then a statement of the articles that were on board or landed, which the report did not contain, followed by a separate allegation, propounding in part supply of proof of the previous allegation of the offence, the original report made by the master which was alleged to be untrue; all which may be seen in the Appendix to the Rules of Practice, No. 219. Instead of which, it is merely stated that the master made an untrue report, which is annexed to Colin York Campbell's affidavit, whereas there is no such, or any report whatever, of the master annexed to his affidavit. This manifestly gives no information to the defendant of the particular offence intended to be charged and to which he is to make his defence.

This article then proceeds thus:—"That the master did depart from Canso without a true clearance" (the libellants do not state in what respect the same is untrue), "and with a false content of said vessel which he did deliver." But to whom he delivered it is not stated, nor does he state what the false content was, or the nature of the falsehood, nor does the libel show distinctly whether the same refers to the cargo; if it could, the actual contents ought to have been specified in an allegation, and also a distinct specification of its falsity, and to whom it was delivered. The article goes on as follows: "And did after his departure trade, and did remove in said 'Creole' goods liable to forfeiture."

Then, again, there is no distinct allegation of any specific offence. The goods ought to be set out, and alleged how and to whom sold and delivered. It is perfectly consistent with this article that the tea and tobacco were disposed of to other vessels at sea, before the "Creole" reached Canso. There is no allegation of any intention of importing or landing the same in any part of Nova Scotia with or without payment of duty. But the "Creole" might lawfully have such goods on board, and exchange the same with American or other vessels at sea for fish or provisions, or any other commodity; nor are the articles mentioned, viz., tea, tobacco or iron, prohibited to be imported into this province, either in British or foreign vessels.

The commencement of the 12th article is founded upon a misconception of the law, as may be seen by a mere reference to the 8th section of the 8th and 9th Vict., chap. 89. By that section it is enacted that to divest a British vessel of her title as such, she must

NOVA SCOTIA. be sold, under decree of a competent Court, which is not alleged, and is not the case; in fact, this article goes on to allege that the "Creole" had not been duly registered, and had not obtained any legal certificate of registry, and was exercising the privileges of a British ship, being owned by foreigners not enjoying any exemption. Exemption! From what? Exercising those privileges! Where? Exercising what privileges? How could the claimants of this vessel cross-examine witnesses examined under such a vague charge as this.

No specific penalty is attached to not having carved the tonnage on the main beam, referred to in the 13th article; and as to the remainder of it, charging that the "Creole" had been altered, and did not correspond with the particulars contained in the certificate of registry,—so far as this article sets forth a cause of forfeiture on that account, it does not appear but this altering was not preliminary and preparatory to obtaining a registry *de novo* pursuant to the Registry Acts.

The 11th Article contains a distinct charge upon which, but for the fatal objections arising out of the conjunction of Captain Campbell with Her Majesty as a prosecutor, and including in one libel diverse and incongruous charges, this Court might have proceeded.

Such an article as this, followed by further allegations, setting out in order agreeable to the form in the Appendix, I have already referred to, in proof of such 11th Article, of the various suspicions, facts, and circumstances, *legally provable*, showing that the "Creole" was owned by foreigners, and abusing the title which the "Creole" had originally obtained from the Comptroller of trade and navigation at this port, in order to evade and violate the fishing regulations; and the Act of Parliament, 59 George III, would enable the Court to have adjudicated on this case with justice to the accused as well as the accuser.

Even the prayer of the libel is as defective as the rest of it. By the 27th section of 8th and 9th Vict. c. 89, the owner and master of a vessel are *severally* made liable to a penalty of 100*l.*, under contingencies which may render each or both responsible for not having (before a cargo is commenced to be laden, &c.) the name of the vessel and place of her registry painted on her stern; but the one is not answerable for the delinquencies of the other. It is not the law merely; common sense dictates that the prosecutors should specify whether it is both or one they are seeking to make liable, yet in the prayer this penalty of 100*l.* is claimed to be due from the owner or owners, or master (literally copied from the statutes), Beriah B. Starrett, as if the object were to induce some condemnation against one or the other; yet this mode of demanding a penalty cannot for a moment be sanctioned in a British court of justice.

The Advocate-General has referred the Court in justification of the general reference to the several statutes on this libel, to the remarks of Sir William Scott in the case of the "Generous," reported in 2nd Dodson's Reports, p. 322. These remarks are anything but complimentary to the Judge of the Vice-Admiralty Court at Barbadoes, or to the Colonial Vice-Admiralty Courts in general. In that case, which he was *reviewing upon an appeal*, no motion had been made before the Judge below, as there has been here, to reject the libel, and yet one cannot but see that Sir William Scott considered the judge to have been supine in the performance of his duty. Sir William Scott remarks, "this case comes from the Vice-Admiralty Court of the island of Barbadoes, and is transmitted in the very incommodious form in which such cases usually travel from the Vice-Admiralty Court." The proceedings are there instituted referring to all, or a great number, of the navigation laws, and alleging that upon a violation of all, or some, or one of them, the property ought to be condemned. The judgment of the Court pronounces a general sentence of condemnation if the property is deemed liable to condemnation upon any ground, but without any specification transmitted here of the particular ground on which it has been so held; and of course the drudgery is imposed on those who have to conduct appeals in this court, and on the Court which has to review the judgment of hunting through the whole body of statutes enumerated, in order to find out conjecturally on which ground the condemnation passed. If it be necessary or proper, as it may be, to enumerate all these statutes in the initiative of the cause, in order that the Crown may have the benefit of any criminal fact that may be disclosed upon the evidence that is to follow, it is, I think, no unfair expectation, on the part of the Court, that it should appear in some form or other, in the conclusion of the cause, what the particular facts were on which the Court below arrived at that legal conclusion; although this Court and its practisers are driven to the necessity of travelling through a body of laws, and a collection of facts that may be foreign to the real foundation of the judgment, and which had been dismissed out of all consideration by all parties as totally irrelevant to the real subject of "the controversy; *it would be a great relief and satisfaction to this Court if this intimation of its wish should meet with more attention in the proper quarters than it has hitherto had the good fortune to receive.*"

So far as I am concerned, this intimation of that great judge shall be my guide, and I am personally a debtor to the claimant's counsel for the course they have taken in this case. I would not willingly subject this Court to the censure of the appellate tribunals, nor be gratified to see its proceedings demonstrated mongrel—an epithet applied to those of one of the Colonial Vice-Admiralty Courts in one of the cases cited in the present argument.

What an engine of oppression would such a procedure place in a prosecutor's hands! and can it be doubted that if the attention of the Judge at Barbadoes had been called to the generality of the pleadings to which he anew adverts, and that Judge had not compelled the prosecutor to specify the clauses of the Acts on which he claimed forfeitures, that Sir

William Scott's strictures would have been much more pointed, and more directly applied to the Vice-Admiralty Judge than they are? NOVA SCOTIA.

I have been delayed in giving judgment on this motion by the very great labour which the general reference to the statutes in this libel imposed on me. Called on as I am to condemn property of the value of at least 800*l.*, and the owners or master of the "Creole" to pay penalties to the extent of 400*l.* more, together with the heavy costs incident to these proceedings, it had been most unworthy on my part not to have examined with the utmost care every statute and proceeding on which I am to pronounce so serious a judgment. In doing this, besides the necessary reference to cases and text-books, I have been compelled to carefully examine in all these details four Acts of the Imperial Parliament, containing 51 sections, extending over 7 pages, besides His Majesty's regulations of 18 sections, extending over 4 pages; making in all an aggregate of 150 sections and 122 pages.

It is but reasonable that the officers of the customs who have these Acts of Parliament as it were at their fingers' ends, whose peculiar duty it is to enforce them, and who have a pecuniary interest in doing so when they resort to this Court, claiming forfeitures and penalties, that they should point out specifically to those of whom those forfeitures and penalties are demanded, the clauses of the Acts on which they rely. In all that relates to the violations of these Acts, Captain Campbell has assumed the peculiar duties of the officers of the customs, and it is therefore equally reasonable that he should be bound as they are bound.

But the present libel I must reject.

1st. Because he is a party to it.

2nd. Because causes of forfeiture and demands for penalties, diverse and incongruous, are conjoined in it: and

3rd. Because they are so interwoven in it, that if I had the power and inclination, which I have not, I have not the ability to separate them.

I reserve for future consideration the question of the cost of this motion.

(This judgment was delivered in the Supreme Court room, on the 14th day of December last.)

No. 7.

No. 7.

COPY of a DESPATCH from the Duke of NEWCASTLE to
Sir G. LE MARCHANT.

SIR,

Downing Street, April 27, 1853.

IN reference to your despatch, No. 28, of the 31st ultimo, respecting the case of the "Creole," I have to transmit to you the copy of a letter which the Queen's Advocate, to whom I had referred the case, has addressed to this Department.

You will have the goodness to cause the documents and other information required by the Queen's Advocate to be supplied with as little delay as possible.

But I must add that it would be much more convenient to Her Majesty's Government, and much more likely to attain the objects which you propose in your despatch, if questions of so much importance were regularly stated in the form of a case, and with the opinion of your own law advisers respecting them. If this can be obtained in the present instance, it will be the better; but as expedition is of consequence, I leave it to your discretion.

I have, &c.

Sir G. Le Marchant,
&c. &c. &c.

(Signed) NEWCASTLE.

Enclosure in No. 7.

Encl. in No. 7.

MY LORD DUKE,

Doctors' Commons, April 23, 1853.

WITH reference to Mr. Merivale's letter of the 20th instant, requesting the law officers' opinion on the subject of a judgment of the Judge of the Admiralty Court at Halifax in the case of the "Creole," a vessel seized for the infraction of the fishery regulations, and of certain amendments of the law suggested by him, I have to request that I may be supplied with the regulations for the fisheries made by Her Majesty in Council, pursuant to statute 59 George III, cap. 38 (apparently on the 13th of June, 1836), or any other such regulations now in force, inasmuch as I can find no such document with the papers; also that I may be informed whether, as stated by the Judge in the printed copy of his judgment, sent herewith, the provincial statute of Nova Scotia, 6th William IV, cap. 8, has been since repealed, and whether that, or any, and what other provincial statute on the

NOVA SCOTIA. subject, is now in operation; also whether we are to express our opinion "upon the view of the law taken by the Judge" in the case of the "Creole," as stated in the Advocate-General's note thereof (No. 3, with the papers), or whether we are also to give our opinion upon the various legal questions alluded to by the Judge in his letter of March 31st. I return the papers, in order to facilitate reference thereto.

His Grace the Duke of Newcastle,
&c. &c. &c.

I have, &c.
(Signed) J. D. HARDING.

No. 8.

(No. 31.)

No. 8.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT
to the Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
April 11, 1853.

(Received, April 25, 1853.)

MY LORD DUKE,

(Answered, May 3, 1853, p. 37.)

I HAVE the honour to transmit to your Grace the accompanying address from the Legislative Council of Nova Scotia, to be laid at the foot of the Throne.

I may observe that the address is one of similar purport to that forwarded by the last mail in my despatch, No. 27, of the 31st ultimo from the other branch of the Legislature, thanking Her Majesty for the protection afforded to the fisheries of British North America during the last year, and praying for the further employment of such a force as may prevent any encroachment on their fishing grounds, and secure to them the enjoyment of rights to which they are exclusively entitled.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

Encl. in No 8.

Enclosure in No. 8.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of the Legislative Council of Nova Scotia.

May it please your Majesty,

THE Legislative Council of Nova Scotia approach your Majesty with sentiments of loyalty and attachment to your Royal person and Government, and beg to express their grateful sense of the benefit conferred upon the people of this province by the protection afforded to the fisheries on their coasts during the past year. The Legislative Council assure your Majesty that the exclusive right to the enjoyment of these fisheries is esteemed by them a source of great wealth to the province upon which its commerce largely depends; and they regard the preservation of them from the aggression of foreigners as another instance of the deep interest felt by your Majesty in its welfare.

Notwithstanding the recognition by Treaty on the part of the United States of America of the exclusive right of your Majesty's subjects to fish on the coasts of the North American provinces, the citizens of that country have year after year encroached upon that right; and though the most liberal commercial policy is evinced by your Majesty towards that Republic, all attempts to induce them to abandon their protective system have been resisted, and they not only take fish out of our waters after having solemnly renounced the right to do so, but your Majesty's subjects are met in the United States by almost prohibitory duties, while large bounties are extended to their own people.

The Legislative Council pray your Majesty to continue to employ such a force as will prevent any encroachment on their fishing grounds, and secure to them the enjoyment of rights to which they are exclusively entitled.

(Signed)

MICHL. TOBIN,
President.

Legislative Council Chamber, April 4, 1853.

No. 9.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor,
Sir G. LE MARCHANT.

SIR,

Downing Street, May 3, 1853.

I HAVE to acknowledge the receipt of your despatch, No. 31, of the 11th of April, transmitting an Address to the Queen from the Legislative Council of Nova Scotia, praying that the measures adopted by Her Majesty's Government for the protection of the fisheries on the coasts of British North America may be continued.

I have to instruct you to acquaint the Council that I have laid this Address before the Queen, and that Her Majesty was pleased to receive it very graciously.

Sir G. Le Marchant,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

(No. 38.)

No. 10.

No. 10.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to
the Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
April 14, 1853.

(Received, April 25, 1853.)

MY LORD DUKE,

(Answered, May 10, 1853, p. 38.)

I HAVE the honour to acknowledge the receipt of your Grace's despatch of the 28th ultimo, marked confidential, inclosing a letter addressed to the Lords Commissioners of the Admiralty, signifying the commands of the Queen that adequate naval protection be afforded in the ensuing season to the British fisheries; and in order to assure your Grace of the great desire entertained by the Provincial Government in no way to interfere with the lawful exercise of whatever rights American citizens may by Treaty be entitled to, and to act with such caution and forbearance, that no unnecessary cause of offence or excitement may be created during the approaching season, I beg leave to transmit to your Grace a copy of my letter of the 13th instant to the Vice-Admiral commanding on this station, together with a copy of a minute made at a meeting of my Executive Council held for the purpose of considering the best and most judicious course to be pursued in expending the grant of 3000*l.* voted by the Legislature for the protection of the fisheries.

By this minute your Grace will perceive that the Executive propose to expend the vote of 3000*l.* in hiring vessels and boats to be officered and manned from the ships of the squadron, instead of, as has heretofore been the case, by masters and crews engaged by the provincial authorities, should the same meet with the Admiral's approval.

This will place the force under the immediate direction and control of the Admiral, who will thereby be enabled to act in accordance with his instructions from the Home Government, without having to co-operate with an auxiliary force fitted out by the province, and acting independent of his orders. I trust that this course will be satisfactory both to the Admiral and to Her Majesty's Government.

I have, &c.

(Signed) J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

NOVA SCOTIA.

Encl. 1 in No. 10.

Enclosure 1 in No. 10.

Government House, Halifax, Nova Scotia,
April 13, 1853.

SIR,

I HAVE the honour to transmit to your Excellency a copy of a minute made at a meeting of my Executive Council on the 12th instant, held for the purpose of considering the best and most judicious course to be pursued in expending the grant of 3000*l.* voted by the Legislature for the protection of the fisheries during the present season; and I beg to invite the recommendation of my Council to the consideration of your Excellency, that the provincial vessels and boats hired for the season should be manned from the ships of your squadron, and thus placed under the immediate control of your Excellency, and I shall be happy to learn that the same meets with your approval, and that your Excellency may be prepared to carry out the views expressed in the accompanying minute.

I have, &c.

His Excellency (Signed) J. GASPARD LE MARCHANT.
Vice-Admiral Sir George Seymour, K.C.B.,
&c. &c. &c.

Encl. 2 in No. 10. (Extract.)

Enclosure 2 in No. 10.

AT a Council at Government House, the 12th day of April, 1853,
present, his Excellency the Lieutenant-Governor, &c., &c., &c.

THE attention of the Lieutenant-Governor having been called to the grant of 3000*l.* for the protection of the fisheries, passed during the last session, his Excellency is advised to communicate with his Excellency Vice-Admiral Sir George Seymour as to the mode in which that sum can be most judiciously expended for the advantage of the public service, and should the Vice-Admiral be prepared to man and control such provincial vessels and boats as may be hired for the season, the Lieutenant-Governor is advised to place them at his disposal.

A true extract.

(Signed) W. H. KEATING,
Deputy Clerk of Council.

No. 11.

No. 11.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir G. LE MARCHANT.

SIR,

Downing Street, May 10, 1853.

I HAVE to acknowledge the receipt of your despatch, No. 38, of the 14th of April last, reporting that the Executive Council proposed to expend the 3000*l.* voted for the protection of the fisheries, in hiring vessels and boats to be officered and manned from the ships of the squadron, thus placing the force under the immediate control of the Admiral on the station.

In conveying to you my approval of this arrangement as a general measure I have to observe, that the question of manning the provincial vessels from the squadron is one which must depend upon the means at the Admiral's disposal, and it must therefore be left to the discretion of Sir George Seymour to take such measures as he may consider best.

I have, &c.

Sir G. Le Marchant, (Signed) NEWCASTLE.
&c. &c. &c.

No. 12.

No. 12.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to
the Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
May 12, 1853.

MY LORD DUKE, (Answered, August 15, 1853, page 41.)

I HAVE the honour to acknowledge the receipt of your Grace's despatch, No. 19, dated the 27th ultimo, respecting the case of the "Creole," and in

accordance with the directions contained therein, I have called on the Attorney-General to supply the documents required by the Queen's Advocate. NOVA SCOTIA.

I now have the honour to transmit the same, together with a further report from the Attorney-General of Nova Scotia, and accompanied with a series of questions put by that officer on the case; and I trust that the information and papers now transmitted by the Attorney-General will be satisfactory to the law advisers of the Crown in England. As I have directed Mr. Uniacke's especial attention to the observations of your Grace on the manner in which the case was first drawn out, and have requested him so to prepare his present report, that unnecessary correspondence may be avoided, and no further delay occasioned in the settlement of the question.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

Enclosure in No. 12.

Encl. 1 in No. 12.

SIR,

I HAVE perused the despatch to your Excellency from his Grace the Duke of Newcastle, dated 27th April, 1853, with the inclosure from J. D. Harding, Doctors' Commons, 23rd April last, and have to observe that, being unable to procure an authentic copy of the Judge of Vice-Admiralty's letter, 31st March last, I can only remark on the despatch referred; and first:—The 6th William IV, cap. 8, contains regulations for the fisheries in Nova Scotia, and were ordained by His late Majesty in council, under the Imperial Act 59th George III, cap. 38, and is in full force, unless repealed by the revised statutes; and which last Act professed to re-enact the former one. I inclose copies of these Acts marked A and B.

This is the only provincial legislation on the subject. The points of law taken in my note, if passed upon by the Crown officer's opinion, will prove whether legislation is necessary.

I am not aware of any further statement having been made by the Judge on delivering his opinion, except as to the power of the provincial legislation to extend to the seas, which involves the existence of the statute 6th William IV, cap. 8. Of course any opinion given on the legal questions in the Judge's letter, I presume would have their weight in adopting my regulations for the guidance of those protecting the fishery.

I concurred in some points of law assumed by the Judge, and although I thought it unnecessary to do more than report the case, no judgment but merely an opinion being given, yet I have stated a few questions which will dispose of the difficulties.

I have, &c.

To His Excellency Sir G. Le Marchant,
&c., &c., &c.

(Signed) JAMES B. UNIACKE,
Advocate-General.

1. Are vessels not navigated according to the laws of Great Britain and Ireland liable to forfeiture, if engaged in the fishery in British reserved waters, under the second section of 59th George III, cap. 38? Or are persons on board such vessels liable to penalties only under the fourth section of said Act?

2. Does the Imperial Act of 59th George III, cap. 38, give power to His Majesty to impose the rules and regulations in the Provincial Act, 6th William IV, cap. 8, they being more severe than the Imperial Act would seem to contemplate?

3. Can a vessel exceeding 30 tons burthen, British built, but not navigated according to the laws of Great Britain and Ireland, and not duly registered, be engaged in the fishery within the limit of a marine league of the shore of Nova Scotia without being liable to seizure and condemnation; or what penalty do those on board incur?

4. Does the twelfth section of 8th and 9th Victoria, cap. 89, still confine the ownership of ships or vessels to the persons therein named, or is it controlled by the 12th and 13th Victoria, cap. 29, sec. 17?

5. What number of the crew are required to be British subjects to navigate a British vessel according to the law of Great Britain and Ireland since the passage of 12th and 13th Victoria, cap. 29, sec. 7?

6. Can a foreign fishing vessel enter British waters in America, within the reserved limits, be sold to a British subject, be manned with a British master and one British subject for every 20 tons burthen, and then prosecute the fishery with the privileges of a British bottom?

7. If a ship owned by British subjects be deficient in any of the requirements of the laws of navigation, and for the registry of British shipping, be found fishing within the limits, and is above 30 tons, is she liable to seizure and condemnation?

NOVA SCOTIA.

Sub-Enclosure in Enclosure in No. 12.

Sub-Encl. in No. 12.

A.

6 Wm. IV, cap. 8.

An Act relating to the Fisheries and for the prevention of Illicit Trade in the Province of Nova Scotia and the coasts and harbours thereof. (Passed the 12th day of March, 1836.) Vide page 26.

B.

REVISED STATUTES OF NOVA SCOTIA.

Of the Fisheries.

SECTION 1. Officers of the colonial revenue, sheriffs, magistrates, and any other person duly commissioned for that purpose, may go on board any vessel or boat within any harbour in the province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as she may remain within such place or distance.

2. If such vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering, for twenty-four hours after the master shall have been required to depart, any one of the officers above mentioned may bring such vessel or boat into port and search her cargo, and also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions demanded of him in such examination, he shall forfeit one hundred pounds; and if there be any prohibited goods on board, then such vessel or boat and the cargo thereof shall be forfeited.

3. If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing within three marine miles of such coasts or harbours, such vessel or boat and the cargo shall be forfeited.

4. All goods, vessels, and boats liable to forfeiture may be seized and secured by any such officers or persons so commissioned; and every person opposing them, or any one aiding such opposition, shall forfeit two hundred pounds.

5. Goods, vessels, and boats seized as liable to forfeiture under this chapter shall be forthwith delivered into the custody of the officers of the Colonial Revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized are directed to be secured and kept by law.

6. All goods, vessels, and boats condemned as forfeited under this chapter shall, by direction of the principal officer of the Colonial Revenue where the seizure shall have been secured, be sold at public auction, and the produce of such sale shall be applied as follows: The amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one-half of the remainder shall be paid to the officer or person seizing the same, without deduction, and the other half, after first deducting therefrom all costs incurred, shall be paid into the Treasury of the province; but the Board of Revenue may, nevertheless, direct that any vessel, boat, or goods seized and forfeited, shall be destroyed or reserved for the public service.

7. All penalties and forfeitures hereunder shall be prosecuted and recovered in the Court of Vice-Admiralty.

8. If any goods, vessel, or boat, shall be seized as forfeited under this chapter, the Judge of the Vice-Admiralty, with the consent of the persons seizing the same, may order re-delivery thereof on security by bond, to be made by the party, with two sureties, to the use of Her Majesty. In case the property shall be condemned, the value thereof shall be paid into the Court and distributed as above directed.

9. All suits for the recovery of penalties or forfeitures shall be in the name of Her Majesty, and shall be prosecuted by the Advocate-General, or, in case of his absence, by the Solicitor-General. If a dispute arise whether any person is authorized to seize under this chapter, oral evidence may be heard thereupon.

10. If any seizure take place under this chapter, and a dispute arise, the proof touching the illegality thereof shall be upon the owner or claimant.

11. No claim to anything seized under this chapter, and returned into the Court of Vice-Admiralty for adjudication, shall be admitted, unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney or agent, and to the best of his knowledge and belief.

12. No person shall enter a claim to anything seized under this chapter until security shall have been given in a penalty not exceeding sixty pounds to answer and pay costs occasioned by such claim; and in default of such security, the things seized shall be adjudged forfeited, and shall be condemned. NOVA SCOTIA.

13. No writ shall be sued out against any officer or other person authorized to seize under this chapter, for anything done thereunder, until one month after notice in writing delivered to him, or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent, in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent, and no evidence or cause of action shall be produced, except such as shall be contained in such notice.

14. Every such action shall be brought within three months after the cause thereof has arisen.

15. If on any information or suit brought to trial under this chapter, on account of any seizure, judgment shall be given for the claimant, and the Judge or Court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the Judge or Court shall certify that there was probable cause for the seizure, then the plaintiff, besides the things seized or its value, shall not recover more than two pence damages, nor any costs of suit, nor shall the defendant be fined more than one shilling.

16. The seizing officer may, within one month after notice of action received, tender amends to the party complaining, or his attorney or agent, and plead such tender.

17. All actions for the recovery of penalties or forfeitures imposed by this chapter must be commenced within three years after the offence committed.

18. No appeal shall be prosecuted from any decree or sentence of any Court in this province touching any penalty or forfeiture imposed hereby, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

19. All coasting vessels under sixty tons burthen owned in this province and engaged in the coasting trade thereof shall be furnished with a narrow piece of plank or iron affixed to the bottom of the keel, and level therewith, extending aft at least six inches beyond the aperture between the stern-post and rudder, and well secured on the keel. But this section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the stern-post and rudder.

20. Any owner or master of a coasting vessel not so furnished and built, running foul of any net set off the harbours, bays, and rivers of the coast, shall, upon due proof thereof, forfeit five pounds, to be recovered by the party injured to his own use, as a private debt, leaving to the party grieved, nevertheless, his rights at common law for any further damage.

21. In this chapter "vessels" shall include ships, and "harbours" shall include ports, bays, and creeks.

By cap. 170 of the Revised Statutes, page 510, the 6th William IV, cap. 8, entitled "An Act relating to the fisheries, and for the prevention of illicit trade in the Province of Nova Scotia, and the coasts and harbours thereof," is repealed.

(Confidential.)

No. 13.

No. 13.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir G. LE MARCHANT.

SIR,

Downing Street, August 15, 1853.

HAVING submitted for the opinion of the legal advisers of the Crown the questions of law involved in the case of the schooner "Creole," seized for an infraction of the fishery regulations, brought under the consideration of Her Majesty's Government in your despatches, No. 28, of the 31st March, and No. 46 of the 12th May, I now transmit for your information and guidance a copy of the report which I have received from Her Majesty's law officers in reply.

I have, &c.

Sir G. Le Marchant,
&c. &c. &c.

(Signed) NEWCASTLE.

NOVA SCOTIA.

Enclosure in No. 13.

Encl. in No. 13.

COPY of a LETTER from the LAW OFFICERS to the Duke of NEWCASTLE.

MY LORD DUKE,

Doctors' Commons, August 6, 1853.

WE are honoured with your Grace's commands, signified in Mr. Merivale's letter of the 20th of April last, stating that he was directed to transmit to us copy of a despatch, with its inclosures, received from the Lieutenant-Governor of Nova Scotia, and to request that we would jointly report to your Grace whether we agree in the view of the law taken by the Judge of the Admiralty Court at Halifax, in the case of the "Creole," and, if not, in what respect we differ from it.

Whether also it appears to us that such amendments of the law, as suggested by the Judge in his letter of the 31st March, are called for or advisable.

We are also honoured with Mr. Merivale's letter of the 4th of June, stating that with reference to the Queen's Advocate's letter of the 23rd of April, he was directed by your Grace to transmit to us the copy of a further despatch from the Lieutenant-Governor of Nova Scotia, supplying the documents and other information required to enable us to report our opinion upon the case of the "Creole," seized for the infraction of the fishery regulations.

In obedience to your Grace's commands, we have taken the papers into consideration, and have the honour to report, —

That, we do not agree with the view of the law taken by the Judge of the Admiralty Court at Halifax, in the case of the "Creole," and that we are of opinion that inasmuch as the "Creole," although originally a British ship, yet had fallen into the hands of foreigners, and been altered so as not to correspond with her original certificate, and not re-registered, and inasmuch as she was not navigated according to the British Navigation Laws, she had lost her nationality and become a *Foreign* ship; we are further of opinion that the colonial statute on the subject is valid, for reasons hereafter given by us in our answer to the questions, and that the "Creole" was on these grounds liable to condemnation and forfeiture.

With respect to the several questions on the case of the "Creole," framed by Mr. Attorney-General Uniacke, appended to his letter to Sir G. Le Marchand, sent with the papers, we are of opinion, —

1st. That with respect to forfeiture under 59 George III, cap. 38, although both cases are equally within the mischief which the Act was intended to guard against, yet as the language of the Act is ambiguous, and as the Act is of a highly penal nature, we are of opinion that it will not be advisable to forfeit under it any but *foreign* vessels.

Even if the Imperial Act, 59 George III, cap. 38, should be insufficient to give Her Majesty power to impose all or any of the rules and regulations in question (a question which we need not now consider), the authority of the local Legislature appears to us to be sufficient to make them valid in effect by its express legislative enactment of them. The authority of the local Legislature extends (like that of the Imperial Parliament) over the space of the three miles upon the high seas next the coast, which is by the comity of nations part of the country to which it is adjacent; and we are of opinion that upon this general principle, and irrespective of the Convention, the Imperial statute, or the regulations of the Sovereign in Council, the Colonial Legislature was legally entitled to legislate as it has done relative to the fisheries, and that its enactments are valid and binding.

3rd. We are of opinion that such a vessel is, under the circumstances stated, liable to forfeiture under the express provisions of the colonial statute already referred to.

4th. We are of opinion that the effect of the 8 & 9 Victoria, cap. 89, is controlled by the 12 & 13 Victoria, cap. 29, sec. 17, and that it is no longer necessary that the owner of a vessel shall be resident within the Queen's dominions in order to satisfy the requirements of the British Navigation Law.

5th. The master in all cases, and besides the master, either three-fourths of the crew, or one seaman to every twenty tons, by 12 & 13 Victoria, cap. 29, sec. 27, must be British subjects.

6th. A foreign fishing vessel, duly registered and manned as a British vessel, may legally prosecute the fishery, as suggested by virtue of 12 & 13 Victoria, cap. 29.

7th. Such a ship will be liable to forfeiture and condemnation if deficient in any requirement absolutely necessary to her nationality, as for instance, if she be not registered or navigated as a British ship; but she will not be liable to forfeiture for deficiencies in other points of mere regulation, which involve only specific penalties, as for instance, if she has not her tonnage carved on her beam, or her name painted on her stern.

We have, &c.

(Signed)

J. D. HARDING.
A. E. COCKBURN.
RICHD. BETHELL.

His Grace the Duke of Newcastle,
&c. &c. &c.

No. 14.

NOVA SCOTIA.

(Private and Confidential.)

No. 14.

COPY of a DESPATCH from Lieutenant-Governor Sir G. LE MARCHANT to
the Duke of NEWCASTLE.

Government House, Halifax, Nova Scotia,
February 15, 1854.

(Received, February 27, 1854.)

MY LORD DUKE,

HAVING received this morning a private and confidential despatch from Mr. Crampton on the subject of the negotiations now pending between the British Government and the United States, with regard to the British North American fisheries and reciprocity of trade, I consider it right that I should place your Grace in possession of my reply to Mr. Crampton, and I have the honour of transmitting for that purpose a copy of my confidential despatch to that Minister, as also a copy of the communication addressed to me by that gentleman.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT.

His Grace the Duke of Newcastle,
&c. &c. &c.

Enclosure 1 in No. 14.

Encl. 1 in No. 14.

(Private and Confidential.)

MY DEAR SIR,

Washington, February 5, 1854.

I PRESUME that you have been made acquainted, by the Colonial Office, with the substance of the propositions made by the United States in September last, upon the subject of the Fisheries and reciprocity of trade, as well as of Mr. Marcy's explanatory note which accompanied them. Lord Clarendon, feeling anxious that the matter should be speedily brought to a conclusion, has lately suggested to me that it might be well that I should communicate with you, confidentially, in regard to what might be effected in the United States by the colonies yielding upon some of the points which now form the obstacles to the conclusion of a Treaty.

With respect to this matter, all that I can tell you at present is this:—

1st. That a general disposition on the part of the United States Government certainly appears to exist, to go on in the direction of Free Trade; this is evinced in the proposals for a reduction of duties on various articles contained in the inclosed report of Mr. Guthrie, the adoption of which is recommended to Congress in the President's Message.

2nd. In regard to the three principal objections which, in conformity with my previous instructions, I took to Mr. Marcy's draft, viz.:

1st. The registry of vessels.

2nd. The admission of coals.

3rd. The abolition of the bounties on American-caught fish.

All of which the American Government declined to yield. You will perceive from Mr. Guthrie's report, that the United States Government proposes to abolish the bounties; this would evidently facilitate our arrangements as far as this point is concerned.

With regard to coals I have some reason not to despair of obtaining their admission.

And with regard to the registration of vessels, I am informed that a measure will shortly be proposed by an influential and independent member of Congress, to grant the American register to foreign vessels.

Mr. Andrews, with whom you are already acquainted, and who has been confidentially consulted by Mr. Marcy during the whole course of this negotiation, is very well acquainted with the present position of the case; and in the event of his going to Nova Scotia, he could furnish you with information upon which you could rely.

It appears to me to be very desirable that the Colonies should come to some understanding in regard to what they can, or cannot, do in this matter.

It is very generally understood that Canada, Newfoundland, and Prince Edward's Island, would receive the proposition favourably, whilst the difficulties are supposed to lie with New Brunswick and Nova Scotia: you will be the best judge how this is to be effected with regard to Nova Scotia.

The fishing season will soon be here again, and it will be a matter for grave consideration what is to be done to protect our rights. The two Governments differ as to their construction of the Treaty of 1818, as regards "bays," and we may not again be so fortunate as to avoid collisions which, I need not say, are, under present circumstances, more than ever to be deprecated,—though, I fear, should it now be announced to the American public that all negotiations on the subject had finally failed, they would be much more likely to occur than while an impression existed that the subject was shortly to be arranged by treaty.

I believe I may add, that the present Government of the United States is better disposed to come to a settlement of this matter, on liberal principles, than their predecessors.

Believe me, &c.

(Signed) JOHN J. CRAMPTON.

His Excellency

Lieut.-Governor Sir G. Le Marchant,

&c. &c. &c.

NOVA SCOTIA.

Encl. 2 in No. 14.

Enclosure 2 in No. 14.

(Private and Confidential.)

MY DEAR SIR,

Government House, Halifax, February 16, 1854.

I HAVE had the honour to receive your "private and confidential" letter of the 5th instant this morning, and lose no time in furnishing an answer which, with a copy of your letter, I have thought it proper to send to his Grace the Duke of Newcastle by this night's mail.

Neither the substance of the propositions made by the United States, nor Mr. Marcy's note, have been communicated to me. All the information I have is gleaned from the newspapers, or from private correspondence shown to me by members of the Legislature.

I can quite appreciate Lord Clarendon's desire in the present perplexed state of European relations to have no irritating controversies or collisions on this side of the Atlantic, and you may rely on my disposition, and that of my Government, to bear in mind the obvious requirements of Imperial policy. At the same time, it is my duty to inform you, that though I believe that Canada would cheerfully make any sacrifice to obtain the reciprocal interchange of her productions with the United States, that a very deep feeling of resentment would pervade the provinces of Nova Scotia and New Brunswick, if that were obtained at the sacrifice of their interests.

The law officers of the Crown in England have recently decided, that within three miles of the coast, the jurisdiction of the Provincial Governments and Legislatures legally and constitutionally extends.

Whatever may be decided then, as respects the bays, these rights ought not to be varied or compromised but with the consent of the parties concerned; and the equivalents to be given in exchange for rights of property so highly valued, should rest upon no vague promises or indeterminate action of any member of Congress, but should be yielded and secured by the same instrument that made the concession.

By reference to the Report, a copy of which I inclose, you will see how vast are the interests, provincial and national, involved in this question of the fisheries.

The Government of this Province has, in 1851, evinced its readiness—

1st. To exchange with the United States the productions of the soil alone.

2nd. To exchange the produce of the sea, the forest, and the mine.

3rd. To yield the close fishery, whatever might be the true construction of the Convention, provided we obtained the abolition of the bounties, the registry of ships, and the same privilege on the coasts of the United States that we surrender on our own.

To avoid all cause of embarrassment to Lord Clarendon, I would respectfully suggest, that should war break out, we might possibly avoid collisions by suspending operations on the fishing grounds for a year, or by stringent instructions to the officers employed.

Should Mr. Andrews, who is known to the members of my Government, come here, I shall be glad to discuss the whole subject with him; and should there seem to be a necessity for it, I will send some gentleman, having my confidence, to confer with you personally after the close of the Legislative session.

I have, &c.

John J. Crampton, Esq.,
Washington.

(Signed) J. GASPARD LE MARCHANT.

No. 15.

No. 15.

COPY of a LETTER from CAPTAIN HAMILTON to H. MERIVALE, Esq.

SIR,

Admiralty, June 7th, 1853,

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Duke of Newcastle, copies of a letter from Vice-Admiral Sir George Seymour, dated the 5th May, No. 83, and of its inclosures, relative to the employment of two hired cutters or schooners for the protection of the fisheries on the coast of Nova Scotia.

My Lords desire me to state that they concur with Sir George Seymour in his views that the colony of Nova Scotia should pay for the hire, fitting, repairs, and pilotage of the vessels, and also with respect to the colony reserving a sum to be expended in placing boats or guards on any part of their coasts.

I have, &c.

H. Merivale, Esq.,
&c. &c. &c.

(Signed) W. A. B. HAMILTON.

NOVA SCOTIA.

Enclosure 1 in No. 15.

Encl. 1 in No. 15.

EXTRACT from a letter addressed by Sir G. SEYMOUR to the SECRETARY OF THE ADMIRALTY, under date May 5, 1853.

I SUBMIT to their Lordships that it may be more desirable not to make any charge further than for the hire, fitting, and repairs, and pilotage of the vessels, which would leave the control more clearly in my hands.

I also think that the colony should be able to reserve a part of the sum voted, if the Government desire to place boats or guards on any part of their coasts where encroachments are most likely, to act under the direction of a magistrate, or to protect the revenue.

Enclosure 2 in No. 15.

Encl. 2 in No. 15.

Estimate of the expense of a tender and her crew, for five months.

	£	s.	d.	s.	d.
Pay of 1 Lieutenant	75	0	0	at 10	0 a day.
„ 2 Midshipmen	26	5	0	„ 1	9 „
„ 2 petty officers	25	0	0	„ 1	8 „
„ 20 able seamen	200	0	0	„ 1	4 „
„ 1 Corporal, R.M.	8	2	6	„ 1	1 „
„ 4 privates	27	10	0	„ 0	11 „
	<hr/>				
	361	17	6		
Provisions for the above 30 officers and men } at 1s. a day	225	0	0		
Proposed to be paid by the Colony { Hire of tender for five months, at 80% a month } (may possibly be 100%).	400	0	0		
„ { Pilot at 7s. a day, and provisions 1s. }	60	0	0		
	<hr/>				
	1,046	17	6		

N.B.—The estimate for the tender is what the “Arrow” cost last year. The “Telegraph” was at the rate of 33% per month.

“Cumberland,” at Bermuda,
May 5, 1853.

(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

Enclosure 3 in No. 15.

Encl. 3 in No. 15.

At a Council held at the Government House, Halifax, on the 12th of April, 1853, present, his Excellency the Lieutenant-Governor, &c., &c., &c.

THE attention of the Lieutenant-Governor having been called to the grant of 3000*l.* for the protection of the fisheries, passed during the last session, his Excellency is advised to communicate with his Excellency Vice-Admiral Sir George Seymour, as to the mode in which that sum can be most judiciously expended for the advantage of the public service; and should the Vice-Admiral be prepared to man and control such provincial vessels and boats as may be hired for the season, the Lieutenant-Governor is advised to place them at his disposal.

No. 16.

No. 16.

COPY of a LETTER from CAPTAIN HAMILTON to H. MERIVALE, Esq.

SIR, Admiralty, June 7, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Duke of Newcastle, the extract of a letter from Vice-Admiral Sir George Seymour, dated 26th ultimo, No. 98, respecting the colonial vessels for the protection of the fisheries, and to acquaint you that

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NOVA SCOTIA. my Lords have approved of Sir George Seymour's manning and officering these vessels, and not charging the colony with this part of the expense.

I have, &c.
(Signed) W. A. B. HAMILTON.

H. Merivale, Esq.,
&c. &c. &c.

Encl. in No. 16.

Enclosure in No. 16.

SIR, "Cumberland," at Halifax, May 26, 1853.

I HAVE the honour to acquaint you that on my arrival at Halifax I placed myself in communication with the Lieutenant-Governor, Sir Gaspard Le Marchant, and concurring with his Excellency, for the reasons given in my letter, No. 83, that advantage would be derived to the public service from the hired provincial vessels being placed under my control, and manned from the "Cumberland;" and as your letter of 5th instant, No. 98, leaves it to me to take such steps as I think best on the subject, I have agreed to officer and man from "Cumberland" two vessels, selecting them from those which have been tendered to the colony.

I continue to think it advisable that the colony should not be called upon to pay the wages of the officers and men during the period of their service within the present season, for the reasons given in my above letter, and also that should any emergency arise to oblige me to recall them to the "Cumberland," there would be less difficulty in doing so, than if their payment had been thrown upon the colony.

* * * * *

As I propose to hire also two schooners for the general service of the fisheries of the Gulf of St. Lawrence and coast of Labrador, besides the "Nettley," there will be five tenders manned from "Cumberland," requiring 140 men. * * *

I have, &c.
(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-Chief.

The Secretary of the Admiralty,
&c. &c. &c.

No. 17.

No. 17.

COPY of a LETTER from Captain HAMILTON to H. MERIVALE, Esq.

SIR, Admiralty, June 7, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Duke of Newcastle, the extract of a letter from Vice-Admiral Sir George F. Seymour, dated 26th ultimo, No. 101, respecting the protection of the North American fisheries.

I have, &c.
(Signed) W. A. B. HAMILTON.

H. Merivale, Esq.,
&c. &c. &c.

Encl. in No. 17.

Enclosure in No. 17.

EXTRACT from a LETTER of Vice-Admiral Sir G. F. SEYMOUR, addressed to the SECRETARY OF THE ADMIRALTY, under date May 26, 1853.

"THE arrival of the "Argus" and "Basilisk," for the protection of the North American fisheries, has caused great satisfaction in this province, and I am taking measures to obtain small vessels to employ as tenders, to carry out their Lordships' instructions for the same object.

The "Devastation" is at present on the coast of Newfoundland. I despatched "Netley" tender to the Bay of Fandy on the 19th instant, under the command of Lieutenant John Newport, of "Cumberland," to protect the fisheries. I should recommend that a small brig should be sent out for that duty, and on her arrival, the "Netley" will resume her occupation as a buoy-boat at Halifax.

A large vessel of war is required this year in the Bay, as there are rumours of a disposition to use the same means in that quarter to prevent seizures which were tried some years since near Eastport, and were then successful to release the vessels seized.

I have received no information of any consequence since my arrival; but have reason to remark, that the greater profit derived last year from the fisheries, and an increase in the value of agricultural produce, has had a very beneficial effect in this province.

NEW BRUNSWICK.

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BRUNSWICK.

NEW BRUNSWICK.

No. 1. (No. 37.)

No. 1.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
November 1, 1852.

(Received, November 23, 1852.)

SIR,

I AM very desirous of expressing to Her Majesty's Government my strong sense of the zeal and discretion which have characterized the services of Lieutenant Kynaston, R.N., while in command of a vessel for the protection of the fisheries on the coast of New Brunswick in the two last seasons.

I have, &c.

(Signed) EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

No. 2. (No. 40.)

No. 2.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
November 6, 1852.

(Received, November 23, 1852.)

SIR,

(Answered, December 1, 1852, p. 49.)

I HAVE communicated to Mr. Perley the purport of your despatch of October 11th, No. 37, with reference to a certain map with boundary lines of the fisheries laid down thereon.

Mr. Perley requests that I will forward a copy of the inclosed letter and sketch in explanation of this matter.

Sir E Head to Earl
Grey, June 4, 1850,
No. 34.

You are probably aware, Sir, that in 1850 I submitted to Her Majesty's Government a copy of a map which was placed in my hands by Mr. Perley, sen. On this map a correspondence took place between the Foreign Office and the Colonial Office, which was communicated to me by Lord Grey in his despatch of September 4, 1850 (No. 211). When I saw Sir George Seymour on my way through Halifax in September last, I learnt from him that a map of this kind had been exhibited, and I accordingly forwarded to him a copy of the correspondence in question, begging him to communicate it confidentially to Sir Gaspard Le Marchant.

I have, &c.

(Signed) EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl in No. 2

Enclosure in No. 2.

Government Emigration Office, St. John,
November 5, 1852.

SIR

I HAVE to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a despatch from the Right Honourable Sir John Pakington, bearing date 11th October, 1852, in which it is stated, that the Vice-Admiral commanding on the North American station had transmitted to Her Majesty's Government the copy of a map of the Gulf of

St. Lawrence, purporting to be drawn by Mr. H. E. Perley, Emigration Agent, at St. John's, New Brunswick, for a report about to be made by Mr. Andrews, who is employed by the United States Government, on the subject of the fisheries, on which certain lines are drawn as fishing boundaries demanded by the British Colonial authorities.

I regret sincerely that this statement is based on an entire misapprehension.

No map whatever of the Gulf of St. Lawrence has been prepared by me for Mr. Andrews.

The mistake has probably arisen from a sketch of the south-western part of the Gulf of St. Lawrence having been prepared for Mr. Andrews by my eldest son, Mr. Henry F. Perley, a civil engineer, and very competent draughtsman. This sketch my son was employed to execute as a piece of professional work, and the fishery lines were furnished by Mr. Andrews, from information published in a Boston newspaper, as to the limits proposed to be enforced by the colonial authorities.

Fortunately I am enabled to inclose a proof sheet of the sketch itself, which neither bears my name nor title of office, and attached to it will be found a slip from the Boston newspaper, whence Mr. Andrews obtained his information.

I trust this explanation will be satisfactory to His Excellency the Lieutenant-Governor, and I beg that his Excellency will be pleased to communicate a copy of this letter to the Right Honourable Secretary of State for the Colonies, and also forward the inclosed sketch and newspaper slip, of which I have no other copies.

I have, &c.

W. C. Drury, Esq.,
Private Secretary.

(Signed) M. H. PERLEY,
H.M. Emigration Officer.

No. 3.

No. 3.

COPY of a DESPATCH from the Right Hon. Sir J. S. PAKINGTON, Bart.,
to Lieutenant-Governor Sir EDMUND HEAD.

SIR,

Downing Street, December 1, 1852.

I HAVE to acknowledge the receipt of your despatch, No. 40, of the 6th ultimo, transmitting a letter from Mr. M. H. Perley, Her Majesty's emigration officer at St. John, relative to a map with the boundary lines of the fisheries laid down, which I had erroneously supposed to have been drawn by him.

I have to request that you will state to Mr. Perley that the explanation he has afforded is entirely satisfactory, and that I much regret the misapprehension under which my despatch, No. 37, of the 11th October was addressed to you.

I have, &c.

Lieut.-Gov. Sir Edmund Head,
&c. &c. &c.

(Signed) J. S. PAKINGTON.

(No. 43.)

No. 4.

No. 4.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to the
Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
November 5, 1852.

(Received, November 23, 1852.)

SIR,

(Answered, January 12, 1853, p. 50.)

I HAVE the honour to inclose a copy of a letter addressed by the Honourable R. L. Hazen, Judge of the Court of Vice Admiralty at St. John, to the Honourable J. R. Pattelow, Provincial Secretary.

I also enclose two receipts from the registrar of the said court, showing that the sums of 20l. 13s. currency, and 13l. 12s. 4d. currency, have been paid into his hands on account of the net proceeds of two vessels seized for infraction of the Convention of 1818.

I have referred to the Proclamation of July 30th, 1849, which was sent to the Judge of the Admiralty Court, with a circular of August the 8th in that year.

It does not appear perfectly clear to me that the distribution of the proceeds of these sales can take place without the directions of the Lord

NEW
BRUNSWICK.

Commissioners of the Admiralty, under the last section but one of the Proclamation. At any rate I think it better to ask for instructions as to the disposal of this money.

I have, &c.
(Signed) EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl. 1 in No. 4.

Enclosure 1 in No. 4.

SIR,

St. John, November 4, 1852.

IN the absence from this place of Mr. Robinson, the Registrar of the Vice-Admiralty Court, I think it my duty to communicate to you for the information of his Excellency, the Lieutenant-Governor, that two sums of 17*l.* 4*s.* 3*d.* sterling, and 11*l.* 7*s.* sterling, amounting, it would appear, to 20*l.* 13*s.* currency, and 13*l.* 12*s.* 4*d.* currency, have been paid into the registry of the court as the proceeds of two vessels seized and sold under the provisions of the Imperial Act, 59 George III, cap. 30.

I enclose the Registrar's receipts for these amounts, which have been handed to me by the Controller of the Customs here.

The Hon. John R. Partelow,
&c. &c. &c.

I have, &c.
(Signed) R. L. HAZEN,
Judge of Vice-Admiralty Court, New Brunswick.

Encl. 2 in No. 4.

Enclosure 2 in No. 4.

Court of Vice-Admiralty, New Brunswick,
St. John, October 25, 1852.

RECEIVED from Alexander Grant, Esquire, Controller of Her Majesty's Customs for the port of St. John, 20*l.* 13*s.* currency, net proceeds of sale of schooner "Hyades," her tackle and goods, seized for breach of the Convention between Great Britain and the United States relative to the fisheries.

(Signed) J. M. ROBINSON,
Registrar and Scribe of the Court of Vice-Admiralty
of New Brunswick.

Encl. 3 in No. 4.

Enclosure 3 in No. 4.

Court of Vice-Admiralty, New Brunswick,
St. John, October 25, 1852.

RECEIVED from Alexander Grant, Esquire, Controller of Her Majesty's Customs for the port of St. John, 13*l.* 12*s.* 4*d.* currency, net proceeds of sale of schooner "Coral," her tackle and goods, condemned by the order and decree of this court, for breach of the convention between Great Britain and the United States, relative to the fisheries.

(Signed) J. M. ROBINSON,
Registrar and Scribe of the Vice-Admiralty Court
of New Brunswick.

No. 5.

No. 5.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir EDMUND HEAD.

SIR,

Downing Street, January 12, 1853.

January 5, 1853.

I HAVE to acknowledge the receipt of your despatch, No. 43, of the 5th of November last, requesting instructions as to the distribution of the proceeds of the sales of vessels seized and condemned for infractions of the Treaty of 1818.

I transmit for your information and guidance a copy of a letter addressed to my Department by desire of the Lords Commissioners of the Admiralty, to whom your despatch was referred, reporting the directions which their Lordships have given on the subject.

Lieut.-Gov. Sir Edmund Head,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

Enclosure in No. 5.

NEW
BRUNSWICK.

Encl. in No. 5.

SIR,

Admiralty, January 5, 1853.

HAVING laid before my Lords Commissioners of the Admiralty your letter of the 11th ultimo, respecting the distribution of the proceeds of certain American fishing vessels, condemned for infractions of the Fishery Convention of 1818; I am commanded by my Lords to acquaint you, for the information of Her Majesty's Secretary of State for Colonial Affairs, that my Lords have directed that any of the monies referred to, which may have to be distributed amongst the officers and men in Her Majesty's navy, are to be distributed in the same manner as the net proceeds of captures under Acts of Parliament relating to trade and navigation, are made distributable by Her Majesty's prize proclamation of the 30th of July, 1849.

H. Merivale, Esq.,
&c. &c. &c.

I have, &c.
(Signed) J. H. HAY,
Pro. Sec.

(Confidential.)

No. 6.

No 6

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Right Hon. Sir John S. PAKINGTON, Bart.

Government House, Fredericton,
December 4, 1852.

(Received, December 21, 1852.)

SIR,

I HAVE the honour to acknowledge your despatch of October 23rd, 1852, marked "confidential." You desire that I should forward with as little delay as possible a statement of the several points affecting the interests of New Brunswick which it may be proper to consider in negotiating with the Government of the United States on the questions of trade and fisheries.

I feel the responsibility implied by such an instruction, and I have therefore submitted to my Council a confidential memorandum of which a copy is inclosed.

You will observe that in this memorandum no reference is made to any despatch of Her Majesty's Secretary of State, and such despatch has not been laid before the Council.

It was ordered that a Report such as I require should be prepared by the Council in committee, and submitted to me on or before the 15th of December next. As soon as it is received, I shall lose no time in communicating with you on the subject and conveying my own opinion as well as the recommendations of the members of my Council.

I write in the meantime for the purpose of explaining the reason of my apparent delay.

I have, &c.

The Right Hon. Sir J. S. Pakington, Bart., (Signed) EDMUND HEAD.
&c. &c. &c.

(Confidential.)

Enclosure in No. 6.

Encl. in No 6.

His Excellency the Lieutenant-Governor desires to call the immediate attention of the members of the Executive Council to the following matter.

In the Minute of Council approved at St. John on the 10th of September last, the following passage occurs:—

"The Council humbly trust, that in any negotiations which may hereafter take place between Her Majesty's Government and that of the United States, his Excellency the Governor-General, and the Lieutenant-Governors of the respective provinces, be consulted with reference to such negotiations."

His Excellency fully concurs in the view expressed in this Minute. He entertains no doubt that Her Majesty's Government would be desirous of acting on the principle thus asserted by the Council. And it is impossible to say how soon the necessity for communicating with Her Majesty's Government on these subjects might arise. His Excellency desires, therefore, to receive from the members of his Council, with as little delay as possible, a detailed report on the following points:—

1. The nature and extent of concessions which the Council would recommend, on behalf of this province, to be made by Her Majesty's Government to the Government of the United States.

NEW
BRUNSWICK.

This head would include—

- a. Fisheries, coast and rivers.
 - b. Duties { Export, (especially timber.)
 { Import.
 - c. Navigation of the River St. John.
 - d. Light dues, charges for anchorage, protection for merchant vessels in port, and general commercial facilities and privileges.
2. Nature and extent of concessions on the part of the United States, which the Council would consider as equivalent to concessions recommended on the part of New Brunswick; showing what concessions on one side would be considered as fairly balancing those on the other, supposing that only partial freedom of intercourse in certain particulars may eventually prove possible.
 3. General observations and qualifications.

His Excellency the Lieutenant-Governor need not point out to the Council the fact, that the conduct of any negotiations must rest entirely with Her Majesty's Government; and that the result (if any) must be governed by principles affecting the whole Empire. It is therefore essential that the recommendations made should be made without any notion of obtaining more by asking more than is just or indispensable. The Council are not negotiating with a foreign Power, but are requested by His Excellency to give him information for his own guidance and that of Her Majesty's Government, if circumstances should require it. His object is to be prepared for affording information at any moment. He does not pledge himself beforehand to make his own opinion on the details coincide with that of his Council, but he is anxious to receive their advice in perfect candour and good faith. It is essential, therefore, that the discussion of this subject in the Committee of Council should be considered as strictly private and confidential, and that it should be laid before his Excellency in the shape of a confidential Report from the whole Council in Committee, which he will be anxious to discuss with them, but which need not be embodied in a formal minute.

It would be His Excellency's wish to receive such a Report, as conveying the views of the whole Council, but differences of opinion may exist on certain details. On any such points, His Excellency would wish the minority to state their difference of opinion, and give their reasons for such difference. And looking to the present position of affairs, he thinks it important that no time should be lost in preparing the Report in question.

No. 7.

No. 7.

(Separate and Confidential.)

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to the
Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
December 16, 1852.

(Received, January 4, 1853.)

SIR,

1. IN your confidential despatch of the 23rd October, 1852, you did me the honour to require information on the several points which it might be desirable to keep in view in negotiating with the United States of America on the subject of the fisheries and the general commercial relations of the colony.

With my despatch of the 4th December, 1852, marked "confidential," I forwarded a copy of a memorandum which I had submitted to my Council on the subject; and with my despatch of this date (No. 47),* I have forwarded a copy of the Report made to me by the members of my Council in committee. You desire, however, that I should also state my own opinion, and I therefore address to you this despatch marked "separate and confidential."

2. I have to excuse myself for presuming to preface any discussion of the details of commercial matters, by general considerations of various kinds; but I have found it impossible to take a comprehensive or satisfactory view of the subject before me without explaining in some degree what I conceive to be the necessary conditions of the problem to be solved. It is essential to set before one's self a clear and definite idea of the policy which it is the interest of Great Britain to pursue before entering on any argument respecting the details for carrying out such policy.

I say "the interest of Great Britain," because I believe that her interest and that of the North American Colonies are really one and the same.

3. I assume that it is and will be the desire of Her Majesty's advisers to maintain in its integrity a constitutional connection between the mother country and these colonies. I believe, moreover, that it is the interest of Great Britain and of the colonies themselves that such a connection should exist, and tha-

* Page 68.

its continuance is an object steadily to be kept in view by every person employed by the Queen's Government in British North America.

4. But this is not all. We cannot shut our eyes to the possibility that circumstances may at some time or other hereafter dissolve the legal tie. Should such an event occur it would be, I apprehend, on every account to be wished that the provinces of British North America should separate from England with a sense of self-importance—a feeling of attachment to England, and a conviction of the value of British institutions, such as should prevent their ultimate absorption into the United States,—that they should feel themselves capable of self-government, and should occupy a position which may place them on the footing of a group of States or a community separate and distinct from the Federation at Washington.

5. I know it will appear to many persons that any such hope is speculative and chimerical. Whilst I admit that such a view is speculative, I cannot allow that it is chimerical, unless I also admit that the American Union will certainly continue to exist in its present form, and unless I also grant that it is impossible to imbue the population of these colonies with a just preference for the intrinsic merits of the British Constitution. I think, on the contrary, that nothing can be more doubtful than the first of these propositions, and I believe that it is practicable so to govern British North America, as to make its population cling to the essence of British institutions and the alliance of the British Crown; supposing even that the present legal tie which unites them to England were to be gradually weakened and at last dissolved.

I repeat, therefore, that I think it the duty of all persons employed by Her Majesty's Government in British North America never to lose sight of two objects:—

1st. The maintenance of the connection with Great Britain in its legal form.

2nd. The creation and encouragement of feelings and convictions such as will be adverse to the "annexation" of these colonies to the United States under any circumstances whatever.

6. The geographical position of the colonies, and their close contact with the United States along an extended frontier,—the community of feeling which necessarily exists between the kindred population of two countries thus situated,—these are facts which we cannot help, and which it is useless to ignore. They are the necessary conditions of the questions now before us, and subject to such conditions, I believe that the objects I have assumed as desirable, will be most likely to be attained by adhering to the two following principles:—

1st. That there should be fostered in the North American Colonies themselves such a sense of unity, common interest, and self-importance, as will deprive them of any wish to become subordinate to the great Republican Confederacy on their borders.

2nd. That these colonies should be so dealt with as to soften, as far as possible, the irritation and inconvenience caused by their holding the position of foreign States in relation to the people of the Union. In short, that they should feel it practicable to combine the protection of England and the enjoyment of English institutions with all reasonable facilities of intercourse and profitable trade with their nearest neighbours.

7. I will proceed to illustrate a little what I have set out above. Since I have been in New Brunswick, I have watched with great anxiety and much thought the aspect of public affairs, and the phases of public opinion in this colony. I have done this during a time of great depression, and at a moment when disturbances in a neighbouring colony, of superior importance, lent additional value to every movement of popular feeling. It is true, that here as elsewhere, the fittest foundation for discontent of all sorts was laid in temporary embarrassment and commercial distress. Besides these conditions, however, there have existed other feelings which contributed largely to promote apparent disaffection towards Great Britain—feelings which, it is to be feared, would revive again under similar circumstances.

8. The cessation of differential duties in favour of the colonies, and the abandonment of what is now called the "old colonial system," however unavoidable, and however beneficial (as I individually believe them to have been), necessarily produced one effect, that is to say, a diminished sense of unity with the mother country. After this change, an inhabitant of New Brunswick, if he looked across the border, could easily satisfy himself that he paid less

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taxes, and was in fact as free a man as his republican neighbour in the State of Maine. I have never found any one bold enough to deny this truth. But at the same time, his consciousness that he formed an unit in a mighty Empire, had faded in his mind. He said to himself—"We go on pretty well; we are not burthened with taxes; we regulate our own internal affairs, and we elect our own representation; but look at our neighbours,—there every man feels every day, that he is one of a great and powerful community. The man who lives a mile from me, can send his timber to California, or his fish to Boston, without paying prohibitory duties. I cannot do so,—why? because I belong to England; but the people in England scarcely know of my existence, and care nothing for me."

It was the same thing with our merchants at St. John. When deals were unsaleable at remunerating prices at Liverpool, they knew that shipload after shipload, really or professedly American produce, were taken from the River St. Croix, and sold in a good market.

All this has fortunately changed, prosperous times have returned, in spite, or, as I believe, in consequence, of free trade; but the same circumstances may occur again. It does not make men more attached to the Crown of England to have their pecuniary interest constantly whispering in their ear how much they would gain by a change in their allegiance. The strongest prejudices and the most stubborn loyalty will be gradually sapped by such a repetition of the "falling drop" of self-interest.

9. I do not quote these forms of popular reasoning as being sound in themselves, or as any argument against changes in policy which have already taken place. On the contrary, I believe firmly that the welfare of the colonies themselves will be much more certainly secured by the abolition of the differential duties and by the sort of self-government which they now enjoy, than it could have been by a continuance of the former system. I believe, however, that the importance of the principles which I have stated cannot be properly appreciated without some insight into the temper and condition of men's minds here, when temporary embarrassment was upon them, and when a feeling in favour of "annexation" was supposed to be current.

10. I know little of Canada, and I cannot pretend to judge accurately of what has taken place there; but it appears to me that the notion of annexation to the United States has waned there, just in proportion as the sense of their own progress and their own self-importance has increased and become evident. Men appear to say to themselves, "we are too great a people to be tied on to the Government at Washington, whether by fair means or by foul. If we prosper as we now do, we shall look them in the face, and stand our ground without subjecting ourselves to the fugitive-slave law, or any such abominations. What have we to complain of? We have a constitutional Government; Great Britain does not interfere with our internal concerns." My desire would be to see the "Lower Colonies," as they are called, so identified in feeling and interest with Canada, that one sense of self-importance and consequent independence with reference to the United States, should pervade the whole group of these provinces, protected as they are by the British Crown and governed by British institutions.

11 I go on to show how this object is connected with the consideration of the commercial relations now under discussion. It would, I apprehend, greatly conduce to create such a feeling of unity and self-importance, if, as a preliminary step, the powers vested in Her Majesty, by the existing navigation laws were so exercised as to place the trade of the British North American provinces on the footing of a coasting trade with each other. I do not know that much practical effect in the way of excluding foreign vessels would follow from such a step, nor would this be my object. So far as I am informed, I doubt very much whether many foreign vessels now trade between different colonies on this continent. But I look rather to the moral result of exhibiting these provinces to the world in a consolidated form, possessing commercial interests of the same kind, and bound together by a common allegiance and a common system. It may be added to this too that, after such a consolidation, the privilege of admission to the coasting trade of these colonies would become a definite item in any bargain to be made with a foreign Power, and could be pressed as such. With regard to a general impression of unity among the colonies, there are many matters, trifling in themselves, to which I should attach

considerable importance, as strengthening such an impression. In this point of view I have always been anxious to see the circulation, in North America, of an uniform British currency bearing the Queen's head. I should like, too, to have one flag (the English flag with a difference) common to the merchant ships of all these colonies. More substantial benefits still would flow from an equalization of duties, and a sort of customs union among them, and, above all, their physical connection by a railroad would endow them with real unity and substantial independence of the United States.

12. It may be said that from local position and other circumstances the feelings of Canada, Nova Scotia, New Brunswick, and Prince Edward's Island, are so different as necessarily to impede the creation of any such common sentiment, or such a reconciliation of interests apparently incompatible. I believe, on the other hand, that any such incompatibility is much more apparent than real, and that the existence of any minor difficulties only makes it more important to deal with the matter, whilst the influence of the Queen's Government is yet strong, and whilst our relation to the United States is such as to offer no obstacles practically insuperable.

13. With reference to the general policy of facilitating intercourse between the British Colonies and the States, there are many in these provinces who sincerely think that increased freedom of trade will lead to increased chances of "annexation." Nor is this belief confined to the British colonies: if I am rightly informed, the Southern States of the Union have set their faces against what is called "reciprocity," because they think that its enjoyment will facilitate the absorption of the colonies into the United States, and thus add largely to the preponderating weight of the free States in the Senate at Washington. My reasons for dissenting from this course of argument will be sufficiently obvious from what I have already said. I do not admit that a man is made more loyal as a British subject, because in that capacity he cannot sell his sheep or his timber to his next door neighbour; and I would request you, Sir, to look at the inclosed speech of the Honourable J. A. Dix, made in the Senate of the United States in 1849, in illustration of this argument. I refer more especially to page 12* of the Pamphlet, where the case is forcibly stated.

Above, parag. aph.
8.

* Page 66.

14. Having thus discussed the general policy which in my opinion ought to guide Her Majesty's Government in dealing with the commercial relations of the North American Colonies and the United States, I pass on to the details of any negotiations which would affect this province of New Brunswick. I do so, however, with a full consciousness that our interests are part and parcel of those of British North America, and of the whole British dominions. I know that so far as possible no sacrifice of any kind will be inflicted on any part of Her Majesty's subjects without a full and complete conviction that such sacrifice will be for the ultimate benefit of the whole, and, therefore, of each part of the empire.

15. I have no hesitation in stating most explicitly my own opinion, that it is the interest of New Brunswick to be included in any treaty which shall go to establish greater freedom of intercourse with the United States. Of course the price which it would be our interest to pay must depend on the consideration to be received. In the main, as I have stated in my despatch of this date, (Number 47), I concur in the views expressed by the members of my Council who signed the Report attached to such despatch.

16. In paragraph 1 of such Report the distinction between sea fisheries and fisheries in rivers or harbours is, I think, sound and just. I do not think it expedient to admit foreigners to participate in the latter. Constant disputes would arise, and such a concession would probably interfere with rights already granted by the Crown to the city of Saint John. The word "estuary" used in the Report is a vague word; and in the event of any convention being made, it would be well to limit the "estuaries" which could be claimed as "sea" by some definition depending on the width at the entrance, or by actual classification of all indentures in the coast which could be of doubtful character.

No. 47, Encl. 1.
Report, par. 1.

Encl. 1, No. 47.

17. The reciprocal enjoyment of rights of fishery by British subjects on the American coasts, in the event of a concession on our part, seems fair and reasonable. It must be borne in mind (so far at least as the northern waters are concerned) that the really valuable fisheries are all on the British coasts. Terms apparently equal, therefore, would carry with them sacrifices of unequal magnitude on the part of the two nations.

Report, par. 2.

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Report, par. 3.

18. In the desire for establishing free commercial intercourse with the United States in the articles enumerated in paragraph 3 of the Report, I fully concur with the members of my Council. I mean, however, by "free intercourse" trade carried on upon fixed and moderate duties of the same amount in both countries—not necessarily the complete non-existence of any duties at all. So far as New Brunswick is concerned, I am fully convinced that it is her interest to levy no duties on the articles specified in this paragraph, but it may be necessary to do so for purposes of revenue.

R-port, par. 4.

19 The point touched on in paragraph 4 of the Report is really the most important of all. I think great discontent would be felt in this colony, if privileges connected with the fisheries were conceded to the Americans, without the ships built in the colonies being put upon a footing precisely equal to that which American-built vessels hold here; that is to say, it is desired that ships constructed in either country, if owned by a New Brunswicker, or a citizen of the United States respectively, should be entitled to registry in the country in which they are owned. On this matter I would refer to the letter addressed by the Honourable John Robertson to the Provincial Secretary, a copy of which accompanied the Report as an inclosure to my despatch No. 47. With regard to the coasting trade, Her Majesty's Government would be in a better position to urge such a demand as is suggested by my Council when the trade of these North American colonies among themselves has been put upon the footing of a coasting trade. This I have already observed in paragraph 11 of this despatch.

No. 47, Encl. 2.

Report, par. 5.

20. The members of my Council profess their readiness to forego the present export duty on American timber floated down the St. John, if a convention could be arranged on terms such as those which they suggest. The export duty on timber was partly a substitution for the old royalty or "stumpage" collected on timber cut on Crown lands, and partly an impost on timber cut on any lands whatever (whether private or foreign) which is shipped in our ports. On general principles of political economy the policy of such a tax might be questioned. My own belief with regard to its incidence is, that it operates differently on different kinds of timber. The duty on white pine timber probably falls on the consumer, because of white pine of a large size we have almost a monopoly. But the duty on spruce logs and spruce deals must operate in diminishing the demand, since in them we compete not only with other colonies, but with the foreign supply.

So far as the Americans are concerned, the contrivance seems to have been a skilful one for practically drawing revenue from the territory ceded by the Treaty of Washington. Efforts were made at the time of its original enactment to make out that it was a violation of the rights of the citizens of the United States; it was, in fact, a much more flagrant violation of the rights of private property (an interest, however, of very small value at that time in this province), since the owners of private property had already acquired from the Crown what would have exempted them from "stumpage." The matter was at that time referred home; and you will find, Sir, in the records of your office, that the propriety of the impost (so far as it respects the law of nations) was upheld by the law officers in England. The produce of the tax has been as follows since the year 1844:—

EXPORT DUTY, GROSS COLLECTION.

Year	£	s.	d.
1844	8,856	18	3
" 1845	20,162	9	10
" 1846	22,664	1	0
" 1847	16,533	5	4
" 1848	18,281	7	5
" 1849	16,400	19	2
" 1850	16,927	5	9
" 1851	17,329	12	10
" 1852 (estimate)	18,790	0	0

The item is one which in its present condition may fairly be placed to the credit of this province in any calculation of sacrifices to be made on either side. It is not easy to say precisely what proportion is levied on American timber, but I have heard it estimated at 25 or 30 per cent. of the whole sum collected.

21. I pass on to what the Council say with reference to the navigation of the River Saint John by vessels belonging to the United States. It appears to me that such a privilege would be in no way disadvantageous to this colony, if it were so guarded as not to grow into a right, and if the power of withdrawing it after proper notice remained in the hands of Her Majesty's Government.

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Report, par. 6.

22. The equalization of light and anchorage dues, and similar charges of all kinds, would be greatly to be desired upon the terms adverted to in the Report.

Report, par. 7.

23. The observations made by the Members of the Council on the recent Message of the President of the United States are more a matter for the consideration of diplomatists negotiating in any Treaty than for mine. At the same time, I am not sorry that attention has been drawn to this point, and I take it for granted that if one set of concessions were the consideration for the other, care would be taken so to word any Treaty as to provide that whenever the consideration on our part failed, the stipulations on the other should not be binding. If this be done, I see no reason to object to the arrangement being embodied in two Conventions instead of one. It might easily be provided that the avoidance of one arrangement should give either party a right of withdrawing from the other.

Report, par. 8.

24. I conclude this despatch by adding some statistical information prepared by the Provincial Treasurer, for the purpose of showing clearly the relative rate of duties now levied in New Brunswick and in the United States' ports respectively.

You will observe, Sir, that far the greater portion of the flour which we import professes to be of Canadian manufacture.

COMPARATIVE DUTY in New Brunswick and the United States, on the 10 Articles of which the largest value is imported by us in the year.

	New Brunswick.	United States.
Haberdashery	7½ per cent.	30 per cent.
Wheat	free	20 ..
Hardware	7½ per cent.	30 ..
Meat Salted, about 20 per cent ..	3s. 2d. per cwt.	40 ..
Leather, Manufactured	20 per cent.	30 ..
Tobacco	1½d. per lb.	40 ..
Wooden Manufactures	30 per cent.	30 ..
Oak and Pitch pine timber	free	20 ..
Rum and Alcohol	1s. 6d. per gallon	100 ..
Soap grease	free	10 ..

One per cent. additional in New Brunswick on all manufactured articles.

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QUANTITY AND VALUE of Flour imported by us in 1851 and 1852, from the United States, distinguishing Canadian Flour.

1851			
Manufacture of Canada	68,631 Barrels.	} £71,478
Do. of United States	247 ,,	
1852			
Manufacture of Canada	96,438 ,,	} £108,857
Do. of United States	662 ,,	

Comparison of Duties on Fresh and Dried Fish:—New Brunswick $7\frac{1}{2}$ per cent.; United States 20 per cent.

I have, &c.

(Signed)

EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl. in No. 7.

Enclosure in No. 7.

SPEECH of the Hon. JOHN A. DIX, of New York, in favour of reciprocal trade with Canada, delivered in the Senate of the United States, January 23, 1842.

THE Senate having under consideration the Bill to admit certain articles of the growth or production of Canada into the United States free of duty, upon the condition that the like articles of the growth or production of the United States are admitted into Canada free of duty; the question pending being upon an amendment heretofore submitted by Mr. Phelps:

Mr. Dix said: Mr. President, since this Bill was taken up for discussion, I have been unable, from indisposition and other causes, to bestow upon it the reflection which is due to the importance of the subject. But I will proceed, nevertheless, with such preparation as I have been able to make, to explain the objects of the measure and its probable effects; and I will endeavour, at the same time, to answer some of the leading objections which have been made to it.

If I entertained the belief that the operation of the Bill would be prejudicial to the interest of any portion of the Union, I should not be its advocate. The first object of all public legislation is to advance the general welfare of the country; but this object ought certainly not to be sought for at the expense of any particular section, or indeed of any single interest. I believe this Bill is entirely free from objection in this respect; that it will be eminently advantageous both to the United States and Canada, and do no wrong or injury in any quarter.

Before I proceed to examine the practical operation of the measure upon the commercial interests of the two countries, I wish to notice a preliminary objection which has been raised.

It is supposed that the privileges conferred by this Bill upon Canada will be extended, by virtue of certain reciprocity Treaties into which we have entered, to the foreign States with which those engagements have been contracted. I take a totally different view of the subject. I believe Senators have put an erroneous construction upon the obligations of the compacts to which they refer.

We have reciprocity Treaties with Russia, Denmark, Hanover, Prussia, Mecklenburg-Schwerin, the Hanseatic Republics, and several other foreign countries. They are Treaties with sovereign states, and, by every fair rule of construction, their stipulations, so far as they guarantee reciprocity, must be deemed to relate to engagements with other Powers equally independent. The commercial arrangement proposed by this Bill is with a European colony adjoining us—one of those dependencies which the States of the Eastern hemisphere are accustomed to except in their compacts with us for reciprocity of commerce and navigation. If any of the States with which we have Treaties stipulating for the same privileges which we confer on others, had dependencies situate like Canada in respect to us, those States might perhaps acquire in respect to such dependencies the same privileges we shall confer on Canada if the Bill passes; but I do not admit that they would acquire those privileges for their metropolitan possessions, and for the reason that colonies have always been made practical exceptions to the general rule of international intercourse. Possibly a special reservation may be necessary in every compact, from the provisions of which it is designed to exclude them; but I do not, as I shall show, consider it a matter of any consequence in this case. This we know in respect to Canada, that it is

not only expressly excluded from the terms of our commercial intercourse with Great Britain, but it is the subject of distinct stipulations; and yet the British Legation, in accordance with the wishes of the Canadians, has urged this measure upon us under instructions from home, without the least idea that they would gain for Great Britain under our reciprocity Treaty with her the privileges they desire us to confer on Canada.

The honourable Senator from Maryland (Mr. Pearce) said that we had "given a construction to these reciprocal provisions worthy of notice," and he alluded to our Treaty with Portugal in 1840, by which it was expressly agreed that the stipulation in our Treaty with France in 1831, in regard to French wines, should not be interfered with. This construction is perfectly consistent with the view of the subject I take. These two Treaties were with independent Powers; they were with continental Powers in Europe almost bordering on each other; and a general stipulation in respect to equality of duties necessarily required an express reservation to authorize us to make the duties on any of their products unequal. This, however, is a totally different thing from a commercial arrangement between us and a European colony adjoining us.

But in coming to the conclusion that our commercial relations with Russia, Prussia, and other Powers, under the reciprocity Treaties we have formed with them, will not be affected by this Bill, I put it on other grounds.

These Treaties relate to commerce and navigation, and are intended to regulate the commercial intercourse carried on by those countries with the United States on the ocean. They have certainly not been understood as referring to inland trade and exchange between countries bordering on each other. The right to regulate their interior intercourse with adjoining States has not been supposed to be at all impaired by these commercial engagements. If it were otherwise, if these Treaties restrained the States which are parties to them from admitting articles free of duty from a neighbouring country except upon condition of extending the same privilege to the other Contracting Parties, we should at this very moment be entitled, in our intercourse with Prussia, to all the benefits of the Custom-house exemptions of the Zollverein, of which that kingdom is a leading member. Prussia borders on a number of the Zollverein States. These States interchange with her their common products free of duty under the Zollverein compact or Customs Union. They have stood to each other in the same relation in which we stand to Canada. They had duties on their respective products as we have. They have abolished them, as we propose to do in respect to Canada on a part of ours.

Now, will it be contended that we are entitled to the same freedom of intercourse with Prussia which she shares with those States, because she has stipulated to impose no higher duties on our products than on those of other countries? Surely not; and for the very reason that the stipulations of our Treaty with her are intended to apply to external intercourse by sea, and not to inland arrangements between bordering States. The intention of our Treaties of reciprocity is stamped upon them in characters not to be misunderstood. The first stipulation (for those of latter years are much of the same import) limits the reciprocal liberty of commerce and navigation which the Treaties were formed to secure to "the ports, places, waters, and rivers of the territories of each party, wherein foreign commerce is permitted." The second stipulation regulates the duties to be imposed on the vessels of the Contracting Parties engaged in that commerce. The third regulates the duties to be paid on the importation or exportation of their respective products. I admit that, by the letter of these Treaties, this Bill might affect our commercial relations under them. But I insist that all compacts are to be construed according to their manifest intention, not by one stipulation alone, but by all which relate to the same subject-matter; and I might apply these observations with great force to my first position, and say that those Treaties did not contemplate commercial relations with colonial dependencies like Canada. But the whole tenour of their stipulations shows them to have been designed to regulate commerce on the sea, and not the interior traffic carried on by the inhabitants of countries separated from each other by a mere statistical boundary or an astronomical line. They are treaties of commerce and navigation—not of one alone, but of both combined.

When this measure was first proposed, I inquired of the State and Treasury Departments whether it would affect our commercial relations with foreign states under reciprocity treaties, and a decided answer was given by both in the negative. My own examination of the subject has brought me to the same conclusion, whether upon the same grounds I do not know.

If this construction be erroneous, if the privileges proposed to be conferred on Canada will be extended to the foreign states referred to, then, I repeat, we shall, on the same principle, become entitled to the privileges of the Zollverein, in Prussia, and perhaps gain access for our products, through her, to all the other states of that political association, comprehending, I believe, twenty-eight out of the thirty-seven States of the Germanic Confederation. This would, *primâ facie*, be an immense advantage, though it is not clear that it would be of any practical benefit. But no one dreamt, when our reciprocity treaties were formed, that they conferred any such privileges on us; and I venture to say, that it will never occur to any of the States which are parties to those treaties, that the proposed arrangement with Canada will confer any new privileges on them.

But if it were otherwise, the privileges the Bill confers are reciprocal. We concede nothing which we do not gain in return. If Hanover, Prussia, and Mecklenburg-Schwerin should acquire the privileges conferred on Canada by this Bill, we should acquire in respect

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to them the privileges the bill confers on us. There would be entire reciprocity. Our chances of profiting by the arrangement would be as good as theirs. The Hanse-Towns might send us a few more hams; but there is scarcely an article enumerated in the Bill which can be brought to us with advantage from the States on the German Ocean and the Baltic. We are too distant for agricultural exchanges. Besides, we are essentially as agricultural as they. Wheat is the only article likely, under any circumstances, to come here, except in the most inconsiderable quantities. In 1837, when flour was ten, eleven, and twelve dollars a barrel, we received over a million of bushels of wheat from Germany, not half the quantity we sent in 1847 into Canada, Nova Scotia, and New Brunswick; but in the former year, under the influence of these enormous prices, England herself sent us over 700,000 bushels—nearly as much as Germany; and yet she imported, in 1847, over 86,000,000 of bushels of grain. But such occasions very rarely occur; and when they do occur, the tendency of importation is decidedly beneficial. Its influence is to check prices when they reach the high point of extravagance.

Senators have expressed the apprehension that, if this Bill passes, we shall, under the construction they give to it, be deluged with wheat from the Baltic. Let us see how much ground there is for this apprehension. On the 1st of February wheat will pay but 1s. sterling a quarter in Great Britain—about 3 cents a bushel. She imports from us: we export to her. The price of wheat there must, therefore, always be as much higher than the price here, when she has a deficiency and we a surplus, as the cost of carrying wheat to her from the United States; and this cost, I am told, is about 20 cents the bushel. When it is a dollar here, it must be 1 dollar 20 cents there. Now, let us see what a vessel laden with wheat from the Baltic would be likely to do in such a case. She must, to come here, sail directly by the ports of Great Britain, where she can get 1 dollar 20 cents a bushel, deducting the 3 cents duty which she must pay. She gets, then, 1 dollar and 17 cents. Suppose she continues her voyage to the United States, how will the account stand? Admitting, for the sake of the argument, that the wheat she brings will come in free of duty under our reciprocity Treaties, she will get 1 dollar a bushel; but from this amount she must deduct 20 cents for cost of transportation from Great Britain here. She will get 80 cents here instead of 1 dollar and 17 cents in England—37 cents a bushel less; and this, on a cargo of several thousand bushels, will amount to no inconsiderable sum. The Northern Germans have the reputation of being rather heavy, but they are, so far as I have had the opportunity of observing them, the Yankees of the Continent in bargaining; and I think they will be found altogether too astute to engage in any such enterprises as honourable Senators apprehend. They will carry on a severe competition with us in supplying England with wheat; but they are just as unlikely to compete with us in our markets as we are to compete with Newcastle in supplying London with coal.

Under the construction, therefore, which Senators give to the Bill, I am satisfied its operation would be as beneficial to us as to the States with which we have reciprocity Treaties. But I contend that these Treaties will not be affected by this arrangement. If I am mistaken, the privileges we confer will also be acquired by us, and we cannot, in any event, be losers.

Let me now turn to considerations which directly concern the commercial intercourse of Canada and the United States.

In order to understand the subject in all its bearings, it will be necessary to see what Canada is, and what she has done for us in the removal of restrictions upon our commerce with her.

The population of Canada (I use a general term, as the two provinces are now united) is 1,527,757 souls, or, in round numbers, a million and a half. With less variety and fertility of soil than the United States, a more rigorous climate, and with Colonial restrictions calculated, under the most favourable view of the subject, to impede the development of her resources, to shackle the operations of industry, and to abridge the freedom of individual enterprise, which is always the most powerful stimulus to exertion, it is not to be expected that her progress will keep pace with our own in population or in social and physical improvement. The policy of Great Britain has, within a few years, undergone some important changes, favourable to her in a commercial and political view. Canada, it is true, has lost some exclusive privileges by a relaxation of the Colonial system of the mother country, but the latter has extended to her some new facilities, by surrendering the control of the Custom-house, so far as respects the imposition of duties; and she has also conceded the principle of the responsibility of ministers which exists at home, so that when the Governor is not sustained in his policy by the Provincial Parliament, he is bound to change his advisers, or, in other words, his Executive Council, which may be considered as the ministry of the colony. The Canadian Government is thus assimilated to that of Great Britain in the essential feature of its responsibility to the popular voice—a concession which has been gained after a long and patient struggle on the part of a few able and patriotic men in Canada.

Almost contemporaneous with this fundamental change in the political administration of the affairs of Canada was another of equal importance in respect to her commercial independence. In 1846, an Act of Parliament was passed, giving the Legislative authority of the British colonies the right to regulate their own duties of customs, in respect to British as well as foreign products. At that time there were no duties imposed by British Acts on British goods imported into Canada, although there were duties imposed by such Acts on foreign goods; but there were Acts of the Canadian Legislature, made for revenue,

imposing additional or cumulative duties on foreign goods, and a duty of 5 per cent. on British goods. There was also an Act of Parliament declaring that no goods should, "upon importation into any of the British possessions in America, be deemed to be of the growth, production, or manufacture of the United Kingdom, unless imported from the United Kingdom."

The effect of this condition of the law was to prevent the importation of British goods into Canada through the United States, and to impose on the productions of the United States and other countries, duties which were protective as to those of Great Britain and Canada.

As early as 1843, the duty on the importation of wheat and flour, of the growth of the United States, going through Canada to the United Kingdom, was reduced to 3s. provincial duty, the quarter of eight bushels, and 1s. British duty, without reference to the sliding-scale, by which the importation of breadstuffs from other countries was regulated. The consequence was, a large importation of wheat and flour from the United States into England through Canada.

The corn laws being repealed, Canada loses this advantage—the advantage of being a carrier for us—and it is now as beneficial to export Canadian wheat to England through the United States (the expense being equal) as direct from Canada. In other words, the wheat of Canada and the United States has equal advantages in the British market.

In 1847, the Parliament of Canada, acting under the authority granted by the Imperial Government, repealed the differential duties, and the new table or tariff of duties then enacted applies equally to goods of all kinds, whether coming from England or the United States. We are, in this respect, placed on the footing of the mother country.

This equality was effected by a double operation of law: first, by reducing the rate of duty on goods of the United States; and secondly, by increasing the rate on British goods, thus bringing both to the same standard or scale. There can be no better evidence of the liberality of the Canadians, and of their earnest desire to put their commercial intercourse with us on the most friendly footing:

The consequence of this change of the law has been to create a considerable importation of British and foreign goods into Canada through the United States, and also to cause a large importation of the productions of the United States into Canada for consumption. The cotton fabrics of Lowell are received on the same terms as those of Manchester. The same remark is true of many other products of our industry, of which we carry large quantities into Canada for consumption. The value of our productions annually introduced into Canada, under these new provisions of law, is stated, on high authority, to amount to more than 2,000,000 of dollars. It is natural that the Canadians should desire to send their produce to New York and Boston, to meet the trade which has thus been opened to us,—that they, having put this trade upon the most liberal footing in respect to us, should wish to export, on equal terms, such means of payment as they possess in the products of their own labour.

Will the terms of exchange—perfect equality—proposed by the Bill be disadvantageous to us? I propose to consider this question somewhat in detail, although it would seem but fair that the liberality which has been manifested by Canada towards us—a liberality by which we have greatly profited—a liberality voluntarily extended to us, without equivalent—should be reciprocated, without stopping to weigh, with over-scrupulous exactness, the precise balance of advantages and benefits.

In the first place, I believe it will be apparent, by looking at the list of enumerated articles which are proposed to be mutually received free of duty, that ashes, flour, and lumber are the only ones ever likely to be brought into the markets of the United States in considerable quantities. Ashes we want, and at the cheapest price. In respect to lumber, there is nothing to be apprehended. We shall unquestionably receive some lumber in New York, but I believe our timber districts do not fear the competition. Besides, it will come to us chiefly in the form of saw-logs for manufacture. New York is almost the only State this competition can affect: and if there is any risk, we are willing to take it, in consideration of the general advantage and convenience the measure promises to confer. It was apprehended by our friends in Maine, that their interests might be injuriously affected in this respect. But the Bill is so shaped as to avoid all interference with them. It applies only to the direct trade with Canada. Articles coming through New Brunswick or the other British provinces will continue on the old footing. The lumber interest in Maine, therefore, will not be touched by the Bill; and in all other respects that State will in all probability be as much benefited by it as any other. When the railway between Portland and Montreal is completed, the free commerce secured by the Bill must be of the greatest advantage.

Flour, in fact, is the only Canadian product likely to come into competition with our own. Of all the others—animals, hides, cheese, meats, &c., we shall export more largely into Canada than she will export into the United States. The same remark is applicable to corn, and indeed to most, if not all, the breadstuffs, except wheat.

It is possible that in certain years—years of scanty production in the United States, provided they are years of abundance in Canada—we may receive some wheat from her. But I do not believe that the amount will even in those years (which are very unlikely to occur) be sufficient to influence prices in the United States in a perceptible degree. If the importation, however, shall in such extraordinary cases prevent the price of grain from becoming extravagantly high, it will be a public benefit, by relieving the poor from the necessity of eating dear bread. In years of ordinary abundance I do not believe prices in

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the United States will be at all affected by the importation of wheat from Canada. The production of wheat in the United States yields a surplus. Whenever prices abroad are sufficient to sustain exportation, our wheat finds its way to foreign markets; and in these cases it is the price in those markets which fixes the price at home. I believe it may be stated as a principle that the price of a product, which is exported in any considerable quantity, is regulated in the markets of the exporting country by the price in the markets of the country to which the export is made. Our own experience proves the truth of this proposition. In 1847, when we were exporting breadstuffs, the price of flour in New York, the chief port of exportation, rose and fell with the fluctuations of price in the British market with as much certainty as the mercurial column in the thermometer rises and falls with the variations of external temperature. This fact should relieve us from all apprehension as to the influence of this Bill on competition with Canada in the production of wheat. She may send her flour to foreign markets now, either by the St. Lawrence, or through the United States in bond under the Act of 1846, allowing a drawback of duties in certain cases. It enters into competition with ours in those markets now. The Bill gives no new facility or advantage in this respect, except to relieve her from custom-house formalities. I hold, then, that the wheat of Canada can only have an influence on the price in the United States in very extraordinary years not likely to occur, and in years of exportation, by competition with us in the foreign market, and that, in the latter respect, this influence is as sensibly felt now as it would be under the provisions of this Bill. These considerations become the more significant if it be true, as I suppose, that wheat is henceforth to be one of our regular exports.

What, then, are the advantages to be expected from the proposed free interchange of products? The first is, to relieve the inhabitants of both countries, and especially those on the frontier, from the inconvenience of the custom-house in respect to necessaries of common production and daily use. The next is, to enable the Canadians to export their produce through the United States to foreign markets without paying duty at the frontier, and with a deduction of $2\frac{1}{2}$ per cent. on the drawback at the place of exportation. The custom-house formalities seem to have been a great obstacle to the use of our canals and internal channels of communication by the Canadians. From December 1, 1846, to July 1, 1847, we received from all the British North American provinces 929 bushels of grain of all kinds, and no flour, while we sent them more than 2,000,000 bushels of wheat during the year. During the previous five months we received from all the rest of the world 309 bushels of wheat and 54 cwt. of flour—equal to 27 barrels. The last year the Canadians have used our canals more extensively. The returns are not yet printed, but I understand that at least 70,000 barrels of flour have been exported through the United States. Whether the experiment will succeed remains to be seen.

Mr. CLARKE.—Will the Senator from New York state where he obtained this information?

Mr. DIX.—I have ascertained the fact from some statistical statements published in a newspaper at Oswego, containing the transactions at the collector's office. This information is given in an official form in the Annual Report on Commerce and Navigation received yesterday; but I have not been able to examine it. From the source I have before referred to, I learn that 50,000 barrels of flour were received at Oswego. At Buffalo the amount was probably less.

The Bill will undoubtedly lead to a free interchange of products among the frontier inhabitants. If, in the course of these exchanges, we receive any Canada wheat for consumption, it must be in the few individual cases in which the sellers of our products to the Canadians are able to consume it more freely. To a very limited extent it may possibly reach a new class of consumers, who will become exporters on a small scale, under this Bill. For instance, one of our frontier inhabitants who, under the proposed arrangement, can carry half a dozen sheep into Canada without paying the duty of 40 cents a head, now exacted by the Canadian tariff, and bring back as many bushels of wheat without paying the 20 per cent. duty imposed by our tariff, will save between 3 and 4 dollars in an exchange of products of the value of 12 or 13 dollars—a monstrous tax!—and he may thus be enabled to eat wheat bread for a while, instead of living exclusively on the coarser breadstuffs. This must be the only effect in ordinary years, when we produce more wheat than we require for our own consumption. We can take none from other countries, unless we consume it more freely; and our increased consumption under this Bill must not only be extremely limited, but of such a nature as not to interfere with our own production. But these are very small matters, hardly worthy to be taken into the account in an estimate of large transactions.

Let me now test the truth of my position—that we have nothing to fear from competition with Canada in wheat-growing—by a resort to arithmetical demonstrations. The population of Canada is about half the population of New York. That part of the province which was once politically known as Upper Canada, and which, for distinction, I shall still call so, is the wheat-growing region. The lower portion does not produce enough for its own consumption. It always draws largely upon the Upper. The least failure of the crops in the Lower would be sure to absorb the whole surplus of the Upper. If there were any just ground of apprehension in respect to our wheat-growing districts, looking to general considerations, it would be removed by the custom-house statistics of Canada for the year 1847—the great year of exportation for American breadstuffs by reason of the famine in Europe. I take for illustration the most unfavourable year for my purpose—the

year in which, from unusual causes, the export of wheat by Canada was greatest. I do so that those from whom I differ may have every advantage they can ask in the argument. The quantity of flour imported in that year into Canada was about 84,000 barrels, and the quantity exported about 676,000: the quantity of wheat imported 562,000 bushels, and the quantity exported 668,000 bushels. The imports, of course, were from the United States. The excess of exports over imports was 592,000 barrels of flour, and 106,000 bushels of wheat. This entire export was probably to Great Britain, her American islands, and her Atlantic provinces, Nova-Scotia and New Brunswick. Notwithstanding this export of flour from Canada, New Brunswick received from us, in the same year, over 100,000 barrels of flour, and Nova-Scotia nearly as much more.

The result of my inquiries is, that in ordinary years the upper portion of Canada produces a surplus of about 2,000,000 bushels of wheat, and that a considerable part of this surplus is consumed by the lower portion, including Quebec and Montreal, and the demands for their shipping. In 1847 Canada produced 4,560,967 bushels of wheat, and imported 982,468 bushels (including flour, and estimating one barrel of flour to be equal to five bushels of wheat), making an aggregate of 5,543,435 bushels produced and imported. In the same year she exported 4,047,366 bushels, making a balance of 1,496,069 bushels consumed at home. This is less than a bushel for each inhabitant—probably not more than half her consumption in ordinary years. But the price of wheat being extravagantly high, the consumption must have been greatly diminished, for the purpose of exportation, by resorting to the coarser grains for domestic use. The statistical tables of earlier years prove the export of 1847 to have been extraordinarily large. From 1838 to 1843 the annual export varied from 50,000 to 350,000 barrels; but in this last amount was included a large import from the United States. It is not probable that her export is essentially different when there are no unusual causes to stimulate exportation. Taking one year with another, and deducting from the entire export of wheat from Canada an amount equal to that which we send to her, to Nova-Scotia and to New Brunswick, and I doubt whether there will be much of a balance left. In 1847, which was an extraordinary year, while Canada only exported 3,064,898 bushels of wheat over her imports, we carried into the British North American provinces alone, in the same year, 2,279,068 bushels. While Canada produces less than three bushels of wheat for each inhabitant, we produce more than five and a half bushels for each inhabitant; while she consumed in 1847 less than one bushel of wheat for each inhabitant, we consumed nearly four bushels and a half for each inhabitant, notwithstanding the temptation of high prices to export and to consume cheaper breadstuffs; while her entire product of wheat in 1817, was 4,000,000½ bushels, ours was over 114,000,000 bushels.

Against an export of less than 600,000 barrels of flour from Canada in 1847 (her excess over imports) we exported nearly 4,500,000 of barrels; and against an export of 100,000 bushels of wheat from Canada (excess over imports), we exported nearly 4,400,000 bushels. In the same year we exported 20,000,000 bushels of Indian corn and meal, while she exported none. The idea that a million and a half of people, about half the population of New York, with a soil far less favourable to the growth of wheat than our own, can successfully compete with us either in the foreign or the domestic market, and injuriously affect production with us, with twenty millions of people, seems to me a very idle apprehension. It has been stated, on high authority, that the entire trade of the British North American colonies, with three millions of people, does not equal that of Connecticut, with only three hundred thousand inhabitants. The more numerous, active, and enterprising must always have the advantage in exchanging on equal terms. The very fact that we send into New Brunswick every year at least 100,000 barrels of flour, and probably as large an amount into Nova Scotia, seems to indicate that we might enter into successful competition with Upper in supplying Lower Canada, if all duties were to be removed. At least our surpluses will, to some extent, meet there.

Looking to the wheat culture alone, therefore, I should have no fears. But if we consider the subject in connexion with the export of cattle, corn, salted meats, and other articles, there can be no reasonable ground to apprehend that we shall be losers. We must be gainers. Large quantities of cattle and corn are now exported to Canada, with a specific duty, equal to about 20 per cent. against them. We sent into Canada, in 1844, 13,000 barrels of pork, and in 1847 about the same quantity, with a specific duty of 1 dollar and 20 cents the cwt. against us. The removal of these duties cannot but have a most decided influence in increasing the traffic of the north-western States with Canada.

It has been suggested that the proposed measure, by removing the duties on the enumerated products, will destroy the protection which those duties secure to our agricultural industry. The answer to this suggestion is, that the proposed arrangement is founded upon a mutual abolition of duties, and that the protection extended to like articles of the production of Canada will also be removed. There can be no necessity of protecting our products against Canada, when she ceases to protect her products against us. But the measure will, in truth, be of infinite advantage to our agriculture. Canada sends few products to us; we send many to her. We produce corn, which she needs, and which she cannot raise in sufficient quantity for her own consumption. Her winters are longer than ours; and, as the expense of keeping cattle from autumn to spring is greater, she will always rely on us for her supplies, both for the slaughter-house and for farming purposes. There is now a duty of 4 dollars 40 cents a head on cows, and 7 dollars a head on oxen, on importation into Canada. The removal of these duties will be a great advantage to us. In

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short, under all its aspects, this measure will, on examination, be admitted to be of infinite benefit to our agriculture. It will, in most cases, remove duties on our products, which operate as a direct discouragement to their exportation, while the removal of the duties on the like articles of the production of Canada cannot affect us, as those duties are chiefly on products which will not come into competition with ours, and are therefore not protective. In a word, I can fancy no measure more likely to be beneficial to our agriculture than this. The highest species of protection to industry is that which opens new markets for its products. In this point of view this measure is eminently protective; it is just, legitimate, effective protection; and if gentlemen desire (as I have no doubt they do) to advance the agricultural interests of the country, they ought to sustain it.

Let me now state a few further statistical facts to the Senate, for the purpose of showing how little influence any increased interchange of products with Canada under this Bill is likely to have on our aggregate exchanges with foreign countries.

The duties on merchandize collected in all the inland frontier districts, commencing at Burlington, on Lake Champlain, and terminating at Chicago, on Lake Michigan, are as follows:

	Dollars.	Cents.
For 1845	57,818	55
For 1846	66,828	80
For 1847	66,019	80

making an average of 63.555 dollars 71 cents per annum for the three years.

Estimating the rate of duty at $33\frac{1}{3}$ per cent., the whole value of the articles imported from Canada into the United States, and paying duty at the custom-houses, averages 190,667 dollars 13 cents per annum. A portion of the duties was, in all probability, refunded in 1847 under the law allowing a drawback on re-exportation of the articles on which the duties were paid. I learn that the amount of goods entered at Buffalo and Oswego for the benefit of drawback was greatly increased during the last year, as the returns, when we receive them, will undoubtedly show: but the amount refunded will be proportionably increased, so that the Treasury will not be affected by the augmented collections from this cause.

Our entire imports from the British North American colonies in 1845 were of the value of about 2,000,000 dollars. Of this amount more than 900,000 dollars consisted of gold and silver, and more than 1,100,000, including specie, were free of duty. The remaining 900,000 dollars are to be divided between Canada, Nova Scotia, and New Brunswick; and from the nature of the articles, it is manifest that the quantity received from Canada was but a small portion of the amount. For instance, fish constituted nearly 400,000 dollars of the \$900,000; and this came from the Atlantic provinces. The year 1847 gives nearly the same aggregate result. Our entire imports from all the British North American colonies constitute a very inconsiderable part of our commercial transactions with foreign States; and no change we can make in our intercourse with Canada can have any material influence upon them.

Notwithstanding this small import from the British North American colonies, our commercial intercourse with them, including Canada, is as beneficial for its extent as that with any portion of the world. We sent into them in 1847 products of the value of nearly 8,000,000 dollars—about \$5,800,000 domestic, and over \$2,000,000 foreign. The foreign exports were probably, to a great extent, sent through the United States on foreign account. Our imports directly from those colonies the same year were of the value of about 2,250,000 dollars. The remaining 5,500,000 dollars (deducting some 100,000 dollars on foreign account) must have been paid by bills on England. A large portion of our exports into Canada is probably paid for in this way. She sends her lumber and flour to England, and with the proceeds pays us the excess of her imports from us over her exports to us.

But it is only a small portion even of these exchanges which this Bill can affect. It is only that portion which embraces the enumerated articles. Now I have ascertained that in 1847 we did not import of those articles from all the British North American colonies an amount equal in value to 100,000 dollars. From Canada it must have been quite inconsiderable. The intercourse this Bill is destined to affect is, therefore, not only limited in its extent, but it is essentially local in its character. No apprehension is expressed in any quarter as to its practical operation, excepting as respects competition in the production of wheat. I trust I have shown that even this apprehension is without foundation. But if it were not so, the States on the frontier are those most likely to feel the influence of the competition. Ohio is the largest wheat-growing State in the Union. She produces a little less than 17,000,000 bushels—nearly four times as much as Canada. Next in order is New York, with a product of 14,500,000 bushels—more than three times as much as Canada. Michigan, in 1847, with a population not one-fourth of that of Canada, produced nearly twice as many bushels of wheat. These are the States which should object to the free exchange proposed by the Bill, if objection could reasonably be made in any quarter; and yet they are the very States in which the measure is most earnestly desired. It is, in truth, a measure which exclusively concerns the inhabitants of the frontier; and I earnestly hope Senators representing States which are far removed from it, and which cannot be affected by the proposed measure, will consent that the wishes of the parties immediately interested shall furnish the rule of their intercourse with each other.

I have endeavoured to show, Mr. President, that the Canadian Government has acted

with great liberality towards us; and that by reciprocally removing the duties on the agricultural productions of both countries enumerated in this Bill, we do no injury to any interest, but create a mutual benefit.

I was very much surprised to hear the Senator from Maryland (Mr. Pearce) say that there was no reciprocity in the proposed arrangement; that "the Bill is delusive. If it pass, not a dollar's worth of any of these products will be exported from the United States to Canada." The Senator could not have examined this subject with his accustomed care. Let me convince him that he has not done so. In 1847 we exported to Canada 83,983 barrels of flour, and 562,553 bushels of wheat, with a duty of about $7\frac{1}{2}$ cents a bushel on the importation; we also sent her 64,378 bushels of other grains.

MR. PEARCE.—I will thank the Senator to state whence he derives his information. I do not find it in the public documents.

MR. DIX.—I have obtained the information from the Custom-house statistics of Canada, to which I have referred, furnished at my request by the officers of the Canadian Government.

We also sent into Canada 943,280 pounds of tallow, with a duty of 1 per cent. (the very large export probably resulting from the very low duty); 28,000 pounds of butter, with a duty of 1 dollar 50 cents per cwt.; 1,458 oxen, with a duty of 7 dollars a head; 14,701 bushels of potatoes, with a duty of 10 per cent.; 49,099 bushels of apples, with a duty of 10 cents per bushel; 16,809 barrels of salted meats, chiefly pork, with a duty of 1 dollar 20 cents per cwt.

The duty on sheep is nearly prohibitory. It is, at ordinary prices, 40 per cent. Nearly the same may be said of the duty on most other animals. Now, I do not hesitate to say, that the export of most of the enumerated products may be very greatly increased by the removal of the duties upon them; and I am satisfied that the Senator from Maryland will find, on a more careful examination of the subject, that he has entirely misapprehended the operation of the Bill upon the agricultural interest of the country.

And now I wish to notice, in the briefest manner, the amendment proposed by the Senator from Vermont (Mr. Phelps). The effect of the amendment, if adopted, must be to defeat the measure. It cannot be accepted by Canada. The articles the amendment proposes to make reciprocally free are hats, boots, shoes, and other manufactures of leather; cotton, and woollen fabrics. These are all manufactured articles. The Bill contemplates a free exchange of certain agricultural products. The amendment changes the whole character of the Bill. It extends to a class of imports on which Canada must rely for revenue. It would be just as unreasonable in her to ask us to receive her furs free of duty.

But the duties on these articles, though revenue duties, are exceedingly moderate. They come within the range of those proposed by General Hamilton in his celebrated report on manufactures, made shortly after the organization of the Federal Government. The duty on hats is $7\frac{1}{2}$ per cent.; on boots, shoes, and manufactures of leather of all kinds, an average duty, I think, not exceeding 10 per cent.; and on manufactures of cotton and wool $7\frac{1}{2}$ per cent. These duties are not only moderate, but low; and without reference to the departure of the amendment from the general policy of the Bill, it is unreasonable to ask their abolition.

Besides, the same duties are imposed on like products of British manufacture. The mother-country has no advantage over us in this respect in Canada, and we ought not to ask an advantage over her.

It is quite manifest that the amendment must defeat the Bill; and I entreat Senators not to give it their support. If the bill is not acceptable to them, I trust they will, at least, consent to manifest their opposition to it by a direct vote.

I now come to an objection to the Bill which I consider it proper to notice, though I regret to be under the necessity of making any reference to it. The Senator from Virginia (Mr. Hunter) terms this Bill a measure "of quasi annexation, because the advantages which are urged as arising from it seem to relate to some such project in the future." Mr. President, if this measure had any such object, we might reasonably count upon the support of the Senator from Virginia, if there were no other ground of objection. It is but four years since every democratic vote in this body from the northern, north-eastern, and north-western States was cast for the annexation of Texas. If Canada should desire to unite herself to us, are we not to expect the same unanimity among our democratic friends in another quarter? or are we to understand that annexation is only to be countenanced when it can be made at one extremity of the Union, and to be opposed at the other?—that even freedom of intercourse is to be discouraged and repelled, because it may by possibility lead to such a result in the future? I hope the intimation of the Senator from Virginia is not to be so understood. If it is, it is well that we know now in what manner our co-operation in the annexation of Texas and the acquisition of Florida is likely to be reciprocated.

MR. HUNTER.—The gentleman from New York is mistaken if he supposes I urged this view of the Bill as an objection to it. I stated the fact without comment on it, or intimating either an approval or condemnation of it. I said that such must be its purpose, for that the best arguments urged in its favour seemed to be based upon some such prospect in the future.

MR. DIX.—I am aware that the Senator did not comment upon the intimation he made, though I understood him to make it by way of objection to the Bill. But I am happy that he does not wish it to be so received. While on this subject, I desire to say

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that so far as I am concerned, so far as concerns those with whom this measure originated, no such design was even imagined until it was suggested by those to whom it seems to be unacceptable. I believe (though I am not sure) this proposition came originally from Canada—from the liberal party in Canada—though it was cordially acquiesced in on our side by those who supposed they had a direct interest in it. Among the first by whom it was publicly suggested, if I remember right, was the Secretary of the Treasury. He has twice recommended it; and undoubtedly because he regarded it as a commercial arrangement which would be beneficial to both parties.

I know personally many of the prominent men in Canada. I know they are strongly opposed to a separation from the mother-country. They desire union with England first, independence next, annexation to the United States last of all. They desire a free exchange of products with us, because they believe the existing restrictions upon our commerce are prejudicial to both countries; and they desire nothing more. What the feeling is with the great body of the people in Canada, I have no means of knowing. That they desire free intercourse with us, there is no doubt. Beyond that, I know nothing of their opinions or wishes.

For myself, I have heretofore spoken freely on this subject. I would neither be forward in courting the annexation of adjacent States, nor backward in acceding to it. I would neither make overtures nor repel them, without good cause. I believe we are large enough for all the purposes of security and strength; but I do not fear further extension, nor would I decline it when circumstances render it convenient to ourselves or others.

Mr. President, this consideration has been urged, and urged directly, as an objection to commercial freedom between the United States and Canada. I have recently heard it from the anti-liberal party in Canada, who are for new restrictions on our commerce. They are in favour of existing restrictions as well as new ones, upon the ground that free intercourse may lead to a political union between Canada and the United States. The Board of Trade in Montreal, in a petition to the Queen, on the 18th of December last, prayed for a renewal of the discriminating duty on American grain in favour of colonial grain; and one of the reasons assigned was that the recent changes in the commercial relations of Canada had led to "a growing commercial intercourse with the United States, giving rise to an opinion, which is daily gaining ground on both sides of the boundary line, that the interests of the two countries, under the changed policy of the Imperial Government, are germane to each other, and under that system must sooner or later be politically interwoven."

Whether this view be just or not, I do not believe the result is to be defeated in either of the modes proposed—by a continuation of existing restrictions, or by the imposition of new ones. I believe the tendency of such measures will be to hasten and to consummate the very end they are intended to defeat. Let us see if it be not so. A man at Champlain, New York, or Swanton, Vermont, wishes to sell an ox to his neighbour in Canada, living in sight of him, and take wheat in exchange. On making his entry at the Canadian custom-house, he is taxed seven dollars on the importation of his ox. He brings back 35 bushels of wheat, at one dollar a bushel, and, on entering them at our custom-house, he is taxed 20 per cent. *ad valorem* (7 dollars more),—14 dollars tax to the two Governments for the privilege of exchanging his commodity with his neighbour, separated from him in one case by a narrow sheet of water, and in the other by an astronomical line. Now, I venture to assert that these impositions will not long be submitted to on either side; and if they are not removed by the two Governments, the inhabitants of both countries will look to annexation as the only practicable measure of relief. Sir, a liberal policy is always the most wise as well as the most just; and, I say again, that the people of the two countries will not submit to such a system as I have described—a system executed by an army of custom-house officers on each side of the boundary line, placed there to enforce exactions which absolutely prohibit commercial intercourse, or to fill their bags of plunder out of the hard earnings of the frontier inhabitants. And I cannot believe that those who advocate the doctrines of free trade will sustain a state of things so utterly at variance with their own principles; that they will be found acting in unison with the anti-liberal party in Canada, upholding commercial restrictions, which do no good, against commercial freedom, which works no injury; throwing impediments in the paths of those who are marked out by the great features of the districts they inhabit for friendly intercourse, and creating these embarrassments for the avowed purpose of making them alien to each other.

Notwithstanding the opinion of the Senator from Maryland, there is another consideration in favour of this Bill which I consider of vital importance to us. We have earnestly desired, since the American Revolution, the free navigation of the St. Lawrence. In 1826 it became the subject of diplomatic correspondence between the two countries. The discussion exhibits the high value we have attached to this privilege. Indeed, we claimed it as a right; and it was asserted as such by Mr. Clay in a letter of great power and eloquence. The right was not admitted by Great Britain, and the matter was dropped. But there has been no period when we would not have been willing to grant an equivalent for a privilege in which, according to Mr. Clay, nine States have an interest. Canada is now desirous of granting it without equivalent. She stands ready to pass a Bill opening the free navigation of the St. Lawrence to our vessels. Her Parliament is in session. The liberal party, which is now in power, is about to bring the measure forward; and I am happy to say that Lord Elgin, the Governor—a gentleman distinguished for an enlightened and liberal statesmanship—is in favour of the measure. Its success is certain, if we do not decline the reciprocity asked for by this Bill.

When the Senator from Maryland said that the navigation of the St. Lawrence was useless to us, he could hardly have been aware that ship canals have been constructed around the falls of Niagara, and other points below, to connect the great lakes with the Atlantic Ocean by way of the St. Lawrence, and that vessels of 350 tons pass freely through these internal channels of communication. During the last summer two of our revenue vessels passed from Lake Erie and Lake Ontario, through the St. Lawrence, to the Atlantic. When our ships can go to Quebec by sea and meet vessels from our north-western States, there can be no doubt that large quantities of the products of those States will be carried, in summer, spring, and autumn, in this direction by our own vessels to Europe. If this Bill becomes a law, I have no hesitation in predicting that vessels at no distant day will be laden with wheat in Chicago, Green Bay, Detroit and Cleveland, and unlade in Liverpool. Ship-owners, producers, all will be greatly benefited by this free commerce, which will have an advantage in avoiding transshipment between the point of embarkation and the sea, or the foreign market. If the result is to affect in any way producers in the Middle States, as Kentucky in the west, and Maryland and Virginia on the Atlantic, it will be to relieve them from competition in our own markets with the wheat-growers of Ohio, Illinois, Michigan and Wisconsin; and I greatly err if gentlemen from the wheat-growing States do not find themselves acting in direct contravention of the interests of their constituents in opposing this measure. In any point of view under which the subject can be considered, the opening of the St. Lawrence will be of incalculable benefit. It is, indeed, the only outlet of the north-west to the sea for vessels of any magnitude—the only outlet of this kind they can ever have; for, with all the facilities for internal communication New York possesses, a ship-canal through her territory is opposed by physical obstacles too serious to be overcome.

I believe the adoption of this great measure—the free navigation of the St. Lawrence—depends on the passage of this Bill. If the reciprocity it provides for is refused, we cannot expect that Canada will grant us what she considers as a boon, what we claim as a right, and what all must concede to be a privilege of inestimable value. On the contrary, if the liberal course she has pursued is met by an illiberal spirit in us, I fear she will be compelled, in self-defence, to resort to her old system of differential duties, and to continue the restriction on navigation. There is a strong party in Canada in favour of this course. I have already alluded to the anti-liberal party. I have quoted their recent petition to the Queen in favour of discriminating duties on our products. And, Sir, I greatly fear, if this Bill is defeated, that we shall put a weapon into their hands to be wielded to our serious annoyance and injury. To withhold, therefore, a just measure of reciprocity, as I verily believe, of mutual advantage to both parties, would not only be exceedingly narrow in policy on our part, but, like all selfishness, it would defeat itself, and result in a loss of benefits we already enjoy. These benefits, as I have already shown, are—first, equal duties in Canada on American and British goods; and, second, a market for at least three millions of dollars in value of the products of our industry.

Mr. DAYTON.—Will the Senator allow me to interrupt him? The statement of facts he makes is important; and I desire to know on what authority he says that our manufactured articles are received in Canada on the same terms as those of Great Britain.

Mr. DIX.—I state it on the authority of the Canadian tariff, which I shall be happy to show the Senator from New Jersey; and I will add, that large quantities of our manufactures are carried into Canada for consumption—iron castings, coarse cottons, and a variety of articles sent from the New England States, New Jersey and Pennsylvania. To these States the increased intercourse proposed by this Bill will be of great importance. The prospective benefit (which we should reject by a narrow policy) is the free navigation of the St. Lawrence—one of the highest prizes offered to the commercial enterprise of the country for many years. It will also carry with it the application, which we have always contended for, of a principle of the greatest value in international intercourse—a principle generally conceded in Europe, since the report of Baron Von Humboldt—the right of riparian States to an outlet to the sea by the water courses on which they border. These seem to me to be advantages which far outweigh in importance any considerations of pecuniary profit to be drawn from a close computation of the number of bushels of wheat which may be reciprocally received and exported; though, even on this narrow ground, I trust I have shown that we are not likely to be losers by the competition.

There is another view of the subject which, I confess, weighs greatly with me. The liberal party in Canada has been struggling for years to obtain the measure of political and commercial freedom to which they believe every community of men to be fairly entitled. Commercial freedom they have secured—not fully, but so far as to give them the regulation of the impost: political freedom, so far as to give the popular voice a control over all cardinal subjects of internal administration and external intercourse. The first use they have made of this partial independence of the mother country is to tender to us the most liberal terms of commercial exchange. They have extended to us these benefits without equivalent. We have enjoyed them for nearly two years with great advantage. They now ask equality in exchanging a few agricultural productions common to both countries. Sir, I should deeply regret that the United States, powerful and populous as they are, should withhold from a comparatively weak and dependent neighbour a privilege claimed on grounds so fair in themselves, and so entirely in accordance with the liberal principles by which we profess to be governed. It would be but a poor encouragement to a country adopting our political maxims to some extent, and carrying

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them into the administration of her own commercial affairs, to be driven from the liberal policy she has espoused into the old system of exclusion; to be thus checked at the very outset in her attempts to cast off the shackles which she has regarded as the greatest impediment to her prosperity; to be forced to this alternative, too, by us—the country, above all others, most interested in the establishment and maintenance of an enlightened policy in government and in commerce.

No. 8.

No. 8.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
December 16, 1852.

(Received, January 4, 1853.)

(No. 47.)
SIR,

I HAVE the honour to inclose in original a Report made to me by the members of my Executive Council in committee on the subject of the arrangements which they think it would be desirable to make in any negotiations with the Government of the United States on commercial matters affecting New Brunswick.

In the general terms of this Report I concur.

I also desire to call attention to two papers which accompany this Report as inclosures to the present despatch. These are—

Enclosure 2.

First. A letter addressed by the Honourable John Robertson, President of the Chamber of Commerce at St. John, to the Provincial Secretary.

Enclosure 3.

Secondly. An extract from the minutes of the Executive Council of New Brunswick, dated the 13th day of September, 1849.

You will observe with reference to this latter document, that five gentlemen not now members of the Executive Council were present when this minute was made. Of these five, two are members of the Legislature at the present moment. One is a judge of the Supreme Court, and one (Mr. Alexander Rankin) is dead. The last-named gentleman was a merchant of high standing in the colony, whose opinions on commercial matters were entitled to great weight, and represented in the Assembly a district much interested in the fisheries of the Gulf of St. Lawrence.

I have, &c.

(Signed) EDMUND HEAD.

The Right Hon. Sir John Pakington, Bart.,
&c. &c. &c.

Encl. 1 in No. 8.

Enclosure 1 in No. 8.

Committee Room, December 11, 1852.

THE Undersigned, members of the Executive Council of New Brunswick, in committee of the whole, having had their attention directed by his Excellency the Lieutenant-Governor to the consideration of the nature and extent of the concessions which, on behalf of this province, the Council would recommend to be made by Her Majesty's Government to the Government of the United States, in return for other concessions to be made by that Government; and having been requested by his Excellency to present a Report thereupon with as little delay as possible, have taken the several important matters submitted into their earnest consideration, and now have the honour to submit the following

REPORT.

1. With reference to the coast and river fisheries of New Brunswick, the Undersigned are clearly of opinion that any concession with respect to those must be confined solely to the sea-fisheries. The fisheries in rivers, harbours, and estuaries, must be reserved exclusively for the people of this province, such being more or less in the nature of local and private rights, and subject to municipal regulations.

With regard to the sea-fisheries, the Undersigned desire to express their firm conviction of the vast importance and unlimited value of the in-shore fisheries of New Brunswick, stretching for several hundreds of miles along its coasts, as well in the Bay of Fundy as in the Gulf of St. Lawrence and Bay of Chaleur, where various descriptions of fish are to be found in almost unequalled abundance and perfection.

The people of the United States do not possess near their shores any fisheries which can at all compare with those near the coasts of New Brunswick; and the markets of the

United States are now almost wholly dependent for an adequate supply of certain kinds of fish upon the in-shore fishing grounds of New Brunswick and the neighbouring provinces.

The Undersigned are decidedly of opinion that no concession which can be made by the Government of the United States to this province, will be at all equivalent to throwing open its fisheries to the fishermen of the United States. But, to promote a more extended commercial intercourse with that country, on the basis of reciprocal trade in certain commodities,—to subserve the interests of other North American colonies,—to remove all causes for dissensions and disagreements, and to encourage and maintain that good feeling which should ever prevail between people of different nations, dwelling in close proximity to each other,—they would consent on behalf of this province, in return for the concessions to be made by the Government of the United States, which are hereafter named, to admit American fishermen to a free participation with British subjects in the in-shore fisheries, and the fisheries within bays, on the coasts of New Brunswick; including permission to such American fishermen to land upon these coasts for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the owners of private property, or with the operations of British fishermen.

2. As the first consideration for this most valuable concession, the Undersigned, on behalf of the province, require that the fishermen of New Brunswick should be admitted to a free participation with American citizens in the in-shore fisheries, and fisheries within bays, on the coasts of the United States, subject to the like conditions, limitations, and regulations as should be imposed on American fishermen in the waters of New Brunswick; and further, that all fish or other products of the sea, caught and cured by New Brunswick fishermen, should be admitted free of duty on importation into the United States.

3. As the next consideration for the concession of the fisheries, the Undersigned would require that reciprocal trade should be established between this province and the United States, in the following articles, the production of either country:—

I. Grain and breadstuffs of all kinds.

II. Vegetables, fruits, seeds, hemp, flax, hay, straw, trees, plants, rice, cotton, and unmanufactured tobacco.

III. Animals of all kinds.

IV. Salted, fresh, smoked, and preserved meats.

V. Butter, cheese, eggs, lard, tallow, hides, horns, wool, undressed skins, and furs of all kinds.

VI. Ores and minerals of all kinds, metals of all kinds in pigs and blooms, steel, copper, grindstones, and stone of all kinds, marble in its crude or polished state, earth, coal, lime, bricks, ochres, asphaltum, maltha, petroleum, and naphtha, gypsum ground and unground, and rock salt.

VII. Wood—logs, timber, and lumber of all kinds, whether in the rough, hewed, sawn, or split; staves, firewood, the bark and roots of trees, and ashes.

VIII. Fish of all kinds, whether fresh, salted, smoked, or preserved.

IX. Fish oil—train oil, seal oil, spermaceti oil, head-matter and blubber, fins and skins, and all other products of fish, or other creatures living in the waters.

4. As a further consideration for the concession of the fisheries, and also on the ground of fair and equitable dealing, the Undersigned would require that ships and vessels built in New Brunswick should be admitted to registry as American vessels, upon sale in the United States, in precisely the same manner that American vessels are now admitted to registry as British ships, when sold in any part of the empire to British subjects; and that the vessels of New Brunswick should be permitted to trade between the different States of the Union, as American vessels are now permitted to trade between colony and colony, and also between the United Kingdom and the colonies. And if any arrangements are made for opening the coasting trade of the United States, the Undersigned would require that New Brunswick should be included in such arrangements.

5. On the foregoing mutual concessions as to the fisheries, reciprocal trade and navigation being carried out, the Undersigned would consent on behalf of New Brunswick, that the export duty on timber and lumber, cut upon American territory and floated down the river St. John, should be altogether remitted upon the exportation of the same to the United States.

6. The Undersigned are exceedingly unwilling that the vessels and citizens of the United States should be admitted to a participation in the navigation of the river St. John; but if reciprocal trade cannot be established without this concession, they would, though reluctantly, feel constrained to consent to the same; but with the reservation that the British Government shall retain the right of suspending this privilege, on giving due notice thereof to the Government of the United States, whenever political considerations, of which the British Government must be the sole judge, shall, in its opinion, render such a measure necessary.

7. With respect to light and anchorage dues, and other port charges, the Undersigned

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will cheerfully consent, on the other arrangements specified being carried out, that American ships and vessels shall pay no other or greater dues or charges in the ports of New Brunswick than are levied upon British shipping; and that American ships shall be entitled to the like protection and privileges while in the ports and harbours of New Brunswick that British ships enjoy, upon condition that New Brunswick ships shall receive in the ports and harbours of the United States the same privileges and protection as American ships enjoy, and are subjected to no other or greater charges than such ships.

8. The Undersigned perceive in the Message of the President of the United States, at the opening of the present session of Congress, a recommendation that whatever arrangements are made on the subject of the coast fisheries of the British provinces, and as to commercial intercourse between those provinces and the United States, should be made by separate Conventions. The Undersigned believe the object of this recommendation to be, and its effect certainly would be, to secure to American citizens the right to the coast fisheries of these provinces for ever, while the rights, privileges, and advantages connected with trade and commerce might be varied, diminished, or abrogated, greatly to the disadvantage of New Brunswick. The people of the United States would thus retain unimpaired, and beyond control, the inestimable privileges of the fisheries, even after they had withdrawn the considerations which induced their concession. The Undersigned are therefore of opinion that all the concessions and mutual privileges herein mentioned should be embodied in one Convention between the British Government and the Government of the United States; and that when the concessions and privileges granted by the United States, or any of them, shall be abrogated either in part or in the whole, then the concessions and privileges granted by the British Government under such Convention shall wholly cease and determine.

9. In the event of the several arrangements proposed by this Report not being carried out, the Undersigned would earnestly desire that the in-shore fisheries, and fisheries within bays on the coasts of New Brunswick, should be efficiently protected against foreign encroachment, and the terms of the Convention of 1818 enforced in their strictest sense, so as to secure those fisheries to British subjects.

10. With regard to the fisheries within bays on the coasts of the British North American colonies, the Undersigned desire to express their firm conviction that citizens of the United States have no right to participate therein under the Convention of 1818, either by the law of nations, the doctrines of Chancellor Kent, as upheld against British fishermen by the Government of the United States, or by the terms of the Convention itself. That Lord Aberdeen, Her Majesty's Principal Secretary of State for Foreign Affairs, in his note of March 10, 1845, to Mr. Everett, then Minister of the United States at the Court of St. James's, maintained that the Bay of Fundy was rightfully claimed by Great Britain as a bay within the meaning of the Convention of 1818; and his Lordship also maintained that with regard to other bays on the coasts of British North America, no American fisherman had, under that Convention, "the right to fish within three marine miles of the entrance of such bays, as designated by a line drawn from headland to headland at that entrance." In announcing to Mr. Everett the determination of Her Majesty's Government to relax in favour of American fishermen the right which Great Britain had previously exercised of excluding those fishermen from the Bay of Fundy, Lord Aberdeen explicitly stated such relaxation to be upon the condition, that except in the cases specified in the Convention, American fishermen should not approach within three miles of the entrance of any other bay on the coasts of New Brunswick or Nova Scotia. The acceptance by the Government of the United States of the permission to enter and fish within the Bay of Fundy on the condition specified, was at that time a clear renunciation of all claim to fish within any other of the bays of New Brunswick or Nova Scotia.

The Undersigned consider the note of Lord Aberdeen to Mr. Everett, dated 10th March, 1845, of so much importance in the present discussion, that they have annexed a copy to this Report, and they respectfully request that it may be considered as forming a part thereof.

11. While the Undersigned are prepared to concede to American fishermen the right to participate in the in-shore fisheries, and the fisheries within bays on the coasts of New Brunswick, upon the terms and for the reasons above set forth, they are clearly of opinion that the prosperity of the province is not now altogether dependent upon receiving the concessions proposed to be granted in return. They conceive that the exclusive enjoyment of these fisheries may become, under a proper system, a source of unbounded wealth to the present and future population of New Brunswick; and further, that such exclusive fishery may be made the basis of most beneficial commercial arrangements with Spain, Portugal, Sicily, the Italian States, Brazil, and the Republics of South America, in all which countries a greater or less quantity of New Brunswick caught fish is now consumed.

12. The Undersigned cannot close this Report without expressing the opinion they unanimously entertain, that in negotiating with the Government of the United States

Her Majesty's Government should consider that the fisheries on the coasts of New Brunswick are the natural rights and property of its people, and should not be alienated, conceded, or affected without their assent.

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13. The Undersigned request that his Excellency will be pleased to receive this Report in Council, and transmit the same to Her Majesty's Government.

(Signed)

ED. B. CHANDLER.
M. HAZEN.
J. R. PARTELOW.
J. A. STURT.
W. B. KINNEAR.
J. B. GRAY.
R. W. D. WILMOT.
GEO. HEYWARD.

Foreign Office, March 10, 1845.

THE Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, duly referred to the Colonial Department the note which Mr. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, did him the honour to address to him on the 25th May last, respecting the case of the "Washington" fishing vessel, and on the general question of the right of the United States' fishermen to pursue their calling in the Bay of Fundy; and having shortly since received the answer of that department, the Undersigned is now enabled to make a reply to Mr. Everett's communication, which he trusts will be found satisfactory.

In acquitting himself of this duty, the Undersigned will not think it necessary to enter into a lengthened argument in reply to the observations which have at different times been submitted to Her Majesty's Government by Mr. Stevenson and Mr. Everett on the subject of the right of fishing in the Bay of Fundy, as claimed in behalf of the United States' citizens. The Undersigned will confine himself to stating that, after the most deliberate reconsideration of the subject, and with every desire to do full justice to the United States, and to view the claims put forward on behalf of United States' citizens in the most favourable light, Her Majesty's Government are still constrained to deny the right of United States' citizens, under the Treaty of 1818, to fish in that part of the Bay of Fundy which from its geographical position may properly be considered as included within the British possessions.

Her Majesty's Government must still maintain, and in this view they are fortified by high legal authority, that the Bay of Fundy is rightfully claimed by Great Britain as a bay within the meaning of the Treaty of 1818. And they equally maintain the position which was laid down in the note of the Undersigned, dated the 15th April last, that with regard to the other bays on the British American coasts, no United States' fishermen has under that Convention the right to fish within three miles of the entrance of such bays, as designated by a line drawn from headland to headland at that entrance.

But while Her Majesty's Government still feel themselves bound to maintain these positions as a matter of right, they are nevertheless not insensible to the advantages which would accrue to both countries from a relaxation of the exercise of that right to the United States as conferring a material benefit on their fishing trade; and to Great Britain and the United States, conjointly and equally, by the removal of a fertile source of disagreement between them.

Her Majesty's Government are also anxious, at the same time that they uphold the just claims of the British Crown, to evince by every reasonable concession their desire to act liberally and amicably towards the United States.

The Undersigned has accordingly much pleasure in announcing to Mr. Everett the determination to which Her Majesty's Government have come, to relax in favour of the United States' fishermen that right which Great Britain has hitherto exercised of excluding those fishermen from the Bay of Fundy; and they are prepared to direct their colonial authorities to allow henceforward the United States' fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the Treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.

In thus communicating to Mr. Everett the liberal intentions of Her Majesty's Government, the Undersigned desires to call Mr. Everett's attention to the fact that the produce of the labour of British colonial fishermen is at the present moment excluded by prohibitory duties, on the part of the United States, from the markets of that country; and the Undersigned would submit to Mr. Everett that the moment at which the British Government are making a liberal concession to United States' trade, might well be deemed favourable for a counter-concession on the part of the United States to British trade, by the reduction of the duties which operate so prejudicially to the interests of the British colonial fishermen.

(Signed)

ABERDEEN.

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Encl. 2 in No. 8.

Enclosure 2 in No. 8.

SIR,

St. John, December 8, 1852.

AGREEABLE to your request, I now beg to offer you a few remarks upon the question now pending between the British Government and that of the United States, viz:—"A participation in the British fisheries by the subjects of the United States, together with other reciprocal intercourse;" the result of the negotiations respecting which would have a very important bearing upon the future interests of this and the neighbouring provinces.

That the fisheries are in themselves of immense value to all the British provinces, and to Nova Scotia particularly, is a fact patent to every person who will take the trouble to examine the subject; that they have not been availed of hitherto to the extent that they ought, is no argument in favour of an opposite opinion as to their value, and no just ground for assuming any argument of an opposite tendency as a basis for calculating their prospective value. Indeed, *their prospective value is incalculable*, even if we take the whole of the gulf fisheries of Nova Scotia, Canada, and New Brunswick, and that of the State of Maine together, it would prove only the result of a partial but successful experiment.

Various causes have combined to prevent the prosecution of these fisheries by the inhabitants of the provinces to any extent. Among the most prominent are the want of markets hitherto; for until the last modification of the United States' tariff, the duty upon our fish in their markets amounted to a prohibition, and at present it is nearly so, the duty being 20 per cent.

The West India markets for many years have been unremunerative, and therefore almost unavailable, at any rate holding out no sufficient inducement for investment in the fisheries. Again, fish caught by British subjects, going into the United States, had not only to pay the high duty, but also to come into competition with fish caught by vessels encouraged by large bounties by the United States Government.

Another point also that will tell against the quantity of fish caught by the provinces, and in favour of the United States, is the fact "that the American vessels brought great quantities of the British-caught fish, green in bulk," and these are of course returned to the United States statistics as the produce of their own fisheries.

Until of late years, a great portion of the inhabitants of Nova Scotia were employed in lumbering operations and ship-building: the former is now nearly extinct, from the exhaustion of the forests, and the latter only carried on to a moderate extent; consequently the fishing trade may be considered as only in its infancy, because the inducements for engaging in it are now but beginning to be felt, and these may be considered as follows:—

The United States market open with a reduced, although still high duty, and competition with fish caught and cured under a system of encouragement by considerable bounties.

The West Indies now taking more fish than formerly, and also,—

The foreign West India Islands, together with the fact, that as Nova Scotia has but little, if any, lumber export, the inhabitants upon the sea-coast must seek employment in the fisheries.

The same argument will apply to the other provinces, perhaps more so to New Brunswick than to Canada East, so far as lumbering operations are concerned, but in that particular only; and as the lumbering operations diminish and population increases, so must the fisheries increase, because they are inexhaustible, while the other channels of industry may be interrupted or influenced by the exhaustion of the forests, or other causes operating on the demand.

It is, therefore, almost impossible to form any just estimate of the real value of the shore fisheries of the British North American provinces.

If I understand the question now at issue, it seems to be that of an arrangement upon a fair and liberal basis, between the United States and the British Colonies, whereby the inhabitants of both are to participate equally in the shore fisheries of our coast; and the fish, when caught and cured, to be admitted on equal terms as to duty in the British provinces and the United States, leaving each country to use its own discretion as to the encouragement each may respectively give by granting bounties or otherwise, and also a reciprocal intercourse and interchange of commodities of all kinds by the two countries, upon equal terms, and subject to the same impacts by the one as the other.

Were the question reduced to that of the fisheries only, and involving nothing beyond it, I think it would be the policy of the British provinces to protect their fisheries in terms of the existing Treaty, without any concession whatever; because this course would compel the inhabitants of the United States to pay for them a fair remunerating price, whatever duty might be imposed by the United States, as the inhabitants of that country would have to pay the duty; and the effect would be the taxing of their own people for a necessary of life that they have not the means of obtaining in any other way, and the British Colonies

would have all the shore fisheries to themselves,—a trade, the value of which cannot be estimated, even at the utmost stretch of imagination.

But as it is the interest of both countries to secure an interchange of trade generally, upon a liberal and fair reciprocal basis, I take the liberty of suggesting as follows:—

American built vessels, as now, to have the privilege of British or British plantation registers, upon British subjects becoming their purchasers; colonial built vessels to be entitled to the same privileges in all the United States of America, upon their becoming the property of American citizens.

Inter-colonial free-trade to the United States ships same as now, provided colonial vessels have the inter-State trade upon a similar footing; that is, a British or Colonial built and owned vessel shall be permitted to carry cargoes from any one port in any one State to that of any one port in any other State, but not to be permitted to use more than one port in any one State to carry a cargo.

Unless the United States are ready to open their coasting trade to our vessels same as their own, in which case I would suggest reciprocal or the same privileges throughout all the colonies to their vessels as to our own vessels.

All natural productions of each country of raw material to be admitted into either country duty free.

All manufactured goods of either country to be admitted into the other at a duty of $7\frac{1}{2}$ per cent. ad valorem.

There is one exception to the above, apparently at least, but if examined closely it will be found necessary or expedient to put on a different footing: I have reference to lumber. There is now nearly as much American lumber in the log coming down the river St. John as British; the cost of transporting in the log is entirely too expensive; and, as a general rule, when cut up a great portion is unsuitable to the United States markets, which is suitable to the British market. To obviate this difficulty, I would suggest, that from the port of St. John at least, and the river St. Croix, all lumber not otherwise manufactured than by sawing should be admitted free without any distinction, as the British market is open to the American lumber on the same terms as provincial lumber, whether sawn or in the log.

This would afford the American subject the privilege of sawing his lumber, and of sending that portion of it to the United States suitable for that market; and to the British subject the same privilege; which would be mutually advantageous.

Another question arising out of this consideration is the navigation by both parties of the inland rivers, or inland navigation. This is a more complicated subject than the other, but here also I would make it reciprocal. The only objection to be urged against this is the common, and not unjust argument, under excessive duties, of smuggling, or defrauding the revenue; but if the reciprocal duty is reduced to 10 per cent., or $7\frac{1}{2}$ per cent. for the purposes of revenue, the argument would become of little weight. I would, therefore, be disposed to consider this also a fair subject of reciprocal advantage.

If I were disposed to consider local advantages and local interests, I would be inclined to confine the limit to the sea-ports; but in the settlement of a great question like this, these considerations ought not to have any weight. From what passed in conversation between us yesterday, I have embraced all the points upon which you were pleased to say that you would wish my opinion; if there are any others, or if I am not sufficiently clear in expressing myself in this, I will be glad to explain more fully at any time.

I have, &c.

J. R. Partelow, Esq.
&c. &c. &c.

(Signed) JOHN ROBERTSON.

Enclosure 3 in No. 8.

Encl. 3 in No. 8.

In Council, 13th September, 1849.

Present.—His Excellency the Lieutenant-Governor, the Honourable E. B. Chandler, the Honourable Robert L. Hazen, the Honourable Alexander Rankin, the Honourable George S. Hill, the Honourable L. A. Wilmot, the Honourable J. R. Partelow, the Honourable Charles Fisher, the Honourable William B. Kinnear, the Honourable Daniel Hannington.

WERE we empowered to treat with the United States Government, we would not hesitate to concede to them a full participation in our rights of fishery, provided they would discontinue their present bounty; would agree to a reciprocal free trade in certain articles, the growth and produce of the respective countries; to a reciprocal coasting trade, without limit as to the class of vessels to be employed, and to the admission of colonial built vessels to American registry.

The effect of an arrangement of this kind would, in our opinion, provide the strongest guarantee for the preservation of the colonies to the Empire, and under a wise and prudent

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direction of our colonial industry and resources, would elevate us to a condition of unexampled prosperity and contentment.

(Extract from the minutes.)

(Signed)

JOHN C. ALLEN,
Clerk of Executive Council.

No. 9.

(No. 2.)

No. 9.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
January 1, 1853.

(Received, January 17, 1853.)

SIR,

(Answered, January 22, 1853, p. 81.)

I HAVE the honour to inclose in duplicate an Address to Her Most Gracious Majesty, which I request may be laid at the foot of the Throne.

This Address was prepared in pursuance of the resolutions passed at a public meeting relative to the fisheries, which was called in the city of St. John.

I also inclose a copy of the resolutions passed at such meeting, as well as a copy of a local paper, which will show the nature of the amendment proposed and negatived, and the numbers voting on this question.

I have, &c.

(Signed)

EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl. 1 in No. 9.

Enclosure 1 in No. 9.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of the inhabitants of the city and county of Saint John, adopted at a public meeting regularly convened.

May it please your Majesty,

We, your Majesty's faithful and loyal subjects in the city and county of Saint John, in the province of New Brunswick, beg leave to approach your Majesty with renewed assurances of our sincere devotion to your Majesty's person and Government.

In common with all your Majesty's loyal subjects in the North American Colonies, we are deeply impressed with the present and prospective value of our coast fisheries to the present and future inhabitants thereof.

Viewing the "in-shore" fisheries as the natural, inherent and inalienable right of your Majesty's subjects in the provinces, not to be conceded, alienated or affected without their consent, we have learned with much anxiety from the announcement in your Majesty's Speech to the Imperial Parliament, that negotiations are now pending between your Majesty's Government and that of the United States upon the subject of the North American fisheries, the nature of which has not transpired.

Believing as we do that "as the value of a participation in our fisheries by the citizens of the United States would greatly exceed any concession that the United States Government can offer to the inhabitants of the British colonies," we humbly but earnestly entreat your Majesty to refuse to entertain any proposition for a modification or alteration of the Treaty of 1818, unless such proposition shall embrace the full and entire question of reciprocal intercourse in commerce and navigation between your Majesty's North American colonies and the United States, upon terms that will be just and reasonable; and that before any Treaty is agreed upon, your Majesty will be graciously pleased to afford your loyal and faithful subjects in the provinces an opportunity of becoming acquainted with the terms proposed, and of laying their case before your Majesty.

And as in duty bound they will ever pray.

CHARLES JOHNSTON,
Chairman.

Enclosure 2 in No. 9.

At a meeting of the inhabitants of the city and county of St. John, held pursuant to the notice of the High Sheriff of said city and county, at the court-house in St. John, on Thursday, 23rd December, "to consider the propriety of memorializing Her Majesty's Government on the subject of the North American Fisheries."

Charles Johnston, Esq., High Sheriff, having been called to the Chair, and D. B. Stevens appointed Secretary, the following Resolutions were adopted:

Resolved: That this meeting consider the coast fisheries of the North American colonies the natural right and property of the inhabitants thereof, and that they should not be alienated, conceded, or affected without their consent, in any negotiations with the United States Government, or any other foreign Power, without their consent, inasmuch as the value of the fisheries to the British Provinces, with an increased and increasing population, cannot be estimated aright at the present time.

Resolved: That this meeting views with deep anxiety and concern the announcement in Her Majesty's Speech to the Imperial Parliament, that negotiations are now pending between Her Majesty's Government and that of the United States relative to the fisheries of the North American Provinces, and also the recommendation of the President of the United States, in his official Message to Congress, to negotiate a treaty for a participation by the citizens of the United States in the said fisheries, irrespective of any question of reciprocal intercourse between the United States and the North American colonies.

Resolved: That a committee be now appointed to prepare an humble Address, praying that Her Majesty will be graciously pleased to refuse to entertain any proposition from the United States Government for any modification of the Treaty of 1818, unless such a proposition embraces the full and entire question of reciprocal intercourse in commerce and navigation upon terms that will be just and reasonable; inasmuch as the value of a participation in our fisheries by the citizens of the United States would greatly exceed any concessions that the United States Government can offer to the inhabitants of the British Colonies. And that before any treaty affecting the fisheries is agreed upon, Her Majesty will be graciously pleased to afford Her Majesty's loyal and faithful subjects in the Provinces an opportunity of becoming acquainted with the terms proposed in such treaty, and of laying their case at the foot of the throne.

Resolved: That the chairman, the Honourable John Robertson, John Wishart, W. Jack, and F. A. Wiggins, Esquires, be a committee to prepare the Address, to be signed by the chairman on behalf of the meeting, and forwarded to his Excellency the Lieutenant-Governor for transmission through the regular official channel.

(I certify that the foregoing is a true copy of the resolutions passed at said meeting.)

(Signed) D. B. STEVENS,
Secretary.

Enclosure 3 in No. 9.

Encl. 3 in No. 9.

AGREEABLY to announcement, a public meeting was held at the Court House yesterday at noon, to take into consideration the negotiations now pending between the English and American Governments, and to protest against any settlement of the question until this province is fairly consulted in the matter. There were present probably 150 persons. On motion, the High Sheriff (who had organized the meeting) was called to the chair, and D. B. Stevens, Esq., was appointed secretary.

We will briefly relate the substance of what was said. The Honourable John Robertson moved a series of resolutions (see p. 80). It was stated that the fisheries were of great importance to these provinces; and in fifty or a hundred years hence, their value would be incalculable. The Queen's Speech referred to the negotiations now going on—also the President's Message, which stated two ways of bringing the matter before Congress—one was as to treating the fishery question in a distinct form, and the other as to whether they should be dealt with in a general way in relation to reciprocal trade. The duty of this province was to protest against any arrangement being made unless the colonies were consulted. It was contended that a mere interchange of commodities was no equivalent for the cession of the fisheries. These were our natural rights, and they should not be yielded without the provinces receiving a full equivalent—such as the registry of our vessels in the American ports, the privileges of the coasting trade, as well as an interchange of commodities of certain descriptions. Even if all these privileges were granted by our neighbours, the price offered on their part, for the full use of our fisheries, would be but small.

The Honourable Mr. Simonds moved a series of resolutions in amendment of Mr. Robertson's. He thought Mr. Robertson's were not half strong enough. He spoke of the way England had always dealt with the interests of the colonies. She thought too much of the manufacturers and merchants of England to regard us. He thought the granting of reciprocal trade to be quite insignificant, compared with the full benefits of the fisheries which our neighbours claimed. He thought if the fisheries were once given up, upon the terms of reciprocal trade, that they would be gone for ever. The Americans could easily reverse

their tariff, and drive us out. Then where would be our natural privileges? When the Americans talked of granting reciprocity, they granted nothing—for reciprocity was of as much advantage to them as to us. Our fisheries ought to obtain for us everything desired by the provinces. He was opposed to mincing words in the matter. Our duty was to speak out in plain and unmistakeable language.

F. A. Wiggins, Esq., spoke very much to the purpose. He said that we had a right to registry for our vessels in the American markets, the same as they now have in ours; also the right of the coasting trade if we give up our fisheries. He did not apprehend any danger from a fair field and honourable competition. The people of this province were active and enterprising as any other. He was willing to meet our neighbours upon fair terms. As to our trade suffering by allowing the Americans to come in, he did not believe it: it was the want of population that kept us back. Our fisheries were useless to us at present, and it was our duty to turn them to the best account possible.

William Jack, Esq., also spoke well and to the purpose. He said that at the first settlement of this province, salmon could be purchased at $7\frac{1}{2}d.$ a-piece, now the cost is $7s. 6d.$ He gave this as an illustration of what our resources might become by the creation of markets. We were unable to do as we would wish in this fishery matter; it was therefore our duty to do the best we could.

Mr. Simonds' amendments were put to the meeting but not carried. [They will be found below.] The original resolutions, as below, were then put and carried. The following gentlemen also addressed the meeting:—G. Gilbert, T. G. Hatheway, Esqrs., Messrs. O'Brien, Mr. Coughlan.

The meeting was conducted with the utmost harmony. Mr. Johnston acquitted himself as he always does on such occasions, impartially, and, we may add, nobly.

In a future number we shall allude more at length to the subject-matter of the meeting. The following are the resolutions, moved by Honourable John Robertson, seconded by F. A. Wiggins, Esq. :—

Resolved,—That this meeting consider the coast fisheries of the North American colonies the natural right and property of the inhabitants thereof, and that they should not be alienated, conceded, or affected, without their consent, in any negotiation with the United States Government, or any other foreign Power, without their consent, inasmuch as the value of the fisheries to the British provinces, with an increased and increasing population, cannot be estimated aright at the present time

Resolved,—That the meeting view with deep anxiety and concern the announcement in Her Majesty's Speech to the Imperial Parliament, that negotiations are now pending between Her Majesty's Government and that of the United States, relative to the fisheries of the North American provinces; and, also, the recommendation of the President of the United States, in his official Message to Congress, to negotiate a Treaty for a participation by the citizens of the United States in the said fisheries, irrespective of any question of reciprocal intercourse between the United States and the North American colonies.

Resolved,—That a committee be now appointed to prepare an humble Address, praying that Her Majesty will be graciously pleased to refuse to entertain any proposition from the United States Government, for any modification or alteration of the Treaty of 1818, unless such a proposition embraces the full and entire question of reciprocal intercourse in commerce and navigation, upon terms that will be just and reasonable, inasmuch as the value of a participation in our fisheries by the citizens of the United States would greatly exceed any concessions that the United States Government can offer to the inhabitants of the British colonies; and that before any Treaty affecting the fisheries is agreed upon, Her Majesty will be graciously pleased to afford Her Majesty's loyal and faithful subjects in the provinces an opportunity of becoming acquainted with the terms proposed in the said Treaty, and of laying their case at the foot of the throne.

Honourable Mr. Simonds' amendment:—The following is Mr. Simonds' amendment, which was put and lost—47 to 43 :—

Whereas, it has been recently announced from the throne that negotiations are pending between Her Majesty's Government and the Government of the United States, for the regulation of trade and the settlement of what is termed the fishery question, about which no question ought to be raised; and whereas it is to be feared that in the progress of those negotiations colonial interests will be lost sight of, and imperial interests alone regarded; And whereas it is manifest that the North American colonies cannot receive by any commercial regulations any equivalent for the cession of their invaluable in-shore fisheries.

Therefore, resolved,—As the opinion of this meeting that considerations of free trade or reciprocal trade ought not in any way to interfere with the all-important rights of the colonists to the fisheries on their coast, which fisheries, being a great branch of colonial industry and not of trade, are, with our increasing population, daily becoming more important and essential to our prosperity; and this meeting, believing that if those rights are conceded they will never, under any circumstances, be restored, therefore protest against any such concession, as one which the Imperial Government, or Parliament, have no right to make.

Resolved,—That free trade or reciprocal trade between British subjects at home or abroad, and the citizens of the United States, will be as advantageous to the citizens of those States as to British subjects, and probably more so; therefore, to obtain this free trade, or reciprocity, no sacrifice of colonial rights, unconnected therewith, ought to be made; and further, this meeting are of opinion that high considerations of national policy

call loudly upon the Imperial Government to preserve to British subjects inviolate all the rights to the fisheries on the coasts of British North America which they now possess; and if any doubts existed upon this part of the subject, they will be dispelled by reference to a negotiation which was pending between the Governments of Great Britain and the United States, in the year 1845; at this time the American Minister in London urged as a reason to British statesmen why they should concede the right of fishing on all coasts and bays of British North America, to the citizens of the United States,—that if this right was conceded to them, it would greatly facilitate their means of increasing their mercantile and public Marine, the truth of which is obvious to all who think upon the subject, and should have opened the eyes of Her Majesty's Government to the vast magnitude of the concession sought for, which, if made, would assuredly at no distant period enable the Great Republic to become the first naval Power, and Great Britain, of consequence, only the second, if not still lower.

And further resolved,—That if the right of fishing on the coasts of British North America are conceded to the Americans for the supposed advantages of free or reciprocal trade, it will be another instance, added to many more within the past two hundred years, in which colonial interests have been sacrificed to benefit the manufacturers and merchants of England.

Moved by Dr. Botsford, seconded by R. Bayard, Esq.:

Resolved,—That the chairman, the Honourable John Robertson, John Wishart, William Jack, and F. A. Wiggins, Esqrs., be a committee to prepare the Address to be signed by the chairman on behalf of the meeting, and forwarded to his Excellency the Lieutenant-Governor for transmission through the regular official channel.

The chairman on motion left the chair, and the Honourable John Robertson was called thereto, whereupon

Resolved,—That the thanks of this meeting are due and be tendered to Charles Johnston, Esq., for his able and impartial conduct in the chair.

(Signed) D. B. STEVENS,
Secretary.

(No. 5.)

No. 10.

No. 10.

Copy of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir EDMUND HEAD.

SIR,

Downing Street, January 22, 1854.

I HAVE to acknowledge the receipt of your despatch, No. 2, of the 1st instant, inclosing an Address to the Queen, from the inhabitants of the city and county of St. John, on the subject of the fisheries.

I have laid this Address before the Queen, who was pleased to receive it very graciously, and I am commanded by Her Majesty to acquaint you that the prosperity of the British North American Provinces being one of the main objects which Her Majesty has in view in entering into a Treaty for the adjustment of the fishery question, the interests of New Brunswick will not fail to receive careful consideration in any negotiation with the Government of the United States.

Sir Edmund Head,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

(No. 6.)

No. 11.

No. 11.

Copy of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Fredericton,
January 14, 1853.

SIR,

(Answered, February 4, 1853, p. 79)

I HAVE the honour to inclose an Address to Her Most Gracious Majesty from the inhabitants of the county of Northumberland, on the subject of the fisheries, which I request may be laid at the foot of the Throne.

I also inclose a copy of the resolutions passed at a public meeting of the inhabitants of the county, in pursuance of which the above Address was prepared.

I have, &c.
(Signed) EDMUND HEAD.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Encl. 2 in No. 11.

Enclosure 1 in No. 11.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Memorial of the inhabitants of the county of Northumberland, in the Province of New Brunswick, in British North America,

Most humbly sheweth,

THAT your memorialists approach your Majesty with renewed assurance of their loyalty and attachment to your Majesty's person and Government.

Your memorialists observe, with deep anxiety, from your Majesty's Royal Speech at the opening of Parliament, and the late Message of the President of the neighbouring Republic to Congress, that negotiations are now pending between your Majesty's Government and that of the United States, affecting the rights of fishery on these shores.

The coast fisheries hitherto enjoyed by the people of this province, spared to them by the Convention of 1818, although long an object of jealousy to, and frequently intruded upon by the people of the United States, your memorialists have ever considered to be their exclusive and unalienable right, in common with their fellow-subjects of your Majesty's Crown; and they appreciate them accordingly.

That these fisheries have not been heretofore prosecuted to an extent commensurate with their importance, we pray your Majesty not to ascribe to any distaste or unfitness on the part of this province for the pursuit; but rather to the sparseness of population and absence of capital incidental to a new country, as well as the unhappy preference too long paid to the manufacture and export of timber. But as these obstacles have gradually disappeared, the prosecution of the fisheries has proportionally extended; much capital is now embarked in it; the people, at the cost of time and labour, have just acquired the necessary skill and experience for its profitable conduct; and already has it become an industrial pursuit of vital importance to the inhabitants of these shores. Your memorialists would further add their conviction, that the time is not far distant when the inhabitants of this and the neighbouring counties must look to the produce of these fisheries for their chief staple of export: the question, therefore, of the alienation or preservation of these fisheries, becomes to them one seriously affecting their future progress or decline as a commercial people.

Your memorialists would most humbly bring under your Majesty's notice, that the trade between this province and the United States of America has been conducted, for some years past, upon principles unfair and oppressive to your memorialists; for while the produce and manufactures of that country have been admitted into this province at a moderate rate of duty, and in accordance with the policy of the Imperial Government, upon equal terms with those of the United Kingdom, our commodities have been met there by a high protecting tariff; and while the ships of the United States are here permitted to be introduced, to receive a British register, and enter at once into competition with our own, colonial ships are denied a market in the United States.

In view of these evils, your memorialists would humbly submit to your Majesty, that such a modification of the tariff and navigation laws of the United States, as would place the trade between that country and these colonies on a footing of equality, should be considered merely as an equitable arrangement, mutually beneficial, but by no means affording an adequate compensation for yielding up interests of such magnitude and national importance as the shore fisheries of British America, which, when once alienated, may never be recovered.

Your memorialists would therefore most earnestly pray your Majesty to consent to no alteration of the Convention of 1818, with the United States of America, which would tend to deprive them of, or abridge their rights to the shore fisheries on this coast, until the terms upon which such alteration is proposed to be made, be first submitted to this province for their concurrence.

And as in duty bound, your Majesty's memorialists will ever pray.

Newcastle, Merimacki,
January 5, 1853.

(Signed) W. A. BLACK,
High Sheriff of the county of Northumberland,
Chairman of the Meeting.

Encl. 1 in No. 11.

Enclosure 2 in No. 11.

At a public meeting of the inhabitants of the county of Northumberland, held in the County Court House, Newcastle, on Wednesday, the 5th day of January, 1853, convened by the Sheriff, pursuant to a requisition, to take into consideration the propriety of addressing the British Government against making any concession of the rights of fishery enjoyed by the inhabitants of the colonies, without first giving them an opportunity of being heard.

The Sheriff being called to the chair, and Allan A. Davidson, Esq., requested to act as Secretary,

The Sheriff explains the object of the meeting.

The following resolutions were moved and passed unanimously :—

Moved by John Mackie, Esq., seconded by John MacDougall, Esq. :

Whereas the coast fisheries of the British North American colonies are of daily value and importance, and are as much the property and inheritance of Her Majesty's colonial subjects as the land within their limits ;

And whereas this meeting has learned with anxious concern, as well by Her Majesty's Royal Speech to Parliament, as by the President's Message to Congress, that some measure is in contemplation for conceding rights in these fisheries to our American neighbours :

Therefore resolved, That in justice those fisheries should not be given up, in whole or in part, to any foreign Power without the consent of the colonists.

Moved by John M. Johnson, Esquire, seconded by Richard Hutchinson, Esquire :

Resolved, That while this meeting anxiously desire to see a system of reciprocal trade established between the United States and the British colonies, they are of opinion that such question should not in any way interfere with the colonial fisheries, because free trade will greatly increase the demands of these colonies for the manufactures of the United States, and confer upon that country advantages equivalent to, if not greater, than any that the colonies can hope for in return.

Moved by William Salter, Esq., seconded by Henry Cunard, Esq. :

Resolved, That a committee be appointed to prepare an Address to Her Majesty, praying that no concession may be made of the existing rights of the colonists to the fisheries around their shores without first affording them an opportunity of becoming fully acquainted with the terms on which any such concession is intended to be made, and of laying at the foot of the Throne their wishes thereon.

Resolved, That Richard Hutchison, John MacDougall, and Allan A. Davidson, Esqrs., be such committee.

The committee submitted the draft of an Address, which was read and unanimously approved of.

Moved by William Salter, Esq., seconded by John Mackie, Esq. :

Resolved, That the Address just read be engrossed and signed by the chairman on behalf of the meeting, and forwarded to his Excellency the Lieutenant-Governor to be transmitted and laid at the foot of the Throne.

(Signed) W. A. BLACK,
Chairman of the Meeting.

The Sheriff having left the chair, and John MacDougall, Esq., called thereto, the thanks of the meeting were passed to the Sheriff for his promptness in calling the meeting, and for his able and gentlemanly conduct in the chair.

(Signed) ALLAN A. DAVIDSON,
Secretary.

(No. 7.)

No. 12.

No. 12.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir EDMUND HEAD.

SIR,

Downing Street, February 4, 1853.

I HAVE to acknowledge the receipt of your despatch No. 6, of the 14th of January, inclosing a memorial to the Queen from the inhabitants of the county of Hamilton, on the subject of the fisheries.

I have laid this memorial before the Queen, and I have received Her Majesty's commands to instruct you to acquaint the memorialists that the interests of New Brunswick will not fail to be considered in any negotiation which may be entered into with the Government of the United States.

I have, &c.

Sir Edmund Head,
&c. &c. &c.

(Signed) NEWCASTLE.

NEW
BRUNSWICK. (No. 24.)

No. 13.

No. 13.

Copy of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Duke of NEWCASTLE.Government House, Fredericton,
March 26, 1853.

(Received, April 11, 1853.)

March 21, 1853.

MY LORD DUKE,

(Answered April 27, 1853, p. 82.)

I HAVE the honour to inclose a copy of a letter addressed to Mr. William Wright, Queen's Advocate in this colony, to the Provincial Secretary. Mr. Wright incloses a copy of correspondence between himself and the Controller of Customs at St. John.

The subject-matter of this correspondence is very important at the present time, and I feel it necessary to solicit a consideration of it by the Advisers of Her Majesty.

In the mean time I think with the Queen's Advocate, that it is impossible to be too careful in dealing with foreign vessels. I shall therefore, until otherwise instructed by your Grace, direct proceedings to be taken in the Court of Vice Admiralty in all cases in which it is sought to condemn foreign vessels seized for fishing within British limits.

It will be well, perhaps, that the views of Her Majesty's Government on this subject, when ascertained, should be communicated not only to me, but also to the Controller of Customs through the Commissioners of that Department.

I have, &c.

(Signed) EDMUND HEAD.

His Grace the Duke of Newcastle,
&c. &c. &c.

Encl. 1 in No. 13.

Enclosure 1 in No. 13.

SIR,

St. John, March 21, 1853.

I FEEL it my duty to bring under the notice of his Excellency the Lieutenant-Governor and the Executive Council a correspondence between Mr. Controller Grant and myself on the subject of seizures of American vessels made by officers of the Navy in protection of our coast fisheries.

It has always appeared to me that such seizures differ materially from ordinary revenue cases, and the condemnation in the former should be a judicial act or decree of court.

The correspondence herewith enclosed explains fully the grounds of my opinion. Lieutenant Kynaston having in June last placed his prize, the schooner "Coral," in charge of Mr. Grant, as principal officer of the Customs at this Port, applied to me to proceed against her for condemnation in the Court of Vice-Admiralty, which was accordingly done, and the vessel subsequently sold under the decree of that Court.

Another seizure, however, soon after made, was treated differently, and sold by Mr. Grant without the intervention of the Court or any judicial sentence of condemnation, but solely under the supposed authority the Imperial "Act relating to the Customs or to Trade or Navigation," 8 & 9 Vic., cap. 93, sec. 69.

As it happened indeed, no question arose in that case; all parties quietly submitting; but it may not be always so in future cases; and as there is reason to apprehend greater resistance to our proceedings than heretofore, by American citizens who may suffer by seizure of their property, it seems to me very desirable that all doubt should be removed with regard to the mode in which seizures should be dealt with.

Mr. Grant assures me that in the event of future seizures being placed in his hands, he will apply to the Colonial Government for instructions; but as such a course may involve delay and detention of officers at a time when such detention is to be deprecated, I think it right to bring the matter at once under the notice of the Government for such directions as they may deem it proper to give.

I have, &c.

The Hon. John R. Partelow,
Provincial Secretary.(Signed) WM. WRIGHT,
Advocate-General.

Enclosure 2 in No. 13.

SIR,

Custom-house, St. John, June 28, 1852.

I HAVE to request you will not institute proceedings in the Court of Vice Admiralty in the case of the American schooner "Coral," delivered into my charge agreeably to the 72nd Section, 8th and 9th Victoria, cap. 93, on the 24th instant, by Lieutenant Kynaston, of Her Majesty's cutter "Netley," and seized by him for a breach of the Act 59 George III, cap. 38, as, on reference to the records of this office, I find that in a previous case of a similar nature, where no claim was made, proceedings in the Court of Vice Admiralty were deemed by the Honourable Commissioners of Customs unnecessary.

Wm. Wright, Esq.
Advocate-General.

I have, &c.
(Signed) ALEX. GRANT.

SIR,

St. John, June 30, 1852.

I HAVE the honour to acknowledge the receipt of your letter of the 28th instant, requesting me not to institute proceedings in the Court of Vice Admiralty in the case of the American schooner "Coral," delivered into your charge on 24th instant, by Lieutenant Kynaston, of Her Majesty's cutter "Netley," and seized by him for a breach of the Act, 59 George III, cap. 38, as their Honours the Commissioners of Customs had in a similar case deemed such proceedings unnecessary.

Prior to the receipt of your letter I had, at the instance of Lieutenant Kynaston, commenced proceedings in the Vice Admiralty, being of opinion that it was desirable, if not absolutely necessary, to obtain the decree of a court of competent jurisdiction to complete the condemnation of the vessel and cargo.

I entertain grave doubts whether the 69th Section of the Act 8th and 9th Victoria, cap. 93, can be construed to extend to any but expressly an Act "relating to the Customs, or to Trade or Navigation," a class of laws well known. But the present seizure is made under an Act of a different nature, viz.: "An Act to enable His Majesty to make regulations with respect to the taking and curing of Fish on certain parts of the coasts of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a convention made between His Majesty and the United States of America." And it being an unbending rule that penal statutes shall be construed strictly, my strong impression is that the present case does not fall within the highly penal enactment of the 69th Section of the 8th and 9th Victoria, cap. 93.

Now, should this impression be well-founded, you will perceive that a sale made under the authority of the last-mentioned enactment would be illegal, and could convey no title or property to the purchaser.

But apart from this doubt, I think there are strong reasons for preferring an act of court to a *sub silentio* condemnation under the 69th Section of the 8th and 9th Victoria, cap. 93. The latter mode involves the necessity of detaining the seizing officer "one calendar month from the day of seizing," to await the contingency of a claim being put in; as it might be on the very last day of the month; and which, if put in, would require to be met by the officer's evidence: whereas, by the ordinary course of proceeding in the Vice Admiralty, the officer's statement on oath is taken in the first instance, and serves as *prima facie* evidence whereon the decree of forfeiture may issue after the expiration of 14 days only from the return of the monition or first process in the suit.

The expense of proceedings in the Court of Vice-Admiralty is undoubtedly an objection of a serious nature, but it is, in my opinion, more than counterbalanced by the greater celerity and convenience of its forms, and in contested cases, by the still greater advantage of having the matters in question adjudicated by a tribunal beyond the reach of popular prejudice or corrupt influence.

I am not without hope that the course I have adopted in this case will eventually meet the approval of the Honourable the Commissioners of Customs.

Alex. Grant, Esq.,
Controller, &c.

I have, &c.
(Signed) WM. WRIGHT,
Advocate-General.

SIR,

St. John, March 15, 1853.

As it seems highly probable that the protective measures adopted last year by Government to enforce the provisions of the Convention of 1818, relating to the fisheries, will be renewed this summer, and that greater resistance will be made on the part of American subjects, I am desirous of preparing myself beforehand upon the legal questions likely to arise in regard to seizures made under the 59th George III, cap. 38, passed, as you are aware, for the express purpose of carrying that Convention into effect.

I beg, therefore, to call your attention to a letter I had the honour to address to you under date of 30th June last, and to inquire if you have received any instructions from the Honourable Board of Customs, or from the Lords of the Treasury, relative to the points

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adverted to in that letter, or generally on the subject of seizures made under the Act above mentioned.

A case recently decided in the Vice-Admiralty Court of Nova Scotia has tended to confirm the doubts suggested by me, and to show the importance of caution in dealing with seizures made under that Act.

Alex. Grant, Esq.,
Controller.

I have, &c.
(Signed) Wm. WRIGHT,
Advocate-General.

SIR,

H.M. Customs, St. John, March 17, 1853.

IN answer to your letter of the 15th instant I have to inform you, that in the event of any seizure made under the Act 59 George III, cap. 38, being placed in my hands, or in the hands of any of the Imperial Controllers in this province, I will not take any proceedings under that Act without receiving the express directions and instructions of the Colonial Government, agreeable with the Honourable Board's orders on the subject.

Wm. Wright, Esq.,
Advocate-General.

I have, &c.
(Signed) ALEX. GRANT,
Controller.

No. 14.

(No. 22.)

No. 14.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor Sir EDMUND HEAD.

Downing Street, April 27, 1853.

SIR,

(Answered June 1, 1853, p. 86.)

April 23, 1853.

IN reference to your despatch No. 24, of the 26th March last, on the subject of seizures of American vessels made by officers of Her Majesty's navy in protection of the fisheries. I have to transmit to you the copy of a letter which the Queen's Advocate, to whom I had referred the case, has addressed to this Department.

2. You will have the goodness to cause the documents and other information required by the Queen's Advocate to be supplied with as little delay as possible.

3. But I must add that it would be much more convenient to Her Majesty's Government, and much more likely to attain the objects which you propose in your despatch, if questions of so much importance were regularly stated in the form of a case, and with the opinion of your own law officers respecting them. If this can be obtained in the present instance, it will be the better; but as expedition is of consequence, I leave it to your discretion.

Sir Edmund Head, Bart.,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

Encl. in No. 14.

Enclosure in No. 14.

Copy of a LETTER from the QUEEN'S ADVOCATE to the Duke of NEWCASTLE.

MY LORD DUKE,

Doctors' Commons, April 23, 1853.

WITH reference to Mr. Merivale's letter of the 20th April, requesting the opinion of the law officers on the subject of a correspondence from New Brunswick as to seizures made there by officers of Her Majesty's navy in protection of the fisheries; I have to request that we may be supplied with a copy of the existing Regulations made by Order in Council, under Statute 59 George III, cap. 38, and also with a copy of any Local Acts (New Brunswick) now in force on the subject. The Colonial Acts sent herewith seem to be confined to Nova Scotia and Prince Edward Island. I return the papers to facilitate reference.

His Grace the Duke of Newcastle,
&c. &c. &c.

I have, &c.
(Signed) J. D. HARDING.

(No. 26.)

No. 15.

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No. 15.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to
the Duke of NEWCASTLE.

Government House, Fredericton,
April 9, 1853.

(Received, April 26, 1853.)

MY LORD DUKE,

(Answered, May 3, 1853, p. 85.)

I HAVE the honour to request that the inclosed Address from the Legislative
Council and Assembly of New Brunswick to Her Most Gracious Majesty,
may be laid at the foot of the Throne.

I have, &c.

(Signed) EDMUND HEAD.

His Grace the Duke of Newcastle,
&c. &c. &c.

Enclosure in No. 15.

Encl. in No. 15.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of your Majesty's Legislative Council and House of Assembly of the
Province of New Brunswick.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Legislative Council and Assembly
of New Brunswick, beg leave to approach your Majesty with sentiments of profound
respect, and with unabated attachment to your Majesty's person and Government.

The prompt and efficient protection afforded by your Majesty's naval forces to the
fisheries of British North America, which secured its coasts from foreign aggression during
the past year, and enabled British subjects to enjoy unmolested their rights and privileges,
has inspired the inhabitants of New Brunswick with increased confidence in the deter-
mination of your Majesty's Government to maintain to the fullest extent their claim to
this invaluable source of industry and wealth. And we again entreat that your Majesty
will be pleased to continue such protection; being impressed with the belief that it will
prove much more advantageous and satisfactory than the acceptance of any equivalent yet
offered by the American Government for a participation in these fisheries—a full and
unmolested enjoyment of which is of the utmost importance—forms an incalculable source
of wealth, and is of inestimable value to the people of New Brunswick.

Maritime nations at all times, and in every quarter of the globe, have set up and main-
tained certain exclusive privileges within three marine miles of their shores, 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 American as well as other
jurists; and by the Articles of the Convention of 1818, the United States thereby 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 stipu-
lation is clearly expressed, and is incapable of misconstruction.

The proposition of the American Government to concede to us the privilege of fishing
on their coasts as an equivalent for a participation in the coast fisheries of these colonies, is
delusive and so utterly disproportioned in the benefits intended to be conferred on the
respective parties, that it ought not, in justice to your Majesty's colonial subjects, to be
entertained. With the best fisheries in the world upon our own shores, our fishermen
would seldom seek the waters of the United States for fish. This specious offer can only
deceive the uninformed, and is well known, both by the Americans and colonists to be
comparatively valueless to the latter; while the privileges sought to be obtained by the
people of the United States are acknowledged to be of momentous concern to them,—
forming a nursery for seamen, and a source from which they derive maritime im-
portance.

When the welfare of the Empire demanded extensive changes in the regulations of
trade, and alterations in her relations with foreign nations, the particular interests of the
colonies were not permitted to disturb the general arrangement by the continuance of a
protective policy. The fisheries are the gift of a beneficent Providence to the countries
they surround, and necessarily form no part of any complicated policy. The fisheries on
the shores of New Brunswick, it is humbly submitted, belong to the people, and to allow
them to be participated in by a foreign Power without their consent, would be a sacrifice
of their rights and interests, place the colonists in a humiliating position too painful to
contemplate, and be inconsistent with the national honour.

We respectfully desire to express our opinion, that the fisheries in the rivers, harbours,

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and estuaries, should be reserved exclusively for the people of this province, and that no foreigners should be permitted to participate therein upon any terms or conditions whatever.

We most urgently press upon your Majesty's consideration the anomalous position in which the North American Colonies are placed by the present commercial relations with the United States. While your Majesty's Government, with unexampled liberality, has opened the ports of the colonies to that Republic, by which American ships are permitted to enter therein on the same terms as British ships, and take on board cargoes, either for the United Kingdom or any other colony, colonial as well as other British vessels are precluded from carrying cargoes from one State of the Union to another; and this restriction is extended even to the State of California. American ships and steamers are built and equipped in the United States, sold in the British and Colonial markets, evade the high import duties on the various articles used in their construction, receive British registers, and have all the advantages connected with these privileges; while British and Colonial ships possess no such privileges and advantages in the United States. American manufactures are admitted into the province at the same rates of duties as are charged on British merchandize; and while such manufactures are admitted into this province at a duty of $3\frac{1}{2}$ per cent. *ad valorem*, the products of New Brunswick are subject, upon importation into the United States, to duties from 20 to 30 per cent. They enjoy the privilege of sending the staple commodities of wheat, flour, and other breadstuffs to the British market, free of duty, competing with your Majesty's colonial subjects upon equal terms in our own markets, while they impose a duty of 20 per cent. on similar colonial productions imported into the United States. The present state of the respective tariffs is one which creates vexations and harassing impediments to the general commerce of the country, and, added to the exclusion of colonial-built ships from registry in American ports, is the cause of well-grounded complaint by your Majesty's colonies, and the unequal pressure serves only to implant feelings of disappointment and retaliation.

We regret to observe, that these important and gratuitous concessions, which have conferred upon the citizens of the neighbouring Republic commercial advantages not possessed by your faithful colonial subjects, have not been met by the Government of the United States in the same enlightened and liberal spirit with which they were granted; and that had they been withheld by your Majesty's Government, we believe, to obtain them, the American people would willingly have ceded to the colonies an equal participation in similar privileges to those they have thus obtained without an equivalent.

We have reason to apprehend, from recent official papers laid before Congress, as well as by the Message of the late President of the United States to that body, that the American Government will endeavour to negotiate separate Treaties on the subject of the fisheries and reciprocal trade. This course, we are decidedly of opinion, if acceded to by your Majesty's Government, would be extremely adverse to the interests of British North America. We humbly contend that only one Convention, embracing all the objects now under discussion between the two Governments, relative to the fisheries and the freedom of commerce, should be negotiated; such Convention to contain a provision reserving to your Majesty's Government the full right of withdrawing any concession of the fisheries that it might be deemed expedient to make, upon giving due notice of such intention, whenever it may be thought proper so to do.

Being fully sensible of the vast importance of establishing the commercial intercourse between these colonies and the United States, upon an enlightened and liberal basis, and entertaining a cordial desire to promote a friendly feeling with that country, we beg to express our readiness to afford every facility in accomplishing this great international object, as far as a due regard to the rights and interests of your Majesty's faithful subjects, the people of New Brunswick, will justify. Influenced by these principles, we would respectfully suggest that whenever the Government of the United States are prepared to concede reciprocal trade to your Majesty's colonial possessions in North America, in the following articles, viz. :—

Grain and breadstuffs of all kinds; vegetables, fruits, seeds, hay, straw, hemp, flax, trees, plants, rice, cotton, unmanufactured tobacco, hops; animals of all kinds; salted, fresh, smoked, and preserved meats, butter, cheese, lard, tallow, eggs, hides, horns, wool, undressed skins, and furs of all kinds; ores and minerals of all kinds; metals of all kinds in pigs and blooms, steel, copper, grindstones, and stone of all kinds, marble in its crude or polished state, slate, earths, coal, lime, bricks, ochres, asphaltum, asphalt rock, maltha, petroleum, naphtha, mastic, gypsum ground and unground, rock-salt, woods, logs, timber, lumber of all kinds, whether in the rough, hewn, sawn, or split, staves, fire-wood, the bark and roots of trees, ashes; fish of all kinds, whether fresh, salted, dried, smoked, or preserved, fish-oil, train, seal, and spermaceti-oil, head matter and blubber, fins and skins, and all other products of fish or other creatures living in the waters,—being the growth, production, or manufacture of your Majesty's North American colonies and the United States respectively, when imported direct from the country producing the same. And also upon consideration that the American Government admit colonial-built ships to registry in American ports, in the same manner and with the like privileges that American vessels are admitted to registry in any port of the British empire; and further that they permit the vessels of New Brunswick to trade and carry cargoes between the different States of the Union, as American ships are now permitted to trade between colony and colony, and between the United Kingdom and the colonies; we would be willing to admit the American

fishermen to a free participation with British subjects in the in-shore and bay fisheries on the coast of New Brunswick, with permission to land upon the coasts for the purpose of drying their nets, and curing their fish, not interfering with the rights of private property or British fishermen; provided that the fishermen of New Brunswick are permitted to enjoy a free participation with American citizens in the in-shore fisheries, and the fisheries within the bays on the coasts of the United States, subject to the like conditions, limitations, and regulations as should be imposed upon American fishermen in the waters of New Brunswick.

Should the American Government evince a disposition to open their coasting trade, and to extend the principle of reciprocity to colonial ships within their boundaries, we would cheerfully meet such advances with a corresponding concession.

In common with many of the most enlightened American statesmen, we believe that a free exchange of the natural productions of the United States and these colonies, including those of the field and forest, the mines and fisheries, would be mutually advantageous to both countries, and would rapidly enlarge their commercial relations, and add greatly to their prosperity; we therefore feel a lively interest in the result of the negotiations now pending between your Majesty's Government and that of the United States.

The liberal commercial policy adopted by your Majesty and introduced into these colonies, as well as other parts of the Empire, under which the productions referred to are admitted into our markets either free or at a very light duty, leaves little to offer under our existing tariffs as an equivalent for the admission of our productions on corresponding terms with the States of the Union. Should these negotiations prove unsuccessful, and the Government of the United States persist in refusing to extend to these colonies advantages similar to those which the American people have obtained from Great Britain, we would earnestly urge on your Majesty the necessity of withdrawing the restrictions imposed upon the Colonial Legislatures, and leaving them to exercise their own discretion with regard to differential duties. We believe that this would be followed by such an adjustment of the tariffs of the British North American Colonies as, while it might restrict our trade with the United States, would extend in a corresponding degree our commercial relations and transactions with each other on terms mutually advantageous to the respective colonies. Such a course of legislation, securing as it would to the colonists a preference in their respective markets, would lead to a much more extensive exchange of the agricultural productions of Canada for the produce of the mines and fisheries of the lower colonies; it would impart a stimulus to those various branches of industry, and, by enlarging their commercial intercourse, draw the colonists more closely together, while it would place the people of the United States in a position to form a more accurate estimate of the value of our colonial trade, and to judge whether it is for their own interest to have the intercourse between the two countries clogged with those commercial restrictions which still continue to form part of their policy.

In conclusion we feel it our duty calmly to express our opinion, that in former negotiations between the United States and the mother country, when colonial interests were at stake, the Americans have obtained the advantage; but we confidently trust in your Majesty's desire to consult the wishes and feelings of your dutiful subjects, the people of New Brunswick, and feel assured that their interests, so deeply involved in the pending negotiations, will not be sacrificed.

(Signed)

WILLIAM BLACK,
President of Legislative Council.
D. HONINGTREE,
Speaker of Assembly.

(No. 24.)

No. 16.

No. 16.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir EDMUND HEAD.

SIR,

Downing Street, May 3, 1853.

I HAVE received your despatch No. 26, of the 9th of April, transmitting an Address to the Queen from the Legislative Council and Assembly of New Brunswick, on the subject of the fisheries, and I have to instruct you to acquaint the Council and House of Assembly that I have laid their Address before the Queen, and that Her Majesty was pleased to receive it very graciously.

I have, &c.

Sir Edmund Head,
&c. &c. &c.

(Signed) NEWCASTLE

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No. 17.

(No. 39.)

No. 17.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to the Duke of NEWCASTLE. Government House, Fredericton, May 21, 1853.

I HAVE the honour to inclose three Acts, duly certified, with clauses suspending their operation until Her Majesty's pleasure be known.

I also inclose the report of the Attorney-General on these three Acts, and I desire to submit them for the Queen's consideration.

2. The Act relating to the fisheries contains some very stringent provisions, but I believe that they will be found in accordance with those already enacted by the Parliament of Great Britain and in Nova Scotia.

Some of the sections of the Act are founded on the recommendations of Captain Kynaston and Sir George Seymour. I anticipate great benefit from the power given in section 26, since it will enable the officer commanding one of Her Majesty's ships to control the irregular proceedings of the inhabitants as well as those of foreigners.

See Secs. 21, 22, 23.
May 19, 1853.

Encl. 1 in No. 17.

Inclosure 1 in No. 17.

ANNO DECIMO SEXTO VICTORIÆ REGINÆ.

An Act relating to the Coast Fisheries, and for the prevention of illicit Trade.
[Passed 3rd May, 1853.]

BE it enacted by the Lieutenant-Governor, Legislative Council, and Assembly as follows:—

Vessels hovering within three miles of the coast may be boarded.

I. Officers of the Provincial Treasury, and any other person duly appointed by the Lieutenant-Governor in Council for that purpose, may go on board any vessel or boat within any harbour in this province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as she may remain within such place or distance.

Proceedings when master refuses to depart.

II. If such vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers or persons above-mentioned may bring such vessel or boat into port, search her cargo, and also examine the master upon oath; and if the master or person in command shall not truly answer the questions demanded of him in such examination he shall forfeit one hundred pounds; and if there be any prohibited goods on board, then such vessel, or boat, and cargo thereof, shall be forfeited.

Foreign vessels fishing or preparing to fish, and their cargoes, forfeited.

III. If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall be found fishing (or to have been fishing), or preparing to fish within three marine miles of such coasts or harbours, such vessel or boat and the cargo shall be forfeited.

Vessels and goods may be seized. Penalty for obstructing officers.

IV. All goods, vessels, and boats liable to forfeiture may be seized and secured by any of such officers or persons so appointed, and every person opposing them, or any one aiding such opposition, shall forfeit two hundred pounds.

Custody of vessels and goods seized.

V. Goods, vessels, and boats seized as liable to forfeiture under this Act shall be forthwith delivered into the custody of the officers of the provincial revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized are directed to be secured and kept by law.

Proceeds of condemned vessels and goods, how applied.

VI. All goods, vessels, and boats condemned as forfeited under this Act shall, by direction of the principal officer of the provincial revenue where the seizure shall have been effected, be sold at public auction, and the produce of such sale shall be applied as follows: the amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one-half of the remainder shall be paid to the officer or person seizing the same, without deduction, and the other half, after first deducting all costs incurred, shall be paid into the treasury of this province; but the Lieutenant-Governor in Council may nevertheless direct that any vessel, boat, or goods seized and forfeited shall be reserved for the public service or destroyed.

Penalties and forfeitures, how prosecuted.

VII. All penalties and forfeitures imposed by this Act shall be prosecuted and recovered in the Supreme Court.

VIII. If any goods, vessel, or boat shall be seized as forfeited under this Act, the Judge of the said Court, with the consent of the persons seizing the same, may order re-delivery thereof, on security by bond to Her Majesty, to be made by the party claiming the same, with two sureties. In case the property is condemned, the value thereof shall be paid into the Court, and distributed as above directed.

Vessels and goods to be delivered on security.

IX. All suits for the recovery of penalties or forfeitures shall be in the name of Her Majesty, and shall be prosecuted by the Attorney-General, or in his absence by the Solicitor-General. If a dispute arise whether any person is authorized to seize under this Act, oral evidence may be heard thereupon.

Suit, how brought and prosecuted; oral evidences as to seizing officer.

X. If any seizure take place under this Act, and a dispute arise, the proof touching the illegality shall be upon the owner or claimant.

Burden of proof to rest with claimant.

XI. No claim to anything seized under this Act and returned into the said Court for adjudication shall be admitted unless the claim be entered, under oath, with the name of the owner, his residence, and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney, or agent, and to the best of his knowledge and belief, before any Justice of the Peace.

Claim for property seized to be under oath.

XII. No person shall enter a claim to anything seized under this Act until security shall have been given in a penalty not exceeding sixty pounds, to answer and pay costs occasioned by such claims, and in default of such security the things seized shall be adjudged forfeited, and shall be condemned.

Security to be given before claim be entered.

XIII. No writ shall be sued out against any officer or other person authorized to seize under this Act for anything done thereunder until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent, in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent; and no evidence of any cause of action shall be admitted except such as shall be contained in the notice.

Month's notice to officer before action.

XIV. Every such action shall be brought within three months after the cause thereof has arisen.

Limitation of action against seizing officer.

XV. If on any information or suit brought to trial under this Act on account of any seizure, judgment shall be given for the claimant, and the Judge or Court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, and the person who made the seizure shall not be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the Judge or Court shall certify that there was probable cause for the seizure, then the plaintiff, besides the thing seized, or its value, shall not recover more than twopence damages, and no costs of suit, and the defendant shall not be fined more than one shilling.

If judge certifies probable cause for seizure, no costs allowed.

XVI. The seizing officer may, within one month after notice of action received, tender amends to the party complaining, or his attorney or agent, and plead such tender.

Amends may be tendered within one month.

XVII. All actions for the recovery of penalties or forfeitures imposed by this Act must be commenced within three years after the offence committed.

Limitation of action for penalties.

XVIII. No appeal shall be prosecuted from any decree or sentence of any Court in this province touching any penalty or forfeiture hereby imposed, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

Appeals, within what time to be prosecuted.

XIX. All coasting vessels under sixty tons burden owned in this province, and engaged in the coasting trade thereof, shall be furnished with a narrow piece of plank or iron affixed to the bottom of the keel and level therewith, extending aft at least six inches beyond the aperture between the stern-post and rudder, and well secured on the keel; but this section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the stern-post and rudder.

Coasting vessels to have narrow plank or iron extending aft of stern-post.

XX. Any owner or master of a coasting vessel not so furnished or built running foul of any net set within or off the harbours, bays, or rivers of the coast of this province shall, upon due proof thereof, forfeit five pounds, to be recovered by the party injured to his own use as a private debt, leaving to such party grieved nevertheless his right at common law for further damages.

Forfeiture for destroying nets, if not so provided.

XXI. The owner of every vessel or boat under the burden of fifteen tons belonging to this province, and employed in fishing, coasting, or piloting, shall furnish a written description of the same, together with his own name, place of abode, and occupation, to the chief officer of the provincial treasury of the district wherein the owner resides; such officer shall thereupon grant to the owner a certificate that the requisite description has been filed with him, and that a certain number has been affixed thereto; which number shall thereafter be painted conspicuously on both bows in figures not less than nine inches in length, and on the mainsail of such vessel or boat in figures not less than three feet in length.

Vessels or boats under fifteen tons to have distinguishing number on bows and mainsails.

XXII. Vessels or boats belonging to owners residing within the Bay of Fundy, shall be distinguished by numerals in red on the bows and mainsail, and vessels or boats belonging to owners residing on the Gulf Coast of this province shall be distinguished by numerals in black upon a white patch on each bow, and in black upon the mainsail of such boat or vessel.

Colour of numbers in Bay of Fundy and Gulf of St. Lawrence respectively.

XXIII. Every vessel or boat under the burden of fifteen tons belonging to this province, and found fishing, coasting, or piloting near its shores without bearing a distinguishing

Vessels or boats without distinguishing

number to be seized and detained.

Penalty for false or fraudulent description of vessel or boat.

Penalty for false or fraudulent proceedings with reference to vessels above fifteen tons burden, or foreign vessels.

Lieut.-Governor may grant Commissions of the Peace to officer in command of H.M. vessel of war, while protecting the fisheries.

Definition of terms.

Suspending clause.

number on the bows and mainsail as above provided, shall be seized and detained until properly numbered, and until the payment of a fine not exceeding five pounds.

XXIV. If the owner of any vessel or boat under the burden of fifteen tons shall make any false or fraudulent description of the same, or any misrepresentation whatsoever, in order to obtain a certificate and number therefor, he shall forfeit twenty pounds.

XXV. If any person shall make a false or fraudulent declaration, oath or representation with reference to the sale, transfer, registry, or re-registry of any ship or vessel above the burden of fifteen tons, or shall conspire or collude with a foreigner in any false or fraudulent transfer of a foreign ship or vessel, either to obtain a British register therefor, or for any false, fraudulent, or deceptive purpose, or shall wilfully and knowingly aid in giving to the master or owner of a foreign vessel being a foreigner the character of a British subject, or to a foreign vessel the character of a British vessel, he shall forfeit one hundred pounds.

XXVI. The Lieutenant-Governor may, by commission under the great seal, appoint the officer in command of any of Her Majesty's vessels of war employed on the coasts of this province in the protection of the fisheries to be a Justice of the Peace in any or every county of this province, such commission to be in force while such officer is employed on the coast in the protection of the fisheries and in command of one of Her Majesty's vessels.

XXVII. In this chapter "vessels" shall include ships, and "harbours" shall include ports, bays, and creeks.

XXVIII. This Act shall not come into operation until Her Majesty's approbation is thereunto had and declared.

J. R. Partelow,
Provincial Secretary.

EDMUND HEAD.

Encl. 2 in No. 17.

Enclosure 2 in No. 17.

REPORT of the Attorney-General of New Brunswick upon the foregoing Act of that province, passed with suspending clause during the recent session of its Legislature, viz.: An Act relating to the Coast Fisheries, and for the prevention of illicit trade.

THIS Act is founded upon the Convention of 1818, between Great Britain and the United States, and the Imperial Act of 59th Geo. III, cap. 38, passed 14th June, 1819, and is strictly in accordance with the Treaty and Act of Parliament above referred to, is almost a copy of the Nova Scotia law upon the same subject, and is, I conceive, necessary for the protection of the fisheries under the said Treaty.

Fredericton, May 20, 1853.

(Signed)

J. A. STREET,
Attorney-General.

No. 18.

(No. 42.)

No. 18.

COPY of a DESPATCH from Lieutenant-Governor Sir EDMUND HEAD to the Duke of NEWCASTLE.

Government House, Fredericton,
June 1, 1853.

(Received, June 20, 1853.)

MY LORD DUKE,

Page 82.

IN reply to your Grace's despatch of 27th April (No. 22),* I have the honour to transmit: 1st. A copy of a letter from Mr. Wm. Wright, the Advocate-General of New Brunswick, addressed to my private secretary, and inclosing a case prepared by him, on the subject of seizures of American vessels made by officers of Her Majesty's navy in protection of the fisheries.

2. The opinion of the Attorney-General respecting this case, together with copies of all local Acts cited by the Advocate-General as touching the question raised, and now in force in this colony.

With regard to the concluding paragraph of the Advocate-General's

letter, I have to state to your Grace that I am not aware of any regulations on this subject having been sent out to this province.

I trust these documents will be found sufficient for the information of the Queen's Advocate, to whom your Grace referred the question.

I have, &c.

(Signed) EDMUND HEAD.

His Grace the Duke of Newcastle,
&c. &c. &c.

NEW
BRUNSWICK.

Enclosure in No. 18.

Encl. in No. 18.

SIR,

St. John, May 19, 1853.

I HAVE the honour to acknowledge your letter of the 16th instant, inclosing, by the directions of his Excellency the Lieutenant-Governor, a copy of a despatch received from the Colonial Secretary on the subject of seizures made in protection of the fisheries, and requesting me either to prepare a formal case of the question raised by me (having reference to all local Acts in force on the subject), or to furnish his Excellency with notes, &c., from which the Attorney-General might form such a case.

I have accordingly lost no time in drawing up the case required of me, and which I herewith inclose, referring therein to all Acts in force, local or otherwise, bearing on the question.

I observe that the Queen's Advocate, in his letter of 23rd April last, to the Duke of Newcastle, calls for "a copy of the existing regulations made by orders in Council under statute 59 Geo. III, c. 38;" presuming, doubtless, that regulations were made by the King in Council, pursuant to the first section of that Act, which provides as follows: "that from and after the passing of this Act, it shall and may be lawful for His Majesty, by and with the advice of His Majesty's Privy Council, by any order or orders in Council, to be from time to time made for that purpose, to make such regulations, and to give such directions, orders and instructions to the Governor of Newfoundland, or any officer or officers on that station, or to any other person or persons whomsoever, as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of the said Convention, with relation to the taking, drying, and curing of fish by inhabitants of the United States of America, in common with British subjects, within the limits set forth in the said article of the said Convention."

Whether such regulations were made, I have been unable as yet to ascertain. The naval officers on this station last year knew of none, and I think it right to call his Excellency's attention to the matter, in order that if any such regulations were sent out to this province, the Queen's Advocate may be furnished with a copy, together with the inclosed case; or if none exist, that he should be made acquainted with that fact.

I have, &c.

W. C. Drury, Esq.,
&c. &c. &c.

(Signed) WM. WRIGHT,
Advocate-General.

CASE.

By an Act of the Parliament of Great Britain and Ireland 59th George III, cap. 38, intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing 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," it is among other things enacted (sec. 2): "That from and after the passing of this Act it shall not be lawful for any person or persons, not being a natural-born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever, within three marine miles of any coasts, bays, creeks, or harbours whatever, in any part of His Majesty's dominions in America not included within the limits specified and described in the first Article of the said Convention, and hereinbefore recited; and that if any such foreign ship, vessel, or boat, or any persons on board thereof, shall be found fishing or to have been fishing or preparing to fish within such distance of such coasts, bays, creeks, or harbours, within such parts of His Majesty's dominions in America out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned, by such and the like ways, means, and methods, and in the same courts, as

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ships, vessels, or boats may be forfeited, seized, prosecuted, and condemned, for any offence against any laws relating to the revenue of customs, or the laws of trade and navigation, under any Act or Acts of the Parliament of Great Britain, or of the United Kingdom of Great Britain and Ireland; provided that nothing in this Act contained shall apply, or be construed to apply, to the ships or subjects of any Prince, Power, or State, in amity with His Majesty, who are entitled by Treaty with His Majesty to any privilege of taking, drying, or curing fish on the coasts, bays, creeks, or harbours, or within the limits in this Act described."

At the time of the passing of the above Act offences against "laws relating to the revenue of customs, or the laws of trade and navigation," were prosecuted in the British colonies in America, under the authority of the Act of Parliament 49th George III, cap. 107, which enacts "That all penalties or forfeitures incurred in the British colonies or plantations in America under any law relative to the trade or revenue of the said colonies or plantations, shall and may be prosecuted and recovered in any Court of Record or of Vice-Admiralty having jurisdiction in the colony or plantation where the cause of prosecution arises, and where there are no such Courts, then in any Court of Record, or of Vice-Admiralty, having jurisdiction in some British colony or plantation near to that where the cause of prosecution arises."

49 Geo. III, c. 107.

Under this Act, it was the invariable practice in the province of New Brunswick (and it is believed, in the adjacent British colonies also), to prosecute seizures to condemnation in the Courts of Vice-Admiralty.

The last-mentioned Act remained in force until the year 1825, when it was repealed by 6 George IV, cap. 105, intituled "An Act to repeal the several laws relating to the Customs," and the purposes for which the repealed statutes had been passed were embodied in an Act passed in the same Session of Parliament, intituled "An Act to regulate the trade of the British Possessions abroad," by which it was enacted (sec. 57), "That all penalties and forfeitures which may have been heretofore, or may be hereafter incurred, shall and may be prosecuted, sued for, and recovered, in any Court of Record or of Vice-Admiralty, having jurisdiction in the colony or plantation where the cause of prosecution arises; and in cases where there shall happen to be no such Courts, then in any Court of Record or of Vice-Admiralty having jurisdiction in some British colony or plantation near to that where the cause of prosecution arises."

6 Geo. IV, c. 105.

6 Geo. IV, c. 114.

This Act was in its turn repealed by the 3 & 4 William IV, cap. 50. But by an Act of the same session, bearing the same title as the repealed Act, the 57th section of the latter, above recited, was re-enacted.

3 & 4 Wm. IV, c.
59, s. 64.

The Act 3 & 4 William IV, cap. 59, was with other Acts relating to colonial trade consolidated by 8 & 9 Victoria, cap. 93, which is still in force, except so far as the same is repealed by 12 & 13 Victoria, cap. 29, sec. 1, and the 73rd section of which is in terms identical with the 64th section of 3 & 4 William IV, cap. 59, and the 57th section of the 6 George IV, cap. 114, above recited, authorizing prosecutions in the Colonial Courts of Vice-Admiralty.

The practice accordingly continued of prosecuting seizures in the Courts of Vice-Admiralty, which, being by their constitution and forms of procedure free from all undue pressure of popular feeling, were preferable to the Supreme or other Courts of Record, in which trials by jury were, in most revenue cases, exposed to such influences.

But, by the 69th section of the same Act, it is also provided: "That all vessels, boats, goods, and other things, which shall have been, or shall hereafter be seized as forfeited, in or near any of the British possessions abroad, under this or any Act relating to the customs, or to trade, or navigation, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law, in respect to vessels, boats, goods, and other things seized and condemned for breach of any such Act, unless the person from whom such vessels, boats, goods, and other things, shall have been seized, or the owner of them, or some person authorized by him, shall within one calendar month from the day of seizing the same, give notice in writing to the person or persons seizing the same, or to the collector, comptroller, or other chief officer of customs at the nearest port, that he claims the vessel, boat, goods, or other things, or intends to claim them."

8 & 9 Vic., c. 93,
s. 69.

By virtue of this section, the customs officers at St. John, New Brunswick, have ceased to prosecute any seizures, except in cases where claims are put in, as provided by the Act, but treating all other seizures as condemned by default, have proceeded at the expiration of the calendar month to sell the same at auction; and they further maintain that seizures made under the Act 59 George III, cap. 38, notwithstanding their international character, are to be dealt with in the same way.

The foregoing are the only Acts of the Imperial Parliament having any direct bearing on the present inquiry.

The local or provincial Acts requiring any notice are the following:—

Laws of the Pro-
vince of New
Brunswick, 15 Vic.,
c. 28.
Sec. 61.

1. An Act passed in the 15th Victoria, cap. 28, intituled "An Act to consolidate and amend the laws relating to the collection and protection of the revenue of this province," by which it is among other things enacted (sec. 61) "That all articles, ships, and vessels, not exceeding one hundred tons register, boats, carriages, and other articles which shall or may be seized as liable to forfeiture under the provisions of this Act, shall and may be deemed and taken to be condemned for breach of any law or laws of this province relating to revenue, unless the owner or owners of the articles so seized as forfeited, or the person from whom they were so seized, or some person duly authorized by him, shall within one calendar month from the day of seizing the same, give notice in writing to the Treasurer, Deputy-Treasurer, or other authorized officer, at or nearest the place where such seizure shall

have been made, that he claims the articles or things so seized, proved always that in case the articles so seized be live stock, or dead meats, or any description of perishable articles, unless claim to the same shall be made, and notice thereof given within forty-eight hours after such seizure made, the same shall be taken and deemed to be forfeited, and sold at public auction after twenty-four hours' notice being given."

And by sec. 68:—

"That any penalty or forfeitures inflicted under and by virtue of this or any Act relating to the revenue of this province, may be prosecuted, sued for, and recovered by action of debt, bill, plaint, or information in any of Her Majesty's Courts of Record within this province, in the name of the Treasurer or Deputy-Treasurer, or in the name of Her Majesty's Attorney or Solicitor-General."

2. An Act passed at the late session of the Provincial Legislature, with a suspending clause, and consequently awaiting Her Majesty's approval, intituled "An Act relating to the coast fisheries, and for the prevention of illicit trade." Whereby (sec. 1) "Officers of the Provincial Treasury, and any other person duly appointed by the Lieutenant-Governor in Council for that purpose, may go on board any vessel or boat within any harbour in this province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as she may remain within such place or distance."

"If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall be found fishing, or to have been fishing, or preparing to fish, within three marine miles of such coasts or harbours, such vessel or boat, and the cargo, shall be forfeited."

"All penalties and forfeitures imposed by this Act shall be prosecuted and recovered in the Supreme Court."

It will be observed that both these enactments in terms apply only to offences against those or other provincial Acts. They cannot, it is submitted, affect seizures made under the Imperial Act, 59 George III, cap. 38. The Supreme Court of this province having repeatedly held that Acts of Parliament cannot be controlled or limited in their operation by any colonial Acts.

In this state of the law the opinion of Counsel is required on the following points:—

1. Whether the mode of prosecution of seizures under the 2nd Section of the Act 59 George III, cap. 38, is limited to "the ways, means, and methods" prescribed by the laws then in force, "relating to the revenue of Customs or the laws of trade and navigation;" or whether the form and mode of procedure may not be regulated in accordance with laws in *pari materia* subsequently passed?

2. Supposing the 59th George III, cap. 38, to authorize prosecutions only according to the practice existing at the time of the passing of that Act, under the laws "relating to the revenue of Customs, or the laws of Trade and Navigation then in force; whether such authority did not necessarily cease, upon the repeal of those laws effected by 6 George IV, cap. 105. And if so, by what "ways, means, and methods" can seizures made under the 59th George III, cap. 38, be now prosecuted?

3. If the 2nd Section of the 59th George III, cap. 38, can be construed to authorize prosecutions in accordance with the practice founded upon subsequent Acts of Parliament above cited; whether by virtue of the same Acts the colonial Courts of Vice-Admiralty are not the proper tribunals for the adjudication of forfeitures under the 59th George III, cap. 38?

Lastly: Whether the 69th Section of the 8th and 9th Victoria, cap. 93, extends to seizures made under the 59th George III, cap. 38, the latter being of an international character? Or whether the penalty of condemnation by default, imposed by the 69th Section of the former Act, must not be limited merely to seizures made under that Act or other revenue Acts of a similar character?

St. John, May 18, 1853.

(Signed)

WM. WRIGHT,
Advocate-General,
Province of New Brunswick.

I BEG to report for the information of His Excellency the Lieutenant-Governor, that I have examined the annexed case of the Advocate General, and believe the same to be a pretty correct statement of the case. There are no other Provincial Acts in force touching the question, beyond those cited by Mr. Wright the Advocate General. All other Provincial Acts relative to the Fisheries, are purely of a local character, as will be seen by reference to the copies thereof sent herewith. The titles are as follows:—

1st. An Act to consolidate and amend the Laws relating to the Local Government of Counties, Towns, and Parishes in this Province.

2nd. An Act for the protection and regulation of the Sea and River Fisheries of this Province.

3rd. An Act in amendment of the Act for the protection and regulation of the Sea and River Fisheries of this Province.

4th. An Act to revive and amend an Act to regulate the Herring Fishery in the parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the County of Charlotte.

Respectfully submitted.

(Signed)

J. A. STREET,
Attorney-General.

Fredericton, May 26, 1853.

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Sec. 68.

Province laws, 16
Vic., c. 1.

Ibid, s. 3.

Ibid, s. 7.

13 Vic., c. 30, s.
10, art. 1, and s.
11, arts. 5, 6, & 7.
14 Vic., c. 31.
15 Vic., c. 53.

16 Vic., c. 39.

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13 VIC., CAP. 30. 1850.

Fishways in dams where fish resort to spawn.

ART. V. In all mill dams or other dams which have been or shall be hereafter erected or placed across any river, situate wholly or in part in this province, and which has been or may be resorted to by fish from the sea, at the season for spawning, there shall be a fishway sufficient for such fish to pass up and return without any such hindrance as may in future tend to divert them from such resort.

If no fishway, notice by Overseers.

ART. VI. If any mill dam erected as aforesaid shall at any time be without such fishway as required by the preceding Article, the overseers of the fisheries shall give notice in writing to the owner or occupier of such dam to make a good and sufficient fishway therein, within forty days after service of such notice.

Neglect to make fishway, dam a nuisance, and penalty.

ART. VII. In case the owner or occupier of such dam shall refuse or neglect to make such fishway to the satisfaction of the said overseers of the fisheries, within the time so limited for that purpose, the said dam shall be thenceforth deemed a public nuisance, and upon the conviction of such owner or occupier on an indictment therefor before the General Sessions, he shall be liable to be fined at the discretion of the Court, in a sum not less than twenty pounds, and not exceeding forty pounds; and the said Court shall order the said nuisance forthwith to be abated.

Remedy for penalty.

ART. VIII. If the owner or occupier of the dam refuse to pay such fine, the said Sessions may issue a warrant for levying such fine by distress and sale of the offender's goods and chattels; and if no sufficient distress can be found, the offender may be committed to the common gaol for the space of four months, or until the said fine be paid.

Proviso for local enactments.

ART. IX. Nothing herein contained shall affect any Act of Assembly now in force, concerning any river or stream therein named, or the rules and regulations made under the authority of such enactment, or the common law rights of any individual.

14 Vic. c. 31.

14 VIC., CAP. XXXI. 1851.

AN Act for the protection and regulation of the Sea and River Fisheries of this Province. Passed April 30, 1851.

No salmon to be taken between 31st August and 1st of April.

I. BE it enacted by the Lieutenant-Governor, Legislative Council and Assembly, that no salmon shall be taken in any manner whatever on the coasts of this province, or in any of the bays, rivers, or harbours of the same, where the tide ebbs and flows, after the thirty-first day of August in any year, nor shall any salmon be taken by any device whatever in any of the fresh-water rivers or streams of this province after the said thirty-first day of August in any year, under the penalty of ten shillings for each and every salmon taken in any year after the several days mentioned, and before the first day of April in the succeeding year.

Penalty.

II. And be it enacted, that whoever shall take any salmon in this province after sunset on Saturday night, and before sunrise on Monday morning, shall for each and every salmon so taken, forfeit and pay the sum of ten shillings.

Penalty for taking salmon after sunset on Saturday, and before sunrise on Monday.

III. And be it enacted, that whoever shall take any salmon by spearing either in the daytime or by spearing with torchlight, at any time between the thirty-first day of August and the first day of April, or in any place, shall forfeit and pay for every salmon so taken the sum of ten shillings, and shall further be liable to be imprisoned for any period not exceeding two days, at the discretion of the magistrate before whom such penalty shall be recovered; and whoever shall sell or offer for sale, or shall between the thirty-first day of August in any year, and the first day of April in the next succeeding year, purchase any salmon caught or taken by spearing, shall forfeit and pay the sum of ten shillings for each salmon so sold or offered or exposed for sale, or purchased as aforesaid.

Penalties for spearing salmon or selling or purchasing them, between 31st August and 1st April.

IV. And for the better regulation of the sea fisheries of this province, be it enacted, that the Lieutenant-Governor in Council may make rules and regulations for the management and protection of all fisheries on the sea coast of this province, or around any island laying off the said sea-coast, between low-water mark and three marine miles of such coast or island; and all orders made by the Lieutenant-Governor in Council, and published in the Royal Gazette, shall have the like force and effect as if contained in this Act; provided always, that such orders in Council shall not impose any greater penalty than fifteen pounds, or any longer term of imprisonment than ten days.

Governor in Council empowered to make regulations for the protection of all fisheries off the sea-coast or islands, with penalties.

V. And be it enacted, that the Lieutenant-Governor in Council may appoint wardens of the fisheries, not exceeding two in any county of this province, whose duty it shall be to watch over and protect the sea and river fisheries, and to enforce or cause to be enforced all the provisions of the Acts of Assembly, the rules and regulations of the Justices in Sessions or municipal authorities, or Orders in Council, with relation to such fisheries; which wardens shall be subject to the directions of the Governor in Council, and liable to such penalties as may be imposed by Order in Council for misconduct or neglect of duty.

Governor in Council may appoint not exceeding two wardens of the fisheries in any county.

Their duty and liability.

VI. And be it enacted, that the Lieutenant-Governor in Council may grant leases or licences of occupation for fishing stations on the ungranted shores, beaches, or islands of this province, at fair and reasonable rents, such leases or licences of occupation not to be for any longer term or period than five years, and to terminate whenever the fishing station shall cease to be used for fishery purposes; and no fishing station shall be allowed to

Governor in Council may grant leases of fishing stations on the ungranted shores.

occupy the whole of any locality where there is space for more than one such station; and in the event of several parties applying for the same station, the lease of such station shall be sold at public auction, after thirty days' notice, the upset price being determined by the Lieutenant-Governor in Council; provided always, that nothing herein contained shall interfere with or be construed to affect the rights of parties in lands or privileges heretofore granted.

VII. And be it enacted, that no herrings whatsoever shall be taken or caught in any manner on the spawning-ground at the southern head of Grand Manan between the fifteenth day of July and fifteenth day of October in any year, such spawning-ground commencing at the eastern part of Seal Cove, at a place commonly known as Red Point, and thence extending along the coast westerly, and around the southern head of Bradford's Cove, a distance of about five miles, and extending to the distance of one mile from the shore; and all nets or engines used for catching herrings on the said spawning-ground, within the period above limited, shall be seized and forfeited; and every person engaged in using the same shall be deemed guilty of a misdemeanour, and shall be arrested, prosecuted, and punished, as in other cases of misdemeanour.

VIII. And be it enacted, that all fines and penalties recoverable under and by virtue of any section of this Act, not exceeding fifteen pounds, shall and may be recovered before any two Justices of the Peace, with costs of prosecution, and beyond that sum, shall and may be recovered before any Court of competent jurisdiction, with costs of prosecution; such penalty, when recovered, to be paid into the County Treasury, and to be appropriated one half to and for the warden or wardens who may have instituted proceedings for the recovery thereof, and the other half to and for the use of the said county.

IX. And be it enacted, that nothing herein contained shall be construed to prevent the warden or wardens from being competent witnesses for the recovery of any penalties under this Act, for or by reason of their being entitled to any portion of the penalty so to be recovered.

X. And be it enacted, that the wardens to be appointed under and by virtue of the sixth section of this Act, shall in addition to the proportion of any penalties recovered under and by virtue of the eighth section of this Act to which they may be entitled, shall be entitled to receive and demand of and from the Provincial Government, the sum of forty pounds for his services during the current year; provided always, that before any such sum shall be drawn from the public funds, it shall be certified to the Lieutenant-Governor in Council that the county for which such warden or wardens has or have been appointed, has provided a similar sum for the payment of the said warden or wardens.

XI. And be it enacted, that in every dam now built or hereafter to be built or placed across the various streams and rivers in this province, a proper and suitable fishway shall be made and kept; provided that in those already erected, the proprietors thereof shall be allowed until the first day of October next to make the fishway required in and by this Act.

XII. And be it enacted, that no slabs or edgings, or other mill-rubbish, sawdust excepted, shall be allowed or put, directly or indirectly, by any person or persons, in any of the rivers or streams of this province.

XIII. And be it enacted, that whoever shall be convicted of any breach of the provisions of the eleventh and twelfth sections of this Act, shall be subject to the like pains and penalties as provided in and by the third section of this Act, and be recoverable as hereinbefore provided.

XIV. And be it enacted, that any person or persons prosecuting or giving evidence on any prosecution for the recovery of any penalty or penalties under the provisions of this Act, who shall be guilty of wilful and corrupt false swearing on such prosecution, shall be deemed guilty of perjury, and on conviction thereof before any court of competent jurisdiction, shall be liable to all the pains and penalties imposed by law upon persons guilty of perjury.

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Leases to be sold at auction when there are several applicants for the same station.

Taking of herrings prohibited on the spawning-ground at specified places.

Recovery of fines and penalties.

Act not to prevent a warden from being a competent witness.

Wardens to receive 40*l.* per annum from the Provincial Treasury if the county for which they are appointed pay the like amount.

Fishway to be made in dams across streams.

No mill rubbish except sawdust to be thrown into streams.

Penalties for breaches of sections 11 & 12 to be as in section 3.

Wilful and corrupt false swearing to be deemed perjury.

15 VIC., CAP. LIII. 1852.

15 Vic., c. 53.

An Act in amendment of the Act for the protection and regulation of the Sea and River Fisheries of this Province. Passed April 7, 1852.

BE it enacted by the Lieutenant-Governor, Legislative Council and Assembly, as follows:—

I. The 13th section of an Act made and passed in the 14th year of the reign of Her present Majesty, intituled, "An Act for the protection and regulation of the sea and river fisheries of this province," is hereby repealed.

14 Vic., c. 31, s. 13, repealed.

II. Whoever shall be convicted of any breach of the provisions of the 11th and 12th sections of the said recited Act, shall forfeit and pay a sum not less than 10*s.*, and not exceeding 15*l.* for each and every offence, at the discretion of the Justices of the Peace before whom the case may be tried, together with the costs of prosecution as provided in and by the 8th section of the said hereinbefore recited Act.

Penalty for breach of sections 11 & 12 as to dams and rubbish.

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Streams to which fish have not been in the habit of resorting exempted.

Justices authorized to assess for 40*l.* to each warden.

Angling for salmon permitted till 15th September.

III. The streams and rivers of the province to which fish have not at any time heretofore been in the habit of resorting shall be considered as exempt from the operation of the 11th section of the said recited Act, and it shall be the duty of the warden or wardens within whose jurisdiction such streams and rivers shall fall, to determine upon such exemption.

IV. The Justices of the Peace for any county or counties to which any warden or wardens may have been appointed under the aforesaid Act, may at any General Sessions of the Peace, or at any Special Sessions of the Peace for that purpose convened, be and they are hereby authorized to make such rate and assessment upon the inhabitants of the said county or counties as will raise the sum of 40*l.* for each warden appointed under the said Act, the same to be assessed, levied, collected and paid agreeably to any Acts now or hereafter to be in force for the assessing, collecting and levying county rates.

V. That angling for salmon shall be permitted until the 15th day of September, anything in the 1st section of the hereinbefore recited Act to the contrary notwithstanding.

16 Vic. c. 39.

16 VIC., CAP. XXXIX. 1853.

Preamble.

AN Act to revive and amend an Act to regulate the Herring Fishery in the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the county of Charlotte. Passed May 3, 1853.

WHEREAS great injury has been done to the herring fishery with the county of Charlotte by the erection of weirs, fishgarths, and other obstructions, and the placing and setting of seines and nets across the several havens, rivers, creeks and harbours therein;

Be it enacted by the Lieutenant-Governor, Legislative Council and Assembly, as follows:—

The placing of seines or nets restricted in certain places in the county of Charlotte.

I. No seine or net shall be set across the mouth of any haven, river, creek, or harbour within the parishes of Grand Manan, West Isles, Campo Bello, Pennfield, and Saint George, in the county of Charlotte, and no seine or net shall be set in any such haven, river, creek, or harbour, which shall extend more than one-third the distance across the same, or be within forty fathoms of each other, or which shall be set within twenty fathoms of the shore at low-water mark of the same.

Penalty for offending, &c.

II. Any person offending against the preceding section, upon due conviction thereof, or by confession before one of Her Majesty's Justices of the Peace for the county of Charlotte, shall for the first offence forfeit the sum of 5*l.*, to be levied by warrant of distress and sale of the offender's goods; and for the second offence shall forfeit the sum of 10*l.*, to be recovered with costs in an action of debt in any Court of Record in this province; and for the third and any subsequent offence, shall forfeit the sum of 15*l.*, to be recovered with costs in like manner; one-half of such penalties, when recovered, to be paid to the overseers of the poor of the parish where the offence was committed, for the use of the poor, and the other half to the person who shall sue for the same.

Recovery and application.

III. Every fish weir in the parishes before mentioned which is dry at low water, or which in the opinion of the wardens of the fisheries for the county of Charlotte requires the same, shall have a gate therein of such width and in such position as the said wardens may determine; and the owner or occupier of any fish weir who shall neglect or refuse to place a gate therein according to the directions of the said wardens, shall forfeit and pay the sum of 5*l.* for each day he shall so neglect and refuse after due notice.

Wardens may order gates to be made in weirs dry at low water.

IV. The said wardens and the overseers of the fisheries in the parishes before-mentioned, shall severally have power to seize and remove any net, hedge, weir, fishgarth, seine, or other obstruction, set or placed contrary to the provisions of this Act, and after five days' notice may sell the same in some public place in the parish where the seizure is made, together with any fish found therein; after deducting from the proceeds the charges of such seizure and sale, the residue shall be applied to the payment of any penalty incurred under this Act, and the overplus, if any, shall be paid to the overseers of the poor for the parish where the offence was committed, for the use of the poor thereof.

Authority to seize nets, weirs, &c., set contrary to this Act.

Gurry grounds to be marked out and limits published.

V. The said wardens shall have power to mark out and designate in proper positions at the Island of Grand Manan and other fishing stations in this province, if necessary, fit places for the deposit of fish offal, to be called "gurry grounds;" they shall post up notices in the said island at the several school-houses, describing the limits and position of such "gurry grounds," and publish the like notice in the Royal Gazette; and if after the posting and publication of such notice, any person shall cast overboard from a boat or vessel the heads, bones, or other offal of fish into the waters of, or near the Island of Grand Manan, at any place except the said "gurry grounds," such person shall forfeit and pay a fine not exceeding five pounds nor less than ten shillings for each offence.

Penalty for casting gurry at other places.

Recovery and application of penalties.

VI. The penalties in the two preceding sections may be sued for and recovered by summary proceedings before one or more Justices of the Peace, together with costs, and when recovered shall be paid over to the person who shall prosecute for the same.

(No. 43.)

No. 19.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir EDMUND HEAD.

SIR,

Downing Street, September 30, 1853.

WITH reference to your despatch No. 24, of the 26th of March* last, relative to the proceedings to be taken in the case of seizures of American vessels made by officers of Her Majesty's navy in protection of the fisheries on the coasts of New Brunswick; I transmit for your information and guidance the accompanying copy of a report which I have obtained from Her Majesty's legal advisers.

* Page 80.

Sir Edmund Head,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

Enclosure in No. 19.

Encl. in No. 19.

COPY of LETTER from the LAW OFFICERS to His Grace the Duke of NEWCASTLE.

MY LORD DUKE,

Doctors' Commons, June 22, 1853.

WE are honoured with your Grace's commands, signified in Mr. Merivale's letter of the 20th of April last, stating that he was directed to transmit to us the copy of a despatch received from the Lieutenant-Governor of New Brunswick, with its inclosures, and to request that we would report our opinion what steps, with reference to the questions raised in this correspondence, ought to be taken in New Brunswick, as to the seizures of American vessels made by officers of Her Majesty's navy in protection of the fisheries.

Mr. Merivale also states that he is directed to refer us to an opinion given by the Queen's Advocate, jointly with the then Attorney and Solicitor-General, on December 20th last, as to the distribution of the proceeds of similar seizures in Prince Edward Island, in case it should appear to us to have any bearing upon it.

In obedience to your Grace's commands, we have taken this matter into consideration, and have the honour to report:—

That as the 2nd section of the 59th Geo. III, c. 38, enacts that foreign vessels, fishing in contravention of that Act, may be seized, prosecuted, and condemned by the same means and in the same Courts as vessels forfeited, seized, prosecuted and condemned for any offence against any laws relating to the revenue of customs, or the laws of trade and navigation, under any Act or Acts of Parliament; and the 69th section of the 8th and 9th Vict. c. 93, provides that all vessels which shall be seized as forfeited in or near any of the British possessions abroad, under any Act relating to the customs or to trade or navigation, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to vessels seized and condemned for breach of any such Act, unless the person from whom such vessel shall have been seized, or the owner, or some person authorized by him, shall within one calendar month give notice, in writing, that he claims or intends to claim the vessel,—we are of opinion that vessels seized under the former Act may be condemned under the latter.

We, however, fully concur with the Queen's Advocate at New Brunswick as to the expediency of proceeding against foreign vessels, seized under the 59th Geo. III, c. 38, in the Admiralty Court, instead of having recourse to the summary process provided by the Customs Act of the 8th and 9th Victoria.

His Grace the Duke of Newcastle,
&c. &c. &c.

We have, &c.
(Signed) J. D. HARDING.
A. E. COCKBURN.
RICHARD BETHELL.

NEW
BRUNSWICK.

No. 20.

No. 20.

COPY of a LETTER from Captain HAMILTON to H. MERIVALE, Esq.

SIR,

Admiralty, December 24, 1852.

WITH reference to your letter of the 11th instant, transmitting a copy of a despatch from the Lieutenant-Governor of New Brunswick, relative to the disposal of the proceeds of two vessels seized and condemned by the Court of Vice-Admiralty in that province for an infraction of the Convention of 1818; I am commanded by my Lords Commissioners of the Admiralty to call your attention to my letter of the 11th ultimo* upon this subject, and to request that my Lords may be favoured with a reply to that letter.

* Page 3.

I have, &c.

H. Merivale, Esq.,
Colonial Office.

(Signed) W. A. B. HAMILTON.

PRINCE EDWARD ISLAND.

PRINCE EDWARD ISLAND.

No. 1.

(Separate.)

No. 1.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Prince Edward Island,
October 26, 1852.

(Received, November 8, 1852.)

(Answered, December 28, 1852, p. 100.)

SIR,

SOME difficulty having arisen here, in regard to the proceeds (or rather their safe custody in the meantime) of the sales of the three American fishing schooners detained by Her Majesty's ship "Devastation" and her tender the "Telegraph," which have been condemned by the Vice-Admiralty Court, I am desirous to have your instructions on this subject; the Controller of the Customs intending to pay the money into the Treasury here when he receives it, to await the decision of Her Majesty's Government.

2. On the arrival of the naval force, alluded to in your despatch of the 27th May last (No. 4), I apprized Vice-Admiral Sir George Seymour of the Prince Edward Island Statute, 6 Vict. c. 15, suggesting that the officers under his command might be furnished with a commission from the Lieutenant-Governor to enforce the observance of the Convention of 1818, within his jurisdiction in terms of the Colonial Statute. An Order in Council by Her Majesty, of date 3rd September, 1844, having declared that its clauses should be the rules, regulations, &c., respecting the fisheries on the coasts, bays, creeks, or harbours of Prince Edward Island, and the fourth section provides for the appropriation of the proceeds of seizures, one-half to the Colonial Treasury, the other to the person legally seizing.

3. His Excellency Sir George Seymour, after, I believe, consulting the Attorney-General at Halifax, preferred that his officers should act under the Imperial Statute, 59 George III., and the vessels detained by Her Majesty's ships have been condemned under that statute, which is, however, silent as to the appropriation of seizures when condemned.

4. I apprehend, therefore, that the application of forfeitures and penalties may be regulated by the 3 and 4 Wm. IV, c. 59, the 75th clause of which provides, "that all penalties and forfeitures recovered in any of the British possessions in America, under that Act, or any Act made for the prevention of smuggling or relating to the revenue or customs, or to trade and navigation, &c., shall be paid into the hands of the collector or controller, &c. &c."

The three vessels condemned by the Vice-Admiralty Court were fishing on the coast of Prince Edward Island, and seized within three miles of the shore.

5. I inclose herewith for your information copy, marked No. 1., of the decree in the Court of Vice Admiralty: *The Queen v. schooner "Caroline Knight"* (the same decree in two other similar cases); copy marked No. 2, Instructions from the Board of Customs, London, to their Controller here; and copy, marked No. 3, of the Prince Edward Island Statute, 6 Victoria, c. 14. The Admiral has applied to the proper officer of the Vice Admiralty Court for an account of the expenses of the prosecution, and the net proceeds of the sales: when these accounts are made up, they will be forwarded to Sir George Seymour, and a copy sent to you. I shall also forward a copy of this

letter to his Excellency, apprizing him that I await your instructions as to the money which will be lodged in the Treasury here for behoof of the parties who may be entitled to the same.

PRINCE
EDWARD
ISLAND.

I have, &c.
(Signed) A. BANNERMAN,
Lieut.-Governor.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Enclosure 1 in No. 1.

Encl. 1 in No. 1.

In the Court of Vice-Admiralty.

Our Sovereign Lady the Queen, on the relation of Colin Yorke Campbell,

versus

The schooner "Caroline Knight," Benjamin Small, master; her tackle, apparel, and furniture, and the following goods laden on board her, viz., eleven puncheons, one wooden dish, one half-barrel measure, one cartload of salt, one bait mill, one bucket, one chest of drawers, one molasses keg, 191 barrels, nine half-barrels, three fish trays, one barrel of hoops, one barrel of lime, one firkin of lard, 241 barrels of mackerel, three barrels partly filled with mackerel, 191 barrels of salt; seized by the said Colin Yorke Campbell, Commander in Her Majesty's Royal Navy.

In pain of parties cited not appearing on Monday, the eighteenth day of October, 1852, the Advocate-General for the Crown having returned the monition issued duly executed, and having exhibited a consent signed by Henry Palmer, the Consular Agent for the owners of the said schooner "Caroline Knight," and one of the proctors of this Court, to the condemnation of the said schooner, her tackle, apparel and furniture, and the goods laden on board of her, and having referred to the affidavits of the seizer, Colin Yorke Campbell, and the affidavits of William Parker, George Rathbone, John Way, Charles Mears and William Granville, all now remaining in the registry of this Court, and also having exhibited a certificate of the registrar, that no appearance had been entered for the owners of the said schooner and parties cited. The Judge, having heard the said consent, certificate, and affidavits read, on motion of the Advocate-General, counsel on behalf of Her Majesty, pronounced the said schooner "Caroline Knight" 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 the Third, intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing 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 or vessel called the "Caroline Knight," her tackle, apparel, and furniture, and the goods and merchandize, to wit, eleven puncheons, one wooden dish, one half-bushel measure, one cartload of salt, one bait mill, one bucket, one chest of drawers, one molasses keg, 191 barrels, nine half barrels, three fish trays, one barrel of hoops, one barrel of lime, one firkin of lard, 241 barrels of mackerel, three barrels partly full of mackerel, and 119 barrels of salt, and a lot of fishing gear found laden on board the said schooner, at the time of her seizure, as forfeited to our Sovereign Lady the Queen accordingly.

A true copy.

(Signed)

CHAS. DESBRISAY,
Deputy Registrar.

Enclosure 2 in No. 1.

Encl. 2 in No. 1.

EXTRACT from the Honourable Board's Letter, dated August 20, 1852. (No. 43.)

We acquaint you, for the information and guidance of the Controller, &c., at Prince Edward Island, that the case of the American vessel "Union," under seizure there, having been placed in the hands of the Attorney-General of the island, the future proceedings in the matter must be guided by his advice, and the Controller is to govern himself by such instructions as he may receive from that officer and the colonial Government upon the subject, with the distinct understanding, however, that no part of the expenses can be defrayed out of the revenue of Customs.

(Signed)

GEO. DAWSON.
J. GOULBURN
W. DICKINSON

To Controller of H.M.'s Customs,
Halifax.

Custom-house, Prince Edward Island, October 23, 1852.

The above is a true copy.

(Signed)

GEO. R. C. GOODMAN
Controller

PRINCE
EDWARD
ISLAND.

No 2.

(No. 1.)

No. 2.

COPY of a DESPATCH from the Right Hon. Sir J. S. PAKINGTON, Bart., to
Lieutenant-Governor Sir ALEXANDER BANNERMAN.

SIR,

Downing Street, December 28, 1852.

I HAVE to acknowledge the receipt of your despatch, marked separate, of the 26th of October last, in which you request instructions as to the disposal of the proceeds of the sales of certain American fishing vessels seized by Her Majesty's cruizers, and condemned for infractions of the Treaty of 1818.

This question having been referred by my predecessor for the consideration of the law officers of the Crown, they have reported their opinion, that these seizures are distributable under the Queen's Proclamation for the distribution of prize money, dated 13th of July, 1849.

Sir Alexander Bannerman,
&c. &c. &c.

I have, &c.
(Signed) J. S. PAKINGTON.

Encl. in No. 2.

Enclosure in No. 2.

Copy of a LETTER from the LAW OFFICERS to the Right Hon. Sir J. S. PAKINGTON, Bart.

SIR,

Doctors' Commons, December 20, 1852.

WE are honoured with your commands signified in Mr. Merivale's letter of the 11th instant, stating that he was directed to transmit to us copies of communications received from the Lords Commissioners of the Admiralty, and the Lieutenant-Governor of Prince Edward Island; and to request that we would jointly report to you, whether in our opinion the proceeds of the seizures made by the tenders to the "Cumberland," assumed to have been made within the jurisdiction of Prince Edward Island, are distributable under the Queen's Proclamation for the distribution of prize money, referred to by the Vice-Admiral, or under the Colonial Act, 6th Wm. IV, ch. 8 (of which a copy was annexed), or, as appears to be suggested by the Lieutenant-Governor of Prince Edward Island, under the 3rd and 4th Wm. IV, ch. 59.

In obedience to your commands, we have taken the papers into consideration, and have the honour to report:

That we are of opinion that the proceeds of the seizures in question are distributable under the Queen's Proclamation for the distribution of prize money, dated 13th July, 1849.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

We have, &c.
(Signed) J. D. HARDING.
FRED. THESIGER.
FITZROY KELLY.

No. 3.

(No. 63.)

No. 3.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Prince Edward Island,
November 6, 1852.

(Received, November 23, 1852.)

SIR,

IN reference to your despatch of the 15th October, instructing me to supply you with further information relative to an Act passed by the Legislature of this Colony, intituled "An Act relating to Light and Anchorage Dues;" I beg leave to inclose the Attorney General's observations on that subject, considering it necessary however to afford you further explanation, as I observe Her Majesty's Government "consider the tax imposed by the 'Light and Anchor-

age Act,' to be a very serious burthen on the shipping, and one which ought not to be imposed except upon the clearest neccsity."

2. In the first place I have to state, that the tax levied by the Act is 6*d.* per ton currency, equal to 4*d.* sterling; and I have explained in the accompanying despatch, that previous to the passing of the Act, no anchorage dues were levied in this Colony, but that all vessels clearing at its Custom Houses were subject to a tax for light duties of 3*d.* currency per ton for each clearance; and I have explained how foreign vessels invariably and easily evaded the tax, although they reaped the benefits of shelter in our harbours, buoys and beacons to their entrances, and frequently wharfage for the supply of fuel and water; and in addition to existing lights on the island, two new ones are in the course of construction on its northern sea-board.

3. In the second place, the surplus proceeds of the light and anchorage duties are applied by statute for the support of lighthouses, buoys and beacons; and when I state that nearly all the harbours on the north side of Prince Edward Island are bar ones, and consequently difficult of entrance, I need scarcely advert to the great importance of having the channels properly laid down by distinguishing buoys; indeed on a very recent occasion Her Majesty's ship "Devastation" on going into the important anchorage of George Town, grounded on what the commander of that ship termed "a very treacherous shoal," and on his recommendation, as well as that of Captain Bayfield, R.N., commanding the surveying brig, a buoy was immediately laid down on that shoal.

4. In the winter the buoys have to be raised, the coast and harbour being enveloped in ice, they have to be replaced in spring, and all this is attended with very considerable expense to the Colony; it is submitted therefore, that the present Act, which imposes 6*d.* per ton for light and anchorage duties, is not an excessive tax on shipping, considering that it is only paid once by numerous vessels entering inwards and proceeding outwards for many months in the year, while the former Act levied a tax for light duties of 3*d.* per ton for every voyage.

5. As the tax for light duties is imposed on foreign as well as British shipping, I would impress on the Legislature the propriety, in the erection of future lights, to render them as efficient as possible, by constructing them, when practicable, on such situations as will suit the double purpose of coast and harbour lights, and which I fear is not the case in one of the localities chosen for the erection of one about to be constructed in the spring. A light on the east point of this island would be of immense advantage to the navigation of the Gulf, but the expenditure I have alluded to for maintaining buoys, beacons, &c., prevents this Colony at present from accomplishing so desirable and useful an object.

The Attorney General having explained the reasons for the difference of allowance in the collection of the duties imposed by the Act, I need not advert further to that subject, and after what I have stated I trust Her Majesty's Government will be satisfied with the explanation, and that the Act will receive the Royal Assent.

I have, &c.

(Signed)

A. BANNERMAN,

Lieut.-Governor.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

Enclosure in No. 3.

Encl. in No. 3.

SIR,

Attorney-General's Office, October 29, 1852.

His Excellency the Lieutenant-Governor having been pleased to submit to me a despatch from the Right Honourable the Secretary of State for the Colonies, No. 20, having reference to the Bill passed during the last Session of the Legislature, intituled "An Act relating to Light and Anchorage Duties," and to ask for reasons why the said Bill had been passed by the Legislature, I have the honour to submit for the consideration of his Excellency my views upon the subject.

By the Act formerly in force, and repealed by this Act, a duty of 3*d.* per ton was imposed upon all vessels cleared at the Custom House for light-duty each time they cleared, whereas by the present Act a duty of 6*d.* per ton is imposed for the season, up to the 1st day of January next; and thereby, in the majority of instances, the ship-owner is called upon to pay less in amount than he did under the former Act.

PRINCE
EDWARD
ISLAND.

I might here remark that the Legislature of Nova Scotia imposes 6*d.* per ton light duty on all vessels passing through the Gut of Canseau.

The principal reason why the Legislature imposed a duty for anchorage arose from the circumstance that many vessels entered our harbour for shelter, deriving the benefit not only of the light, but also of the buoys and beacons, which have been placed by the Government at a very heavy expense; and it was thought to be but reasonable to make those vessels pay a fair proportion, when they derived the same advantage from his expenditure as vessels that paid light-dues.

The reason why there is such a difference in the rate of per-centage in the collecting of the light and anchorage duties is obvious. The vessel on entry pays to the Custom-House officer, at his desk, the light-duty, for which he receives 7½ per cent. commission; and he has no further trouble with it than to pay it over. But when a vessel does not enter at the Custom House, and anchors in the harbour, the officer specially appointed to collect the duty is obliged to keep a boat for the purpose of boarding the vessel, and generally has a great deal of trouble in recovering the duty, and for which the Legislature considered that he was entitled to receive a commission of 20 per cent.

I have, &c.

The Hon. James Warburton,
&c. &c. &c.

(Signed) CHARLES YOUNG,
Attorney-General.

No. 4.

(Confidential.)

No. 4.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Prince Edward Island,
November 8, 1852.

(Received, November 23, 1853.)

SIR,

I HAVE the honour to acknowledge the receipt of your despatch of the 5th October, marked confidential, and by the same mail that of the 15th, both on the same subject, "light and anchorage duties."

In the former allusion is made to the opinion of the Queen's Advocate to which I am referred, but, by some oversight I imagine, that opinion did not accompany the despatch, which is now of less consequence as the fishing season is now over, and I am glad to say most of the American vessels paid the same anchorage dues as our own fishermen and all others are subject to, the American masters having been, as I was pretty certain they would be, better advised, which rendered any resort to compulsory measures unnecessary.

2. In answer to your question, "whether the imposition of anchorage dues on American fishing vessels is an entirely new measure first introduced by the recent Colonial Statute, or whether any such similar dues have been imposed on and paid by American fishing vessels before the passing of that Statute?" I have to acquaint you that previous to the passing of the Statute alluded to, no vessels British or Foreign paid any anchorage duties, but all vessels clearing at the Custom House were subject to pay light duties, and as American fishermen never did clear, the duties were easily evaded.

3. I ought to have stated there was one exemption by statute from paying light duties: Island vessels "while actually and exclusively engaged in the fishery." They are by the recent statute placed on the same footing with all other vessels. That Statute was passed, after due consideration, by the Legislature, and with no view, I assure you, of deriving any small pecuniary advantage from the American fishermen, or creating additional excitement in the United States; and, in confirmation of this, I earnestly request your perusal of a letter addressed to me by a citizen of the United States, their Consul in the adjoining province, dated October, 1851, after a disastrous calamity to his countrymen; and that gentleman urges on the Government the erection of lights and the preservation of the buoys and beacons, and for which every vessel should contribute its share. I inclose a copy of that letter; the original was forwarded to the Colonial Office in my despatch No. 50, 15th November, 1851.

4. I may also add that the measure was passed and sanctioned by me a considerable time before I was aware of the wise and most necessary policy which Her Majesty's Government have adopted of sending a sufficient naval force to protect the fisheries. In a separate despatch which accompanies this, the information required by yours of the 15th ultimo is fully given, and I trust will be found satisfactory.

6. I fully concur with you "that the fewer questions which are raised between the Governments of Great Britain and the United States upon minor colonial matters, the better it will be for both countries;" and I believe there is no colony in North America where a stronger disposition has prevailed in the Government and people than in Prince Edward Island, by cultivating and promoting free and friendly intercourse with the United States, and which has frequently been acknowledged by many citizens of that great Republic.

I have, &c.

(Signed)

A. BANNERMAN,

Lieut.-Governor.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

PRINCE
EDWARD
ISLAND.

Enclosure in No. 4.

Encl. 1 in No. 4.

Consulate of the United States, Province of Nova Scotia,
Picton, October 28, 1852

SIR,

SINCE my return from Charlotte Town, where I had the honour of an interview with your Excellency, my time has been so constantly employed in the discharge of official duties connected with the results of the late disastrous gale, so severely felt on the north side of Prince Edward Island, that I have not found time to make my acknowledgments to your Excellency for the kind and courteous reception extended to me at the Government House, nor to furnish you with my views relative to certain improvements which might be made by your Excellency's Government, thereby preventing a similar catastrophe to the one which has so lately befallen many of my countrymen; and at the same time on behalf of the Government of the United States, which I have the honour to represent, to thank you most feelingly for the promptness and energy displayed by your Excellency in issuing Proclamations, whereby the property of the poor shipwrecked mariner should be protected from pillage.

These various duties devolving on me, I now have the pleasure of discharging, but only in a brief and hurried manner.

The effect of the recent visitation of Providence, although most disastrous in its consequences, will yet result in much good.

In the first place, it has afforded the means of knowing the extent and value of fisheries on your coast, the number of vessels and men employed, and the immense benefit which would result to the people within your jurisdiction, as well as those of the United States, if the fishermen were allowed unrestrained liberty to fish in any portion of your waters, and permitted to land for the purpose of curing and packing.

From remarks made by your Excellency, I am satisfied it is a subject which has received your most mature reflection and consideration, and that it would be a source of pride and pleasure to your Excellency to carry into successful operation a measure fraught with so much interest to both countries.

2nd. It has been satisfactorily proved, by the testimony of many of those who escaped from a watery grave in the late gales, that had there been beacon-lights upon the two extreme points of the coast, extending a distance of 150 miles, scarcely any lives would have been lost, and but a small amount of property sacrificed. And I am satisfied, from the opinion expressed by your Excellency, that the attention of your Government will be early called to the subject, and that but a brief period will elapse before the blessing of the hardy fishermen of New England, and your own industrious sons, will be gratefully returned from this most philanthropic effort to preserve life and property, and for which benefit every vessel should contribute its share of light-duty.

3rd. It has been the means of developing the capacity of many of your harbours, and exposing the dangers attending their entrance, and the necessity of immediate steps being taken to place buoys in such prominent positions that the mariner would in perfect safety flee to them in case of necessity, with a knowledge that these guides would enable him to be sure of shelter and protection.

From the desire manifested by your Excellency previous to my leaving Charlotte Town, that I would freely express my views relative to the recent most melancholy disaster, and make such suggestions as might in my opinion have a tendency to prevent similar results, there is no occasion for my offering an apology for addressing you at this time.

I have, &c.

(Signed)

B. H. NORTON,

U. S. Consul for Picton Dependency.

His Excellency Sir A. Bannerman,
&c. &c. &c.

PRINCE
EDWARD
ISLAND.
No 5.

(Confidential.)

No. 5.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Prince Edward Island,
November 22, 1852.

(Received, December 21, 1852.)

SIR,

IN reference to your despatch of the 23rd ultimo, marked confidential, which only arrived by the last mail, intimating that Her Majesty's Government were about to enter into negotiations with the Government of the United States, with a view to effect a settlement of the important questions now pending between Great Britain and those States, &c.

As the subject to which the despatch alludes is of vital importance to Prince Edward Island, and being desirous to afford all the information you instruct me to furnish, "on the several points affecting the interests of the Island under my government;" I shall by the next mail, forward such "a statement" as you indicate, and which I could only have imperfectly accomplished by the present mail.

I have, &c.

(Signed)

A. BANNERMAN,

Lieut.-Governor.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

No. 6.

(No. 77.)

No. 6.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Right Hon. Sir J. S. PAKINGTON, Bart.

Government House, Prince Edward Island,
January 14, 1853.

(Received, January 31, 1853.)

SIR,

I HAVE the honour to acknowledge the receipt of your despatch of the 7th December, transmitting an extract of a despatch from Vice-Admiral Sir G. Seymour, suggesting "certain steps to be taken by the Governor of the North American Colonies, for the better protection of the Fisheries during the next fishing season," and you instruct me to take the necessary steps in conjunction with the Executive Council for carrying them into effect.

2. Sir George Seymour's suggestions are, that the names and numbers of the fishing vessels of a certain tonnage should be painted on their hulls and mainsails, &c. In reference to this subject, I beg to observe, that the Executive Council, and Lieutenant Governor have no power, without an Act of the Legislature for carrying such suggestions into effect; and advertng to your confidential despatch, 30th October, referred to in mine of December 6th, I consider it much better under present circumstances to adhere to your former recommendation, viz., that the Legislature should abstain from taking any active measures about trade and the fisheries, pending negotiations of such importance as are carrying on, because a premature discussion on regulations for the guidance of the fishermen (many of which will hereafter be required) would end in no useful result.

3. In regard to the enforcement of Customs regulations and care being taken about granting of British registers, I may state that the granting of registers devolves on an officer of the Customs, paid by and under the control of that Department in England, bound to act in accordance with the British Navigation Act; and if the Admiral on the station has found irregularities and negligence prevail on this head, I feel confident the Board of Customs will on a proper representation give such directions as will in future rectify the evil alluded to by Sir George Seymour.

I have, &c.

(Signed)

A. BANNERMAN,

Lieut.-Governor.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

(Confidential.)

No. 7.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
April 22, 1853.

MY LORD DUKE,

(Received, May 10, 1853.)

I HAVE the honour to acknowledge the receipt of your Grace's confidential despatch of the 28th March; in accordance with the suggestion made by your Grace, no publicity will be given to the important information it contains.

No. 7.

Last year no notice was taken of the fishery question, until Sir John Pakington's despatch appeared in the Halifax Gazette, when the colonists here were desirous to know whether I had received any similar information.

On closing the session last week, I considered it necessary to make some remarks on a report which Mr. Crampton sent me from Washington. Your Grace will find in the Speech which is forwarded by this mail, the observations I made, which I hope your Grace will approve of. I forwarded a copy to Mr. Crampton.

I have, &c.

His Grace the Duke of Newcastle,
&c. &c. &c.

(Signed)

A. BANNERMAN,
Lieut.-Governor.

(No. 23.)

No. 8.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to His Grace the Duke of NEWCASTLE.

No. 8.

Government House, Prince Edward Island,
May 23, 1853.

MY LORD DUKE,

(Received, June 7, 1853.)

IN reference to your Grace's despatch of the 27th April, No. 12, requiring information as "to the regulations now considered to be in force in this colony with respect to the fisheries, whether carried on by colonial, British, or foreign vessels."

2. I have the honour to acquaint your Grace that no regulations respecting the fisheries exist in Prince Edward Island, excepting what are contained in the inclosed Act, copies of which I sometime ago forwarded to Her Majesty's Government.

3. Vice-Admiral Sir George Seymour, before leaving the station last year, suggested that some regulation should be adopted; but I intimated to Her Majesty's Government the impolicy, in my opinion, of legislation on this subject, until the far more important question of the abrogation or modification of the Convention of 1818 was settled, when one uniform system about the fisheries, applicable to both nations, might be adopted, as was settled by Her Majesty and the King of the French during the time that Lord Aberdeen held the seals of the Foreign Office, and to which I alluded in my confidential despatch to Sir John Pakington, of date 6th December, 1852.

4. In regard to the fisheries carried on in this island, eight or ten vessels are fitted out by colonists, while as many more are fitted out by American

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citizens, but in strict conformity with the last British Navigation Act; they most easily getting a British subject to declare only that he is owner of the vessel, and he takes care that the schooner is manned in accordance with the provision of the Act; and all this may now be done by a British subject residing anywhere in the United States, while formerly no register could be obtained unless the applicant resided, or his partner, in the United Kingdom. I by no means disapprove of the liberal policy adopted by Great Britain, I only regret we are not met in a corresponding spirit.

6. It will be said that heavy penalties attach to a false declaration, which is quite true; but the morality of a British subject, from my short experience, does not improve on this side of the Atlantic, while his ingenuity to evade the law increases a hundredfold.

6. The Commander of Her Majesty's ship "Devastation," a most able and efficient officer, got into great difficulty at the termination of last fishery season on this subject, and I hope that the officer who may be appointed to command on this station this season may have the law clearly defined, and above all that my friend Sir George Seymour may keep the provincial protecting vessels under his own control.

7. I have to apologize for troubling your Grace at such length, but the fishery question is an important one, in which I take a great interest; it will be beset with difficulties, owing to the altered views of the Nova Scotians and New Brunswickers and the Constitution of the United States' Government, where one man may set aside the wishes and opinions of many States. But I feel great pride in Her Majesty's Government continuing the protection we had last year; and if the colonists get unruly, which I do believe they will, I trust your Grace will allow Prince Edward Island to negotiate for itself with the United States, subject to the approbation of Her Majesty's Government.

I have, &c.

His Grace the Duke of Newcastle,
&c. &c. &c.

(Signed)

A. BANNERMAN,
Lieut.-Governor.

P.S.—By next mail statements of the fishery reserves will be forwarded, to save Her Majesty's Government as little trouble as possible in regard to reference.

Encl. in No. 8.

Enclosure in No. 8.

An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof. [April 15, 1843.]

SECTION

1. Officers of Customs and Excise, Sheriffs and Magistrates, and any person holding a commission from Lieutenant-Governor for that purpose, authorised to board vessels, &c., within three marine miles of the coast of this island; power of such officers, &c. Further power of such officers, &c. Prohibited goods on board such vessel to be forfeited, and vessel, &c., if foreign, and found fishing, or preparing to fish, within such distance of three miles, to be forfeited. Penalty on Master, &c., not truly answering questions.
2. Further powers of Officers of Customs, Excise, Magistrates, &c. Penalty on persons molesting or obstructing Officers of Customs, Excise, Magistrates, &c.
3. Goods, vessels, &c., seized under this Act to be delivered to nearest Collector of Customs. Collector of Customs to keep and secure the same, &c.
4. Goods, vessels, &c., condemned under this Act, to be sold under the direction of the officer of Customs or Excise, at public auction. Appropriation of proceeds of such goods and vessels, &c. Lieutenant Governor may direct articles condemned to be destroyed or reserved for public service.
5. Mode of recovery of penalties imposed by this Act.
6. Judge of Court having jurisdiction in case of goods, vessels, &c., seized, may, on consent of seizing party, release the same, on security being given therefor. Requisites of bond to be taken for same. Amount of bond to be distributed by Collectors of Customs, if goods, vessels, &c., be condemned.
7. Regulates the mode of prosecuting suits for penalties under this Act.
8. *Onus* of proof of illegality of seizure to be on claimant.
9. No claim to anything seized under this Act to be admitted until certain requisites be complied with.

10. No claim to be admitted until security be given. Amount of security and condition thereof.
11. Defines mode of proceeding against any officer of Customs, Excise, Magistrate, &c., for anything done under this Act.
12. Limits time for bringing any action against any officer of Customs, &c., for anything done under this Act. Regulates mode of proceeding in such actions.
13. If verdict be found for any claimant, on certificate of Judge or Court, of probable cause of seizure, no costs to be allowed to claimant, nor seizing officers liable to any action, &c.
14. Seizing officer, &c., may tender amends within one month after notice of action, and plead such tender, &c. If Jury finds amends sufficient, verdict to be given for defendant. And in such case, or in case of nonsuit, or judgment on demurrer in favour of officer, &c., same costs to be given as if he had pleaded the general issue. Officer, &c., may pay money into Court.
15. If Judge or Court certifies probable cause of seizure, plaintiff only to be entitled to 2*d.* damages and to no costs.
16. All penalties or forfeitures under this Act may be recovered within three years after the offence committed or forfeiture incurred.
17. No appeal allowed from sentence of any Court under this Act, unless applied for within 12 months after.
18. Suspending clause.

WHEREAS, by the Convention made between His late Majesty King George III, and the United States of America, signed at London, on the 20th day of October, in the year of our Lord, 1818, and the statute made and passed in the Parliament of Great Britain, in the 59th year of the Reign of His late Majesty King George III, all foreign ships, vessels, or boats, or any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks or harbours whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first article of the said Convention, are liable to seizure: And whereas the United States did, by the said Convention, renounce for ever any liberty 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 should be permitted 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 purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them: And whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this island are materially impaired: And whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the articles of the convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of, profess to have come within said limits for the purpose of shelter, and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this island, and the fishery carried on, contrary to the said convention and statute: Be it therefore enacted, by the Lieutenant-Governor, Council, and Assembly, that from and after the passing of this Act, it shall be lawful for the officers of Her Majesty's Customs, the officers of impost and excise, the sheriffs and magistrates throughout this island, and any person holding a commission for that purpose from his Excellency the Lieutenant-Governor, for the time being, to go on board any ship, vessel, or boat within any port, bay, creek, or harbour in this island, and also to go on board any ship, vessel, or boat, hovering within three marine miles of any of the coasts, bays, creeks, or harbours thereof, and in either case freely to stay on board such ship, vessel, or boat, as long as she shall remain within such port or distance; and if any such ship, vessel, or boat, be bound elsewhere, and shall continue so hovering, for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel, or boat into port, and to search and examine her cargo, and to examine the master upon oath, touching the cargo and voyage, and if there be any goods on board prohibited to be imported into this island, such ship, vessel, or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel, or boat, shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing within such distance of such coasts, bays, creeks, or harbours of this island, such ship, vessel, or boat, and their respective cargoes shall be forfeited, and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of 100*l.*

II. And be it further enacted, that all goods, ships, vessels, and boats, liable to forfeiture under this Act, shall and may be seized and secured by any such officer of Her Majesty's customs, officer of impost and excise, sheriffs, magistrates, or other person hold-

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ing such commission as aforesaid; and every person who shall in any way oppose, molest, or obstruct any officer of the customs, officer of impost and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of customs, officer of impost and excise, sheriff, magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offence, forfeit the sum of 200*l.*

III. And be it further enacted, that all goods, ships, vessels, and boats, which shall be seized, as being liable to forfeiture under this Act, shall be taken forthwith, and delivered into the custody of the collector of the customs, at the custom-house next to the place where the same were seized, who shall secure and keep the same, in such manner as other vessels and goods seized are directed to be secured by the Commissioners of Her Majesty's customs.

IV. And be it further enacted, that all goods, ships, vessels, boats, or other things, which shall have been condemned as forfeited under this Act, shall, under the direction of the principal officer of the customs or excise, where such seizure shall have been secured, be sold by public auction to the best bidder, and the produce of such sale be applied as follows, that is to say:—the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties—one of which shall be paid to the officer or other person or persons legally seizing the same, without deduction, and the other moiety to the Government, and paid into the treasury of this island—all costs incurred having been first deducted therefrom. Provided always, that it shall be lawful for the Lieutenant-Governor in Council to direct that any of such things shall be destroyed, or reserved for the public service.

V. And be it further enacted, that all penalties and forfeitures, which may be hereafter incurred under this Act, shall and may be prosecuted, sued for, and recovered, in the Court of Vice-Admiralty, having jurisdiction in this island.

VI. And be it further enacted, that if any goods, or any ship, vessel, or boat, shall be seized, as forfeited under this Act, it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation: and such bond shall be taken to the use of Her Majesty, in the name of the Collector of the Customs in whose custody the goods or ship, vessel or boat, may be lodged; and such bond shall be delivered and kept in the custody of such Collector; and in case the goods or ship, vessel or boat, shall be condemned, the value thereof shall be paid into the hands of such Collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

VII. And be it further enacted, that no suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's Advocate or Attorney-General, or, in his absence, by the Solicitor-General for this island; and if any question shall arise whether any person is an officer of the Customs, Excise, sheriff, magistrate, or other person authorised to seize as aforesaid, *visà voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

VIII. And be it further enacted, that if any goods, ship, vessel or boat shall be seized for any cause or forfeiture under this Act, and if any dispute shall arise whether the same has been lawfully seized, the proof touching the illegality thereof shall be on the owner or claimant of such goods, ship, vessel or boat, and not on the officer or person who shall seize and stop the same.

IX. And be it further enacted, that no claim to anything seized under this Act and returned into Her Majesty's Court of Vice Admiralty for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief; and every person making a false oath thereto shall be deemed guilty of a misdemeanour, and shall be liable to the pains and penalties to which persons are liable for a misdemeanour.

X. And be it further enacted, that no person shall be admitted to enter a claim to anything seized in pursuance of this Act, and prosecuted in this island, until sufficient security shall have been given in the Court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim; and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

XI. And be it further enacted, that no writ shall be sued out against, nor a copy of any process served upon, any officer of the Customs, Excise, sheriff, magistrate, or other person, authorized to seize as aforesaid, for anything done in the exercise of his office until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process; in which notice shall be clearly and explicitly contained the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice; and no

verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and, in default of such proof, the defendant shall receive in such action a verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff, as the Court shall direct.

XII. And be it further enacted, that every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in Her Majesty's Supreme Court of Judicature for this island, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suited, or shall discontinue the action, or if upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

XIII. And be it further enacted, that in case any information or suit shall be brought to trial, on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the Judge or Court before whom the cause shall have been tried, shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution, on account of any such seizure; and if any such action, indictment, or other suit or prosecution shall be brought to trial, against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized or the value thereof, shall be entitled to no more than twopence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

XIV. And be it further enacted, that it shall be lawful for any such officer of the Customs, Excise, or sheriff, or magistrate, or other person, authorised to seize as aforesaid, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas; and if the jury shall find the amends sufficient they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become nonsuit, or shall discontinue his action, or judgment shall be given for the defendant, upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: provided always, that it shall be lawful for such defendant, by leave of the Court, where such action shall be brought, at any time before or after issue joined, to pay money into Court as in other actions.

XV. And be it further enacted, that in any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twopence damages, nor to any costs of suit.

XVI. And be it further enacted, that all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, may be commenced or prosecuted at any time within three years after the offence was committed, by reason whereof such penalties or forfeitures shall be incurred, any law, usage or custom to the contrary notwithstanding.

XVII. And be it further enacted, that no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's Courts in this island, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

XVIII. And be it further enacted, that this Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto; and an Order made by Her Majesty in Council, that the clauses and provisions of this Act shall be the rules, regulations and restrictions respecting the fisheries on the coasts, bays, creeks or harbours of the Island of Prince Edward.

(No. 33.)

No. 9.

No. 9.

Copy of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
July 18, 1853.

(Received, August 1, 1853.)

MY LORD DUKE,

(Answered, September 9, 1853, p. 110.)

I HAVE the honour to inclose copy of a letter of mine addressed to Sir George Seymour, in answer to two from the Admiral on the subject of information which had reached him, which I am glad he has had the opportunity of communicating to Mr. Crampton. I am aware that the American fishermen entertain very hostile feelings towards the Colonial protecting vessels, but as they are now commanded by officers of the navy and manned from Her Majesty's ships, I entertain no fear of any collision, at the

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same time if any of them enter this harbour armed, at a time when we are profound peace with the United States, I think the Imperial and Colonial Statutes would fully justify me in detaining them.

I have, &c.

His Grace the Duke of Newcastle, (Signed) A. BANNERMAN,
&c. &c. &c. Lieut.-Governor

Encl. in No 9.

Enclosure in No. 9.

Government House, Prince Edward Island,
July 18, 1853.

SIR,

I HAVE the honour to acknowledge the receipt of your despatch, marked confidential of the 4th instant, and also that of the 12th. As you informed me that Mr. Crampton was to be at Halifax, I delayed writing to you, until I heard whether that gentleman threw any light on the subject alluded to by you, "of certain American fishermen arming themselves, with the deliberate intention of repelling, by force, the small vessels or boats employed by directions of Her Majesty's Government in enforcing the Convention of 1818."

I observe that the result of your conference with Mr. Crampton has been that "you do not think it advisable to discontinue the indulgencies regarding coming into our harbours, which were sanctioned by Sir J. Pakington's letter of the 19th of August, 1852.

I have always been most anxious to allow every indulgence to the subjects of friendly Power, that could be safely granted; I apprehend, however, that Sir John Pakington never dreamt that the American fishermen were to repay our indulgencies by coming armed among us. All I can say is, that if any of them come into Charlotte Town harbour (while I am here) armed, they shall not leave it again until I hear from Her Majesty's Government. In September, 1852, 250 American schooners were congregated together in one of our harbours; and from 1500 to 2000 of their crews landed; were your squadron off the coast, this would happen again; this is a state of affairs which ought not to exist, and if it does, is sure to end seriously, for the withdrawal of the small military detachment from the island will leave its Lieutenant-Governor powerless.

You state, I see, "that the United States' Government has been lately made acquainted that there is no intention of carrying the measures which may be necessary for the protection of the fisheries, beyond what were found sufficient last year;" why, therefore, does not the British Minister at Washington urge on the United States' Government to send one or more of their cruisers, as police, to keep the peace among their own countrymen. Such is the case with the French and Dutch on the coasts of England and Scotland.

Your tender, the "Rose," left this on Sunday morning, the 10th instant, and I have not heard of her since. Lieutenant De Horsey applied to me for a six-pounder. The iron one I intended for him, I found to be unserviceable; but having a small field-battery of brass six-pounders, I ordered the artillery-man in charge to dismount one of them, and deliver it to Lieutenant De Horsey; as after reading yours of the 4th, I should have been sorry if he had gone to sea without a companion to his other gun; I hope he will have no occasion to use either, and he will return our gun at the termination of his cruise.

I have heard nothing of how the negotiations about the fishery question are going on and I dare say Her Majesty's Government will have as much trouble with the colonists about what they term inherent rights, as with the United States' Government.

I have, &c.

(Signed) A. BANNERMAN,
Lieut.-Governor

Vice-Admiral Sir G. F. Seymour, G.C.B.,
&c. &c. &c.

No. 10.

(No. 28.)

No. 10.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor
Sir ALEXANDER BANNERMAN.

SIR,

Downing Street, September 9, 1853.

I HAVE received your despatch, No. 33, of the 18th July, with the inclosed copy of a letter from you to Sir George Seymour, relative to the rumoured intention of American fishing vessels to go armed to the fishing-grounds off the British American Colonies, and intimating that you should detain any of such vessels which should enter into the harbours of Prince Edward Island.

Under a strict enforcement of the Convention of 1818, the harbours would in a general way be inaccessible to the fishing vessels of the United States, the occasions being limited on which they can claim a right of entry. If, in practice, an accommodation not within the terms of the Treaty has been made available for

them, and a general liberty to come into the harbours without molestation from the authorities conceded, the relaxation of strict right must be deemed conditional upon the American fishermen evincing a disposition to conduct themselves in an orderly and peaceable manner. Their arming themselves would obviously justify a presumption in an opposite direction, and would disqualify them for the grant of any indulgence. I have therefore to instruct you to apply the law rigorously in dealing with armed fishing boats, and to debar them from a participation in the favours extended under my predecessor's directions to unarmed vessels entering the harbours. The inconvenience to which the former would thus be exposed, would I should hope lead to the abandonment of the practice of carrying arms. Ultimately it may be necessary to resort to other measures, such, for instance, as their detention; but for the present you will limit yourself to the course indicated above, applying for larger powers should you stand in need of them.

I have, &c.

Sir A. Bannerman,
&c. &c. &c.

(Signed) NEWCASTLE.

(Separate.)

No. 11.

No. 11.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN
to His Grace the Duke of NEWCASTLE.

Government House, Prince Edward Island,

August 16, 1853.

(Received, August 29, 1853.)

MY LORD DUKE,

IN my despatch of the 11th October, 1852, No. 59, I forwarded to Sir John Pakington, in consequence of his confidential despatch of the 11th September:—

“A return of American vessels detained and prosecuted in the Vice-Admiralty Court here for a violation of the Convention of 1818.” One of the cases noted in that return was not then adjudicated, the schooner “Caroline Knight;” she was subsequently condemned and sold, along with the other two, and a fourth was released before trial by Admiral Sir George Seymour, as an act of clemency on his visit here, and on the master signing a declaration of a breach of the Convention, pleading poverty and expressing sorrow for what he had been guilty of.

2. These vessels were detained by Her Majesty's ship, the “Tender,” “Telegraph,” “St. Chetwynd,” and the “Devastation,” steam-sloop, Commander Campbell. They were not tried under the Island Colonial Statute, but were prosecuted, adjudicated on, and condemned under the Imperial Act, 59 George III, cap. 38, and no defence was made for either of them. They were seized within three miles of the shore, on parts of the coast varying from sixty to ninety miles distant from the Admiralty Court at Charlotte Town.

3. I have now the honour to acquaint your Grace, that Her Majesty's sloop “Devastation” brought in here the United States schooner “Starlight,” a very fine vessel, with upwards of 250 barrels of mackerel, on the 12th instant. This schooner was seized within two miles of the shore at Grande Vallée, Lower Canada, to the westward of Gaspé, and much nearer Charlotte Town than Quebec. There being no Admiralty Court at Grande Vallée, where the seizure arose, Captain Campbell considered that it was optional for him to send the schooner here for adjudication, and not to Quebec, which was much more distant and inconvenient, as he was then very near (as I understood him) the limits of his cruize to the westward. Captain Campbell considered he was justified in sending the schooner here in terms of the Act, “To regulate the Trade of British Possessions Abroad,” 8 and 9 Victoria, cap. 93, the 73rd section of which provides for “jurisdiction for prosecution of seizures, and penalties;” while the 59 George III, cap. 38, section 2, provides, that vessels found fishing. &c., shall be seized, sued for, prosecuted and condemned, &c., &c., &c., under any Act or Acts of the Parliament of Great Britain relating to the laws of trade and navigation, &c.”

4. On applying to the legal authorities here, Captain Campbell found that they started doubts, whether the Admiralty Court here had jurisdiction to try

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the case of the schooner "Starlight;" and as the risk of sending her to Quebec, upwards of 500 miles, might have been attended with serious consequences, he released the vessel, on the same grounds as the Admiral acted on last year.

5. I am of opinion that the Admiralty Court has the jurisdiction in terms of the 73rd Section of the Act alluded to, and that the vessels seized last year and brought into Charlotte Town, might have been carried to Nova Scotia, the nearest colony, at the option of the seizer, and condemned at Halifax; for if this vessel had been seized at the entrance of the Bay of Chaleur, New Brunswick, and been sent to St. John's for adjudication, she must have passed the two Admiralty Courts of this island and Halifax, and traversed several hundred miles in a difficult navigation.

6. As this case may be of some importance hereafter, if followed as a precedent, I trust your Grace will see fit to refer this despatch to the law officers of the Court in England, and favour me with their opinion for the future guidance of the Vice-Admiralty Court here.

		I have, &c.,
His Grace the Duke of Newcastle,	(Signed)	A. BANNERMAN,
&c. &c. &c.		Lieut.-Governor.

No 12.

(No. 44.)

No. 12.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
August 30, 1853.

(Received, September 12, 1853.)

MY LORD DUKE, (Answered, October 15, 1853, p. 116.)

I HAVE the honour to acquaint your Grace that the United States steam frigate "Princeton," Commodore Shubrick, accompanied by the steam sloop of war "Fulton," Captain Watson, have been at anchor in Charlotte Town roads since Wednesday last. Admiral Seymour will have communicated to your Grace the object of the Commodore's visit to our coasts, and I have found this gallant and experienced officer most desirous to reconcile those difficulties which beset the fishery question, and to do everything in his power to promote a good understanding between Her Majesty's subjects and his countrymen.

2. He has boarded many American fishermen, and says that none of them had any ground of complaint to make to him, while many acknowledged the civility they had met with from the Commanders of Her Majesty's ships.

3. General Gore was here inspecting a detachment of the 76th, and the Commodore despatched the "Fulton" to land the General at Pictou on his way to Halifax yesterday at noon, and in the afternoon the frigate proceeded to the westward, as the Commodore informed me, to Chaleur and Gaspé, and is to touch again at Halifax.

4. The Governor and Council considered it right to invite the Commodore with his officers to a *déjeuner* in the Province Building. I inclose for your Grace's perusal a report of the proceedings, and should your Grace approve of the course adopted by the Government, it will be gratifying if I am allowed to make public your Grace's approbation.

		I have, &c.
His Grace the Duke of Newcastle,	(Signed)	A. BANNERMAN,
&c. &c. &c.		Lieut.-Governor.

Enclosure in No. 12.

Charlottetown, August 29, 1853.

Déjeûner in honour of Commodore Shubrick, the Officers under his command, and of General Gore.

Encl. in No. 12.

THE United States steam frigate "Princeton," bearing the flag of Commodore Shubrick, arrived here on Wednesday evening, shortly preceded by the steam-sloop "Fulton," Captain Watson, belonging to the fleet under Commodore Shubrick, stationed in the Gulf of St. Lawrence for the protection of American fishermen, and to prevent the encroachment of these people beyond the limits prescribed by treaty. On Thursday, at eleven o'clock, A.M., the "Princeton's" heavy metal thundered forth a salute of twenty-one guns, which was responded to, though not so loudly, from the Battery. On Friday, the Commodore landed under a salute from the Battery, and was received on the wharf at the foot of Pownal Street, by a detachment of the 76th regiment stationed here, by the Honourable Major-General Gore, Commander-in-chief of the Forces in the Lower Provinces, who had arrived here in the "Fairy Queen" from Pictou, on the previous day, and by some of the members of the Executive Council.

On the day of his arrival, Commodore Shubrick was waited upon on board of his ship, by a deputation from the Executive Council, inviting him and the officers of both ships under his command, on the part of his Excellency the Lieutenant-Governor and the Members of the Executive Council, to a *déjeûner à la fourchette*, in the Colonial Building on Saturday. The invitation having been cordially accepted, the arrangements were pushed forward with the utmost alacrity, and a *déjeûner*, got up in most excellent style, was accordingly given on Saturday.

At two o'clock, the hour appointed for the *déjeûner*, his Excellency the Lieutenant-Governor, accompanied by Commodore Shubrick, and other guests, left the "Princeton," under a royal salute, and were received at the entrance of the Colonial Building by a guard of honour of the 76th Regiment, under the command of Captain Senhouse. Shortly after, the other guests from the "Princeton" and "Fulton," General Gore, accompanied by his aide-de-camp, Captain Gore, the officers of the garrison, and many other gentlemen connected with the civil and military services of the colony, assembled in the council chamber and Legislative library, which places had been thrown open as reception rooms; very many of the guests, as well as some of the members of the Executive Council being accompanied by their wives, daughters, and friends. After a short time spent in the interchange of courtesies usual on such occasions, his Excellency led the way to the Hall of the House of Assembly, where two tables, running parallel the whole length of the room, presented a display of viands that might satisfy the most fastidious taste. Sir Alexander presided, with Commodore Shubrick on his right hand, and General Gore on his left. His Excellency was supported by the Honourable Captain Rice and the Honourable Mr. Birnie, and the company addressed themselves with hearty goodwill to the choice and excellent dishes placed before them. It is estimated that nearly 150 ladies and gentlemen were present on this occasion. The champagne, which appeared to be the only wine drank, flowed profusely, and the *déjeûner*, all in all, it was evident, afforded the highest satisfaction to all who participated in it. After the elapse of about an hour, spent over the pleasures and courtesies of the table, his Excellency rose and proposed the health of "Her Majesty the Queen," which was responded to by enthusiastic cheers, and by the music of the National Anthem from the gallery. Shortly after, his Excellency again rose, and proposed the health of "the President of the United States." This toast was also received with great cheering, and like the preceding one had been introduced by his Excellency with a few appropriate remarks.

The next toast was "Prince Albert and the members of the Royal Family," which was drank with the accustomed honours.

His Excellency the Lieutenant-Governor, in proceeding to give the next toast, spoke as follows:—"Ladies and gentlemen, The next toast I have the honour to propose is the health of the gallant Commodore Shubrick, and I am sure that every one present must feel as I do, no ordinary pleasure and satisfaction at seeing a gentleman of such distinguished rank in the United States navy, and the officers under his command, visiting Prince Edward Island. To me, the visit of the Commodore is particularly gratifying. We all know that negotiations are going on between the Governments of the United States and Great Britain on a very important question, and I have more than once stated to high authority that I thought it would be extremely desirable, pending such negotiations, that some of the United States cruizers should visit the fishing grounds, where their commanders would see and judge for themselves whether American fishermen had any just grounds for complaint, or were unfairly dealt with; and the very knowledge of such officers as Commodore Shubrick being sent on this service cannot fail to give confidence to his own countrymen, as I am sure his presence on our coast gives satisfaction to Her Majesty's subjects. In proposing the health of the gallant Commodore, I hope he will pardon me if I trespass a few moments on his and your time, and venture to say a few words on this fishery question, and I will confine myself chiefly to what has fallen under my own observation in this colony; the interests of whose people it is my sincere desire, as well as my duty, to promote. It was, I think, in the month of August, 1851, that I had occasion to

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visit the northern coast of this island, where more than 100 American schooners were pursuing their avocations, and very many of them fishing close to the shore. It was a beautiful sight, and I did not think much about the Convention of 1818. But in the month of September, in the same year, it was intimated to me that no fewer than 200 of these vessels were in one of our harbours in one day, and 2,000 of their crews on shore. Now we have heard a great deal of the Maine Liquor Law, and although these men behaved as well as so many congregated together could be expected to do, yet I was not sure that all American fishermen were sons of temperance, and on other occasions different results might follow. But, be that as it may, the masters of some vessels belonging to the neighbouring provinces wrote to me in no very courteous terms, complaining of a neglect of duty on my part for allowing daily infractions of the Convention, and saying, if they were not greatly outnumbered they would take the law into their own hands. Now it did seem to me that such a state of matters ought not to exist; and I thought it right to apprise the British Government that collisions, in all probability, would take place, and be followed by very serious consequences, for it could not be expected that the United States Government would send their cruisers to enforce the Convention. The British Government sent a small naval force the following year to protect the fisheries, but with no unfriendly feeling towards American citizens, for I know well Her Majesty's Government have an anxious desire that some amicable arrangement should be made for a settlement of this vexed question to the mutual advantage of the colonists and citizens of the United States. I take this opportunity of stating to the gallant Commodore that in the year 1849 the Legislature of this colony addressed Her Majesty, praying for an abrogation of the Convention of 1818, and subsequently passed an Act to reciprocate with the United States, and in 1850, when some negotiations took place at Washington about fisheries and trade, by the Government of Nova Scotia, Prince Edward Island was spoken of in high terms of commendation for the liberal spirit which had actuated its Legislature. But these negotiations unfortunately failed, and three years have passed away without any satisfactory result. I trust, however, the negotiations now going on will not fail, and that no obstacles will be thrown in the way to prevent a settlement of the question to our mutual advantage. It is often said, on this side the Atlantic, that this is a purely colonial question, and ought to be settled by its Legislatures. I imagine no monarch ever sat upon the throne who is more desirous to promote the interests of her colonial subjects than Queen Victoria; but were this question left solely to the decision of the Colonial Legislatures a long time, I think, would elapse before it was settled. If it is the prerogative of the Crown to enter into treaties, which I apprehend, no one will dispute, so it is the prerogative of the Crown to abrogate or modify those treaties. On looking over some official documents the other day my attention was directed to a case in point. In 1836 an Act was passed by the Legislature of Newfoundland 'to prevent the encroachments of aliens on the fisheries,' the Act was disallowed, and why? I will read an extract from the report of the Council, recommending the disallowance of that Act, 'Because it interferes with your Majesty's prerogative in negotiating Treaties for securing to the subjects of foreign States a participation with your Majesty's subjects in these fisheries.' I think the colonists may safely trust to Her Majesty, and if our neighbours are to participate in the fisheries, I have no doubt we shall participate in advantages which they can concede to us, and thereby cement that amity and friendship which we hope will ever exist between the citizens of the United States and Her Majesty's subjects. I have to apologise for so long trespassing on your time, and now propose the health of 'Commodore Shubrick.' The toast was drank with long and loud cheers.

Commodore Shubrick, in acknowledging the toast, said:—"It is difficult for me to find language whereby adequately to express the estimation in which I hold the very kind and flattering attentions which have been paid to me and my brother officers since our arrival in this colony, and by which to return my thanks for the honour just now conferred upon us. There are, however, occasions on which the heart dictates to the tongue, and this is one of them; and, although you may credit me when I say that public speaking makes no part of my profession, and feeble as my expressions may be, yet I trust they will not fail to convey to this goodly assembly,—this union of public talent and public spirit, graced as it is by so much beauty as I see around me, a true conception of the feelings by which the present manifestation of goodwill has inspired me. I regard it not so much with any reference to myself, as in its proper light and character of a public display and declaration of brotherly regard on the part of this portion of the British nation, for a people of kindred origin and kindred interests, and, in this light and in this character, it is best that it should be considered: for, although individuals pass away, yet nations remain. Let it, as it is well calculated to do, impress us with the conviction that the people of the United States and the people of Prince Edward Island will meet and trade on the grounds of full reciprocity as well as of perfect and enduring amity. That free and salutary intercourse once established, earnestly do I hope nothing will ever occur to mar the harmony of their meetings, but that the ties of goodwill and mutual benefits will so unite them that it will become almost as difficult to indicate where and in what their best interests are separate or distinct, as it is now to determine the boundaries which ought to be determined by the three marine miles." The gallant Commodore then concluded by proposing as a toast, "His Excellency the Lieutenant-Governor, Sir Alexander Bannerman, the Executive Council, and the inhabitants of Prince Edward Island—and health and prosperity to each individual."

His Excellency returned thanks, and in doing so, expressed his belief that the circum-

stances in which the *déjeuner* had its origin would not soon be forgotten in this colony, but live in the recollections of its inhabitants, through the advantages to themselves and the people of the United States, of which advantages it might be considered as a certain precursor.

His Excellency next proposed "General Gore," remarking that seldom as this colony had been honoured by the presence of any British officer of the high rank and standing of the gallant General, he trusted that so long as he continued to occupy the high position of Commander-in-Chief in these colonies it might safely be calculated that, in the discharge of his important duties he would have frequent occasion to inspect Her Majesty's troops stationed in the garrison of Prince Edward Island.

This toast was honoured by three times three volunteer cheers.

General Gore briefly returned thanks, and having done so, took occasion to propose "the health of Lady Bannerman and the Ladies." To which Henry Palmer, Esq., the American Consul, briefly returned thanks.

The Hon. Mr. Coles rose to propose the health of Captains Eagle and Watson, of the United States ships "Princeton" and "Fulton." In doing so the honourable gentleman said: "I hope His Excellency and the ladies will permit me to avail myself of this opportunity to make a few remarks, having reference to the present position and prospects of the people of this colony, as regards their intercourse with those of the United States. I, myself, have been highly gratified indeed to see two of the United States steam-ships in the harbour of Prince Edward Island, commanded and officered by those gentlemen whom we have the honour of meeting on this occasion; and I hope their visit will prove as satisfactory to the gallant Commodore as I am sure it is pleasing to the inhabitants of Prince Edward Island. After what has fallen from his Excellency, very little has been left for any member of the Government to add, yet this much I will take leave to say, that our distinguished visitors will find a general desire on the part of the people and the Government of this colony to do all in their power to facilitate the negotiations now pending between the Government of the United States and that of Great Britain. The Legislature of this Colony, in the year 1852, addressed Her Majesty on this subject, praying that the Americans may be allowed to fish on our shores, provided that the American Government will agree to reciprocate with this island in the articles of its growth and production therein enumerated. What the other provinces may determine upon with reference to this important question, I know not; but it is the desire of this Government to avail themselves of every means in their power to encourage and extend the trade of this island with the United States; and I hope soon to see the day when the whole of the people of America will be in the enjoyment of equal privileges, although under different Governments, and when a fair reciprocity shall be quite as conducive to the interests of our agriculturists as of our fishermen. The trade between this island and the United States, even under existing circumstances, is, it appears, greatly on the increase; for, in the year 1848, our imports from the States amounted to no more than 7,000*l.*, and our exports to 800*l.* only, whereas, in the year 1852, our imports had increased to upwards of 17,000*l.*, and our exports to upwards of 20,000*l.*; and I am satisfied that if reciprocity were to take place on the terms we have proposed, the trade of both would immediately increase 100 per cent., and thence go on steadily advancing. Having prefaced these few remarks, I beg leave to propose—The Captains of the United States' ships 'Princeton' and 'Fulton.'"

This toast having been duly honoured, Captain Eagle briefly, but in appropriate style, returned thanks for himself and his brother officers. The gallant officer then proposed "Free Trade and Sailors' Rights," a toast to which the company most heartily responded.

Captain Watson of the "Fulton," likewise spoke in reply to the above toast, and for a few moments entertained the company with many humorous remarks, eliciting frequent peals of laughter, which prevented the reporter from following him as he could have wished to have done.

Honourable Captain Swabey rose and begged leave to propose the "British Navy." In doing so, the gallant captain added it was with a sincere desire that it might never meet with that of the United States, except in amity.

This toast having been duly honoured, Captain Beazley rose to return thanks, and in doing so said:—"After the many powerful appeals which have been made to your feelings and sympathies, I have no right to hope for your attention, and therefore must not spin a long yarn; though a sailor might, perhaps, be pardoned if he shot ahead a little in praise of his country's navy. But it does not need his praise, for Britain's naval renown is world-widely known, and that may be said without the slightest umbrage to the gallant men who hail from under another flag, for that renown was established long before the birth of Uncle Sam, and is as much the inheritance of the children of the United States as those of Britain; and though they may sometimes roughly rub sides together, yet Britannia must always feel proud of the prowess of her first and fairest child, Columbia; for there are no two nations under the sun, who ought more cordially to esteem each other, whether in peace or in war; and every good-hearted sailor will go along with me in wishing that so it may ever be; for as the old song says—

'Blow high, blow low,
The seaman loves a gallant foe;
For well he knows that, in the end,
The fairest foe makes firmest friend.'

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The gallant Commander then concluded by saying, "I have the honour to return thanks for the very handsome manner in which the toast, 'The British Navy,' has been given and received."

No. 13.

(No. 33.)

No. 13.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor Sir ALEXANDER BANNERMAN.

SIR,

Downing Street, October 15, 1853.

WITH reference to the last paragraph of your despatch (No. 44) of the 30th of August last, I have to express my approval of the hospitality and courtesy shown by you to the United States Commodore and his officers on the occasion of their recent visit to Prince Edward Island.

I have, &c.

Sir A. Bannerman,
&c. &c. &c.

(Signed) NEWCASTLE.

No. 14.

(No. 52.)

No. 14.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
September 13, 1853.

(Received, September 26, 1853.)

MY LORD DUKE,

IN my despatch of the 30th ultimo, No. 44, I had the honour to forward to your Grace an account of the proceedings which took place here on the visit of Commodore Shubrick and the officers under his command.

Since then I have received from Sir George Seymour a letter, which I take the liberty of inclosing. I sent your Grace a copy of the same paper which I sent to the Admiral.

2. I forward also my reply to Sir George, in case he may consider it necessary to allude to the subject to your Grace.

I have, &c.

His Grace the Duke of Newcastle,
&c. &c. &c.

(Signed) A. BANNERMAN.

Encl. 1 in No. 14.

Enclosure 1 in No. 14.

DEAR SIR ALEXANDER,

"Cumberland," Halifax, September 5, 1853.

I RECEIVED your letter of the 30th, with the Island Gazette containing the account of the entertainment given to Commodore Shubrick and the officers of the United States squadron at Charlotte Town, which has also appeared in the Halifax newspapers.

You have been so obliging in assisting my arrangements in Prince Edward Island in reference to the fisheries, that I must differ with your Excellency with reluctance, but I have read the latter part of the speech you made on the occasion with much regret.

I personally can have no pretension to remark on any sentiments you may think fit to express on such an occasion, but so much of the working of the Convention falls necessarily into the hands of the naval officer commanding on this station, that I confess in that capacity I see additional difficulty in the task, should the negotiations fail (no unlikely contingency), when one in your prominent station has expressed so publicly a desire for its abrogation in the presence of the officers of a nation which finds the provisions of that Convention inconvenient, and is therefore desirous to get rid of it, and to discredit its plain meaning until they have done so.

We kept clear of any discussion here with the American officers on the political pending arrangements, and I think that course was prudent.

I am sorry to hear to-day of Captain Forbes at Pictou, as I had been desirous that the "Calypso" should have been at Chaleur or Gaspé, when Commodore Shubrick was in that quarter, and I fear they will have missed each other.

I remain, &c.

Sir A. Bannerman,
&c. &c. &c.

(Signed) G. F. SEYMOUR.

Enclosure 2 in No. 14.

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SIR,

Government House, September 13, 1853.

Encl. 2 in No. 14.

YOUR letter of the 5th came in due course, but too late in the evening to answer it by Friday morning's mail. The delay gave me time to refer to the newspaper I sent to you, containing the remarks which I made in presence of Commodore Shubrick and his officers, at the entertainment given to them here, and of which you so much complain, and state, that you see additional difficulty in the task you have to perform, "when one in my prominent station has expressed so publicly a desire for its abrogation in the presence of the officers of a nation which finds the provisions of that Convention inconvenient, and is therefore desirous to get rid of it, and to discredit its plain meaning until they have done so." Now, with the exception of my allusion to the Commodore's visit, I did not utter a syllable or express a sentiment that I have not freely communicated to Her Majesty's late and present Government, and, as they well know, publicly promulgated here; I expressed no desire for an abrogation of the Convention. I stated a fact, that in the year 1849, two years before I reached the island, the Legislature had addressed Her Majesty to abrogate the Convention of 1818, and subsequently passed an Act to reciprocate with the United States, and been complimented by the Government of Nova Scotia, in official printed documents, for the liberal spirit which had actuated the Government of this colony; and as this had been repeatedly noticed by the American press, and, indeed, very recently so, I stated the circumstances, purposely to show that years have passed away, the Address was not listened to, and the Reciprocal Act remained a dead letter. While now the colonists in Prince Edward Island patiently await the result of the pending negotiations, placing themselves in the hands of Her Majesty's Government; and having (as I distinctly stated) no doubt, that if our neighbours are to participate in our fisheries, so shall we receive equivalent advantages from them. These are the views which, since my assumption of the Government, the Legislature have adopted, and addressed Her Majesty accordingly.

In a recent note of yours you say you have "every confidence in the disposition of the Commodore to reconcile instead of aggravating difficulties." From the interviews I had with the Commodore during his stay here I cordially concur with you, and it afforded me no ordinary satisfaction to have an opportunity of showing him and his officers such poor civilities as I could render them, and to express publicly and in their presence the few sentences I uttered at the Provincial Building a fortnight ago.

I observe you say that at Halifax you kept clear of any discussion with the American officers on the political pending arrangements, and you think that course was prudent. If in the few remarks I made to the public meeting, in presence of the American officers. I have been guilty of imprudence, I can assure you I was unconscious of it, for I sent a copy of the same paper that I sent to you to the Duke of Newcastle; and the only regret I feel, and it will be a sincere one, if I have thrown any difficulties in your way in the performance of those important duties with which you are intrusted; I cannot help, however, annexing from the "Boston Courier," one of the American papers, which finds it convenient "to get rid of the Convention," an extract commenting on Commodore Shubrick's visit to Halifax.

I remain, &c.

Sir G. F. Seymour,
&c. &c. &c.(Signed) A. BANNERMAN.
Lieut.-Governor.

"The piratical 'Devastation' has commenced the business of collecting prize money for her officers and crew from our fishermen, and she can do so with perfect impunity, for we do not know that the American fishermen have the protection of a single national gun on the whole ground. The 'Princeton' is at Halifax, and her officers are giving balls and parties to the *élite* of the British and colonial aristocracy—a service much more consonant to their dispositions than that of interfering between the vulgar fishermen and the thieving British cruisers."

(Confidential.)

No. 15.

No. 15.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
August 30, 1853.

(Registered, October 22, 1853.)

MY LORD DUKE,

(Answered, November 3, 1853.)

I HAD a letter the other day from Sir George Seymour on matters connected with the fishery question, and among other things Sir George tells me he had felt so strongly on some observations I had made in the speech with which I opened the last Assembly, on the fishery question, "the reserves, &c., as connected with foreigners landing and curing fish, &c.," that he had

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considered it his duty to remonstrate with your Grace against the views I entertained.

2. I feel obliged by Sir George Seymour communicating this circumstance to me, but should your Grace consider it necessary, I trust I may be allowed to see the Admiral's observations on the views which I entertained and publicly promulgated in the speech to which Sir George alludes, a copy of which was forwarded to your Grace six months ago.

3. I entertain a high respect for the opinions of an officer of such great experience as Sir George Seymour, but the Admiral cannot but from other sources possess the local information I have the opportunity of acquiring, nor is he aware of the trouble which this question of "reserves" has occasioned Colonial Ministers for a series of years.

4. If my opinions are erroneous in regard to foreigners landing and curing fish on shore, they will be controlled by Her Majesty's Government; but I was instructed, and it was my duty to state those opinions, and I apprehend none of those consequences which Sir George Seymour is afraid of from foreigners landing, &c., provided they do so legally and by treaty, and not in the illegal manner which they did in 1851, to which I called the attention of Her Majesty's Government, and when those foreigners did not consider themselves responsible to any Government.

His Grace the Duke of Newcastle, &c. &c. &c. I have, &c.
(Signed) A. BANNERMAN.
Lieut.-Governor.

No. 16. (Confidential.)

No. 16.

COPY of a DESPATCH from the Duke of NEWCASTLE to Lieutenant-Governor Sir ALEXANDER BANNERMAN.

SIR,

Downing Street, November 3, 1853.

I HAVE to acknowledge the receipt of your despatch, marked confidential, of the 30th of August last, and in compliance with your request I inclose a copy of the letter which Sir George Seymour addressed to me on the subject of the fishery reserves of Prince Edward Island.

Sir A. Bannerman, &c. &c. &c. I have, &c.
(Signed) NEWCASTLE.

No. 17. (No. 60.)

No. 17.

COPY of a DESPATCH from Lieutenant-Governor Sir ALEXANDER BANNERMAN to the Duke of NEWCASTLE.

Government House, Prince Edward Island,
November 8 1853.

(Received, December 6, 1853.)

MY LORD DUKE,

IN reference to your Grace's despatch, No. 28, September 9,* relative to the admission of American fishermen into our harbour, I have the honour to acquaint your Grace, that none of their vessels during the last season were armed, and, therefore, I had no occasion to adopt any rigour beyond the laws now in force.

Two men belonging to an American schooner were convicted of a very serious assault and promptly dealt with, one being sentenced to sixteen, the other four months' imprisonment. I inclose a letter of mine, addressed to Judge Peters, and his reply, No. 2, on the subject, and your Grace will see that the Civil Power was indebted to Lieutenant Jenkins, of Her Majesty's hired tender "Rose" for the apprehension of the two culprits, which shows that a small naval force on the station is very desirable, while the fishery question remains unsettled.

His Grace the Duke of Newcastle, &c. &c. &c. I have, &c.
(Signed) A. BANNERMAN.
Lieut.-Governor.

* Page 110.

Enclosure 1 in No. 17.

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SIR, Government House, October 10, 1853. Encl. 1 in No. 17.

I BEG leave to send inclosed a note from Lieutenant Jenkins, late commanding the hired armed tender "Rose." That gentleman having been ordered to proceed to sea in Her Majesty's ship "Calypso," he had no opportunity of communicating to me the particulars of the case to which he alludes, and none of the magistrates in Prince County have made any report to me on the subject.

I observe by the newspapers that the two men alluded to by Lieutenant Jenkins were convicted of the assault with which they were charged at the assizes held at Saint Eleanor's, where you presided. Will you be so good as let me know if the two men in question were foreigners, or British subjects, and whether they belonged to any of the American fishing-vessels.

Last year Her Majesty's Government were inclined to continue the indulgence which had before prevailed of allowing foreign fishing-vessels to enter our ports on Saturdays and Sundays, an accommodation not within the terms of the Treaty of 1818.

This relaxation of strict right must, however, be deemed conditional upon the American fishermen evincing a disposition to conduct themselves in an orderly and peaceable manner.

I shall therefore feel obliged by your letting me know whether any circumstances were elicited during the trial of these men to show that the indulgence granted to foreign fishermen by allowing so many of them to land, as was the case lately at the harbour of Cascumpeque, has been abused.

Hon. Judge Peters,
&c. &c. &c.

I have, &c.
(Signed) A. BANNERMAN.
Lieut.-Governor.

P.S. In one of the affidavits sent to me by Lieutenant Jenkins, it appears that the two men convicted were armed with axes.

Encl. 2 in No. 17

Enclosure 2 in No. 17.

SIR, Sidmont, October 11, 1853.

I HAVE the honour to acknowledge your Excellency's communication of the 10th instant, relative to the case of two men tried before me last week at the Saint Eleanor's assizes. John McPherson was convicted of an assault on Julian Macall Duff with intent to commit a rape; and on another indictment, he and Charles Vincent were convicted of an assault on Edward Macall Duff, her husband. The prisoners both belonged to American fishing-schooners. Vincent stated himself to be a native of France, and McPherson was said to be an Irishman. The offence was committed on the 22nd September.

With respect to your Excellency's question, whether any circumstances were elicited on the trial to show that the indulgence of allowing foreign fishing-vessels to enter our ports on Sundays and Saturdays, and so many of them to land as was lately the case at Cascumpeque, has been abused. I beg to state that although a good many fishing-vessels were in harbour, it did not appear on the trial whether any fishermen, except the two in question, were on shore. The main facts appeared to be, that the prisoners had been drinking at a place called the Cross-roads, not far from the prosecutor's house. On their way to the shore, they went to go home, and asked for milk; the husband went out to milk the cows, and during his absence McPherson assaulted the wife, but was prevented from accomplishing his purpose by the husband's return, who was attracted by the cries of his wife. The husband having released his wife from McPherson, was engaged in a scuffle with him, when Vincent interfered, and they both dragged the husband to the door, where they left him, and ran away. Two axes were lying by the door; and Vincent stated in his evidence that he took them, and gave one to McPherson to prevent the husband getting hold of them, and that when they got to the bush they threw them away; and I think it likely this statement was correct.

I can only observe that any evil-disposed persons might certainly commit a similar outrage, but the impression on my mind, from the whole case, is, that they would scarcely have dared to do so in so public a place had not the proximity of their vessels afforded great facilities for their escaping, and which, I think, would have been the case but for the prompt measures adopted by the commander of the "Rose," which happened then to be in Cascumpeque harbour.

His Excellency Sir A. Bannerman,
Lieutenant-Governor.

I have, &c.
(Signed) JAMES H. PETERS.

NEWFOUNDLAND.

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No. 1.

(Confidential.)

No. 1.

COPY of a DESPATCH from the COLONIAL SECRETARY to Right Hon.
Sir J. S. PAKINGTON, Bart.

Government House, Newfoundland,

November 30, 1852.

(Received, December 21, 1852.)

SIR,

I HAVE the honour to acknowledge the receipt of your confidential despatch of the 23rd ultimo, and in compliance with your directions, I proceed to state the points affecting the interests of this island, which it appears to me should be considered in any negotiation between Her Majesty's Government and that of the United States, and also my own views on the subject generally.

Our present relations with the United States leave the preponderating advantages greatly on their side, as whilst our imports from those States during the last year amounted to upwards of £200,000, they take from us to the value of £20,000 only. This great difference is occasioned by the large protection duties exacted in that country, amounting to at least 20 per cent.: were these lowered, and the bounties given in aid of their fisheries withdrawn, the probability is, a very considerable market would be found for our fish, and these objects are the principal points to be considered as respects our interest in any treaty between the two Governments.

As our revenue is derived altogether from a tax on imports, we are not in a position to give up so large a portion of it, as that derived from imports from the United States; but, if their Government would consent to an *ad valorem* duty on our produce of equal amount with that imposed by us on theirs, and which, with one exception, does not exceed 7 per cent., an arrangement might be effected, which, in my opinion, would be most advantageous to this Colony, and unobjectionable as regards all parties.

The citizens of the United States already possess considerable fishing rights on our coasts, and especially at the Labrador; and on this latter coast they are particularly favoured, as whilst supplies sent there from the settlements of this Colony pay the Colonial duty, those to a very large amount supplied by the Americans altogether escape this tax. I would add that, in the exercise of these rights, few, if any, instances have occurred of complaint or collision between British and American fishermen or traders.

I beg to repeat, that the principal objects for our interest in negotiating with the Government of the United States, is a scale of *ad valorem* duties in the two countries, similar in amount, and the abolition or reduction of the American bounties.

I fear we have not much to offer them as an inducement to yield to us these advantages, except we consent to their being placed on an equal footing with our own people as regards the fisheries on this coast, and on this point, I beg to refer you to Sir Gaspard Le Marchant's confidential despatch to Earl Grey, of the 31st December, 1849, in which the advantages and probable results of such a measure are fully treated.

I beg with all diffidence to express my concurrence in Sir Gaspard's views. Our fishery continues in a very depressed condition, and when the potatoes fail, or become diseased, as is the case this year, pauperism and dependence on Government support most extensively prevail.

In the present position of our fisheries, I see no remedy for this evil, and I therefore incline to the opinion that, for the reasons stated in the despatch above adverted to, the colony would benefit by the introduction amongst us of enterprising American traders, and that the abolition of bounties and reduction

of duties would be full compensation for such competition to those already engaged in the trade of the colony, who would have the advantage of residence, property, and existing establishments

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At the same time I would suggest, that as such arrangements would involve changes of an important character, and be viewed with considerable alarm by the established mercantile houses, it should not be adopted without the trade, as well as the Legislature, having an opportunity of first expressing their views thereon

I am not aware of any other point which would require to be considered on our behalf in the proposed negotiation.

I have, &c.

(Signed)

JAMES CROWDY.

The Right Hon. Sir J. S. Pakington, Bart.,
&c. &c. &c.

(Separate.)

No. 2.

No. 2.

COPY of a DESPATCH from Governor HAMILTON to the Duke of NEWCASTLE.

Newfoundland, February 23, 1853.

(Received, March 15, 1853.)

MY LORD DUKE,

(Answered, April 5, 1853, p. 124.)

I HAVE been requested by the House of Assembly to transmit to your Grace the accompanying Petition from that Body to the Queen, relative to the negotiation now going forward with reference to the question of reciprocal trade between Her Majesty's Government and that of the United States.

2. Having literally only sufficient time to forward the Petition, I must confine myself to observing that, in the event of the views of the Assembly being acted on, it may be wise to limit the existence of the arrangement for such period only as will enable both parties to test its working, and form their judgments as to rendering it permanent.

I have, &c.

His Grace the Duke of Newcastle,
&c. &c. &c.

(Signed)

K. B. HAMILTON.

Enclosure in No. 2.

Encl. in No. 2.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Commons of Newfoundland, in Legislative Session convened, most respectfully beg leave to approach your Majesty with feelings of the most profound devotion to your Majesty's person and Government.

We most humbly beg leave to inform your Majesty that the Assembly, in its last Session, affirmed the principles of reciprocal free trade between the United States and this Colony, in resolutions which are recorded on the journals of the House.

That in reply to the Address of the Assembly requesting your Majesty to include this colony in any general scheme of reciprocal trade between the North American colonies and the United States, your Majesty's Secretary of State for the Colonies, in his despatch dated the 26th day of August last, gives assurance that the interests of this colony shall receive the serious consideration of your Majesty's Government.

That Mr. Everett, the American Secretary of State, in an official letter to the President of the United States, dated the 7th day of February instant, affirms that the "Government of Her Britannic Majesty is prepared to enter into an arrangement for the admission of fishing-vessels of the United States to a full participation in the public fisheries on the coasts and shores of the provinces (with the exception perhaps, at present, of Newfoundland), on the condition of the admission of colonial produce duty free into the United States,—a statement which is regarded by the Assembly with surprise and regret; because of the special exception of this colony from the proposed arrangement.

The House of Assembly further beg leave to assure your Majesty that the best interests of the population of this colony would be vitally compromised, and their opinions and desires disregarded, by excluding Newfoundland from the contemplated Treaty; and they

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therefore most respectfully beg leave to reiterate their former request, that this colony may be included in any arrangement that may be effected by your Majesty's Government on this important subject.

Passed the House of Assembly, February 23, 1853.

(Signed)

JOHN KENT, Speaker.

No. 3.

(No. 11.)

No. 3.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor HAMILTON.

SIR,

Downing Street, April 5, 1853.

I HAVE to acknowledge the receipt of your despatch, marked separate, of the 23rd of February, transmitting a Petition to the Queen from the House of Assembly, praying that Newfoundland may be included in any Treaty for the establishment of reciprocal trade, which may be entered into between this country and the United States.

I have laid this Petition before the Queen, and I have received Her Majesty's commands to instruct you to acquaint the petitioners that the negotiation for a new commercial Convention between this country and the United States is suspended in consequence of the change of Government in America, but that the wishes of the House of Assembly will receive the careful attention of Her Majesty's Government.

Governor Hamilton,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

No. 4.

(No. 33.)

No. 4.

COPY of a DESPATCH from Governor HAMILTON to the Duke of NEWCASTLE.

Government House, Newfoundland,
May 17, 1853.

(Received, June 7, 1853.)

MY LORD DUKE,

(Answered, June 29, 1853. p. 125.)

I HAVE the honour to forward to your Grace the accompanying Address from the House of Assembly to the Queen, on the subject of protecting the fisheries.

2. The information contained in your Grace's confidential despatch, of the 28th March, renders it unnecessary that I should add my recommendation to that part of the prayer of the Address which relates to the ensuing fishing season. But with reference to the request that a war-steamer may be stationed in Burin during winter, for the purpose of preventing the illicit traffic in bait,—a traffic which is essential to the maintenance of the French bank fishery, and proportionably injurious to the fisheries of this colony,—I may observe that a compliance with that request would be received here as a very great benefaction to Newfoundland.

His Grace the Duke of Newcastle,
&c. &c. &c.

I have, &c.
(Signed) K. B. HAMILTON.

Encl. in No. 4.

Enclosure in No. 4.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

May it please your Majesty,

WE, your Majesty's loyal subjects, the Commons of Newfoundland, in General Assembly convened, beg leave to approach your Majesty with sentiments of unswerving loyalty to your Gracious Majesty's person and throne, to tender to your Majesty our respectful and sincere acknowledgments for the protection afforded by the Imperial Govern-

ment to the fisheries of this colony and Labrador, during the last year, and to pray that your Gracious Majesty will be pleased to continue the same during the ensuing season.

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May it please your Majesty,

The illicit traffic in bait carried on between the inhabitants of the western part of this island and the French, has proved of serious injury to the fisheries generally, as the supply enables the French bankers to commence their voyage early in spring, and thereby prevent the fish from reaching our coasts.

We therefore most earnestly beseech your Majesty graciously to be pleased to cause an efficient war-steamer to be placed in Burin during winter, so that by being early on the coast, she may avert the evil of which we so greatly complain.

Passed the House of Assembly, April 23, 1853.

(Signed) JOHN KENT, Speaker.

(No. 22.)

No. 5.

No. 5

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor HAMILTON.

SIR,

Downing Street, June 29, 1853.

I HAVE received your despatch, No. 33, of the 17th of May, forwarding an Address to the Queen from the House of Assembly of Newfoundland, praying that a war-steamer may be stationed at Burin during the winter, to prevent the illicit traffic in bait, now carried on between the French fishermen and the inhabitants of the western part of the island.

I have had the honour to lay this Address before the Queen, and Her Majesty was pleased to receive it very graciously.

It will not be in the power of Her Majesty's Government to comply with the wishes of the House of Assembly, by sending a steamer during the winter to the west coast of Newfoundland; but they would suggest that the Colonial Government should fit out a schooner for the prevention of the illicit traffic complained of, such vessel being placed under the immediate direction and control of the Admiral commanding on the station, an arrangement which has been approved of by Her Majesty's Government with respect to the colonial vessels employed in protecting its fisheries by the neighbouring Province of Nova Scotia.

I have, &c.

Governor Hamilton,
&c. &c. &c.

(Signed) NEWCASTLE.

(No. 41.)

No. 6.

No. 6.

COPY of a DESPATCH from Governor HAMILTON to the Duke of NEWCASTLE.

Government House, Newfoundland,
June 28, 1853.

(Received, July 18, 1853.)

MY LORD DUKE, (Answered, July 30, 1853, p. 129.)

I HAVE the honour to transmit herewith an Address to your Grace from the House of Assembly, announcing the appointment, by that Body, of three of its members—Messrs. Little, Parsons and Emerson—to be delegates to Her Majesty's Government upon the subjects of responsible Government and free trade with the United States of America.

2. During the past session the Assembly presented an address to me, requesting permission to initiate a vote for the expenses of a delegation from their House, offering, at the same time, to provide for the expense of delegates from the Council.

3. Being desirous of having the independent opinion of both branches as to the necessity for this proceeding, I for that purpose consented to the introduction of a separate Delegation Bill. A Bill was accordingly brought into the Assembly, which passed with the usual majority—the Roman Catholics voting on one side, and the Protestants, with the exception of Mr. Emerson, on the other; and was sent to the Council, where, after remaining untouched for a

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considerable length of time, it was at last taken up by Mr. O'Brien, a Roman Catholic, and he being the only member who supported it, it was negatived.

4. Finding that as a separate measure the vote had failed, it was tacked by the House to the Supply Bill; but being there without authority, the Council, on the Bill being sent to them, struck out the item, and a Supply Bill was subsequently passed without it.

The House then appointed the gentlemen above named to proceed to England as delegates, upon the chance, as I am informed, of their expenses being repaid hereafter. They will leave in the packet which will sail hence to-morrow.

5. The object of this delegation appears to be twofold—first, the concession of responsible government to the colony; and, secondly, the obtaining for it, through the negotiation of Her Majesty's Government, reciprocal free trade with the United States.

6. Upon the former of these subjects it is not necessary that I should at present occupy your Grace's time, further than by saying that the more my acquaintance with this colony extends, the more fully am I confirmed in the views which I have expressed to your Grace in former despatches. Upon the subject of free trade I beg leave to offer a few observations.

7. On the 21st of April, 1852, after a debate of two or three days, and by a large majority, a series of resolutions passed the House expressive of their desire for free trade with the United States, on the basis of the Americans being admitted to a participation in our fisheries, as an equivalent for the removal of their bounties and prohibitory duties on Newfoundland produce; the produce of either country being admitted into the other, either free of duty, or at a rate not exceeding six per cent. *ad valorem*. The same resolutions were, after much debate, unanimously affirmed by the House in the past session.

8. The opinion of the people generally is, I believe, in favour of this change; the low prices of our fish in foreign markets for the last year or two having shown the almost imperative necessity of opening new markets for our produce, in order to afford remunerative employment even to our present population. Its opponents are to be found principally amongst the mercantile class, some of whom naturally fear that competition in their trade and fisheries, which would, as they suppose, be consequent upon the settling of Americans in the outports of the island. Amongst even the merchants, however, opinion is divided upon the subject; and in order, therefore, that their views may be distinctly known, and if necessary submitted by memorial to Her Majesty's Government, I called the attention of the President of the Chamber of Commerce to the action now being taken in this matter by the Assembly; and I received, in reply, the inclosed communication, comprising the substance of certain resolutions passed at a meeting of the Commercial Society; not, however, without opposition from a respectable minority who moved an amendment in accordance with the resolutions of the Assembly.

9. After the best consideration I could give this question, and after availing myself of such information with respect to it as I could obtain, I am inclined to think that the advantages of free trade on the above basis are over-rated on the one side, while its evils are exaggerated on the other. The advocates of free trade contend that the stimulus which would be given to our trade and fisheries by the opening of the American markets to our fish and oil would be very great, and much more than commensurate with any evil that could possibly arise by the concession of the proposed equivalent. Those opposed to it allege, that by permitting the Americans to settle on our coasts and share our fisheries, the revenue would be seriously diminished by the illicit trade which would immediately spring up; and the competition with which our fishermen would have to contend, would be so much increased that they would ultimately be compelled to abandon the cod-fishery altogether.

10. It seems to me, however, very questionable whether all the advantages which are anticipated from opening the American markets would in reality arise. We send fish to America at present for exportation thence only, the duty on fish imported thither for consumption, and the bounty on American caught fish, being together too high to enable us to sell fish in the American home market on equal terms with the Americans. The removal of these bounties and duties would probably enable us to sell our fish without loss from

American competition; but it would expose us to competition from the French, who would, unless a high duty were placed on their soft-cured and cheaper fish, import so largely and sell so low as to drive us out of the market altogether. The export market would, probably, remain with us as at present; our hard-cured fish being that which is best adapted for the warm climates to which the Americans send it.

11. On the other hand, it is equally questionable whether opening our harbours to the Americans would injure us either in our revenue or in our fisheries. The Americans have at present the right of fishing on the west coast of Newfoundland, and on the south shore as far east as the Rameau Islands; yet they make but little use of this privilege, preferring, apparently, the more productive, although more distant, fisheries of the Banks and the Labrador. If they do not at present frequent our southern and western shores, it is not likely that they would come to fish on our eastern coast, where the population is so much more numerous—where the proportion of fishermen to fish is so much greater—and where the cost of establishments for curing fish, from the higher value of land there, is also so much greater. It is, moreover, the opinion of many persons of great experience and intelligence, that we can catch and cure fish so much more cheaply than the Americans, on our shores, that, other things being equal, we could afford to undersell them in their own markets. As regards the revenue, although, if the Americans were to settle in or frequent our bays and harbours, illicit trade would doubtless spring up between them and the inhabitants, yet the advantages we should derive from the necessary employment of our people by the Americans, from the hire of fishing rooms, &c., would greatly counterbalance this latter evil, in a fiscal point of view at least.

12. The mercantile community of St. John's are in some degree opposed to free trade, from the fear lest the settlement of strangers in the outports should, as it probably would to some extent, divert trade from St. John's; but, assuming this fear to be well-grounded, it cannot be contended that the prosperity of the capital is of more importance than that of all the rest of the island.

13. For these reasons, I am of opinion, upon the whole, that no well-founded objection can be urged to Her Majesty's Government entertaining and acting upon the desire expressed by the Assembly for the establishment of free trade on the basis agreed upon; and it does not seem to me seriously to militate against this conclusion, that the general feeling in Nova Scotia and New Brunswick seems to be opposed to any further concession of their fishery rights. The different character of our respective fisheries may, I think, well account for this difference of opinion between us.

14. The mackerel fishery in the bays of these provinces and in the Gulf of St. Lawrence, is that branch of industry in which they principally fear American competition. Mackerel are pickled on board ship, as soon as they are taken; the extension of their fishing grounds, therefore, is all the Americans require, to be enabled to extend in an equal degree their mackerel fishery. Cod fish, although sometimes salted on board ship, are cured on shore by a tedious and sometimes uncertain process, dependent very much upon the state of the weather. In the cod fishery, therefore, if the Americans were to cover the banks with their vessels, unless they had facilities for curing on shore, their fleets would be useless: it is in these facilities that we do, and I think always would, excel them, even after the proposed concession to them of further rights of fishery.

15. We have at present no mackerel fisheries; the mackerel having altogether deserted our shores for many years past.

I have, &c.

(Signed) KER B. HAMILTON.

His Grace the Duke of Newcastle,
&c. &c. &c.

P.S. Since writing the above, I have been requested to transmit the accompanying Address to your Grace, on the subject of free trade with the United States, adopted at a public meeting of the inhabitants of this town.

Encl. 1 in No. 6.

Enclosure 1 in No. 6.

Chamber of Commerce, St. John's, Newfoundland,
June 25, 1853.

SIR,

I HAVE had the honour to receive, and have laid before the Commercial Society, your letter of the 21st instant, stating that his Excellency the Governor "will be glad to be enabled to convey to his Grace the Duke of Newcastle the views and wishes of the Society on the subject of the establishment of reciprocal free trade between this colony and the United States of America."

And I am directed to acquaint you, for the information of his Excellency, that the Society, having fully considered the matter, are of opinion, with reference to free trade with the United States, that as imports from that country are now admitted upon the same terms as from Great Britain and elsewhere, at a duty of about 5 per cent. (collected solely for the purpose of revenue), whilst the produce of our fisheries are subject to a duty of 20 per cent. on admission into the United States, it is desirable that in any commercial Treaty entered into between the Government of the United States and Great Britain, the interests of this colony should be so far protected that goods imported from each country should be received at the same rate of duty.

That the views of the American Government should be obtained from our Minister at Washington, in order that the Society may more fully understand what they propose in reference to this colony, that the same may be more fully considered before any definite arrangement be entered into.

That the prosperity of Newfoundland depending on her fisheries, it would be impolitic and unwise to admit any foreign Power to a participation therein further than has already unfortunately been done.

I have, &c.

(Signed)

PETER McBRIDE,

President, Chamber of Commerce.

Hon. James Crowdy,
&c. &c. &c.

Encl. 2 in No. 6.

Enclosure 2 in No. 6.

TO HIS GRACE THE DUKE OF NEWCASTLE, HER MAJESTY'S PRINCIPAL SECRETARY
OF STATE FOR THE COLONIES.

May it please your Grace,

At a public meeting of the inhabitants of this town, held on the 27th instant, to consider the question of reciprocal free trade between the United States and this colony, the following resolution was unanimously passed, and ordered to be transmitted to your Grace:—

Resolved, That it is the opinion of this meeting that it would conduce to the welfare and prosperity of this colony to have free and unrestricted commercial relations with the United States of America, on the principles unanimously affirmed by the House of Assembly; and that it would be seriously detrimental to the interests of Newfoundland if any arrangement be carried out between the British North American colonies and the States, in which this island is not included.

By order and on behalf of the meeting,

(Signed)

AMBROSE SHEA, Chairman.
G. HOGSITT, Secretary.St. John's, Newfoundland,
28th June, 1853.

Encl. 3 in No. 6.

Enclosure 3 in No. 6.

TO HIS GRACE THE RIGHT HONOURABLE THE DUKE OF NEWCASTLE, HER MAJESTY'S
PRINCIPAL SECRETARY OF STATE FOR THE COLONIES.

May it please your Grace,

THE House of Assembly of Newfoundland, in Legislative Session convened, beg leave respectfully to inform your Grace, that they have, during the present Session, appointed Philip S. Little, George H. Emerson, and Robert John Parsons, Esqrs., members of their body, as delegates, with power to any two of those gentlemen to represent to Her Majesty's Government the state of this colony, and the operation of its present system of Government, its fitness for responsible Government, and the opinions and desires of the people on these subjects, and also upon the establishment of reciprocal free trade between this colony and the United States of America.

The House of Assembly desiring nothing more than justice for the people, and a fair opportunity of placing before the Imperial Government both sides of the questions at issue between the local Executive and the people in their true light, consented during the present Session to an appropriation to defray the expenses of delegates from Her Majesty's Council in this colony, and also from the Assembly; but this proposition was twice rejected by the Council.

The House of Assembly therefore resolved upon making this last appeal to the present Government for a reform of the political institutions of the colony and a concession of its rights, as one of the most ancient and loyal dependencies of the British Crown, rather than resort to measures in the Assembly of an extreme though constitutional character, which existing circumstances would justify; but a feeling of confidence in Her Majesty's Ministers, and in the intrinsic merits of the principles which the Assembly have endeavoured to uphold, induce them to forbear adopting that course, in the hope that ere long their reasonable demands would be conceded.

They therefore trust that your Grace will give a favourable hearing to their delegates, and upon a full consideration of the matters which they will deem it their duty to submit, your Grace may be enabled to advise Her Majesty's Government to adopt such measures as will meet the views of the Assembly, and secure the harmonious working of the co-ordinate branches of the Legislature, by conferring upon the people of this colony a participation in such rights and privileges as have been granted to the neighbouring colonies and are shown to be productive of the peace and prosperity of the people.

House of Assembly, June 15, 1853.

(Signed)

JOHN KENT, Speaker.

(No. 27.)

No. 7.

No. 7.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor HAMILTON.

SIR,

Downing Street, July 30, 1853.

I HAVE to acknowledge the receipt of your despatch, No. 41, of the 28th of June, transmitting an Address to myself from the House of Assembly of Newfoundland, announcing the appointment by that Body of three of its members—Messrs. Little, Parsons and Emerson—to be delegates to Her Majesty's Government on the subject of responsible Government, and free trade with the United States of America; your despatch also incloses a copy of a letter from the President of the Chamber of Commerce to the Colonial Secretary of your Government, and a communication to myself from the chairman of a public meeting at St. John's, on the latter of those two subjects.

I have, &c.

Governor Hamilton,
&c. &c. &c.

(Signed)

NEWCASTLE.

No. 8.

No. 8.

COPY of LETTER from Captain HAMILTON, R.N., to H. MERIVALE, Esq.

SIR,

Admiralty, February 15, 1854.

I AM commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Duke of Newcastle, copy of a letter from Vice-Admiral Sir George Seymour, relative to the mode of distinguishing English vessels from foreigners on the North American fisheries.

I have, &c.

H. Merivale, Esq.,
Colonial Office.

(Signed)

W. A. B. HAMILTON.

Enclosure in No. 8.

Encl. in No. 8.

SIR,

Cumberland Terrace, January 23, 1854.

I HAVE had the honour of receiving your letter of the 16th December (No. 311), conveying the desire of the Duke of Newcastle that I should report my opinion on a suggestion made by Commander Purvis, of the "Argus," that certain regulations should be adopted to distinguish British fishing vessels from French, on the coast of Newfoundland, and on which I had expressed no opinion in forwarding Commander Purvis's Report on the fisheries.

I beg to acquaint you, for his Grace's information, that my attention has been sedulously turned for the last two years to the subject, in its general application to the whole of the British provinces, in order to facilitate the execution of the orders of Her Majesty's Government to restrain foreign encroachments on our fishing grounds; and there, in 1852, I proposed to the Colonial Governments to adopt by law a system of distinctive marks

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and numbers to be applied to the sails and hulls of the British fishing vessels, to distinguish them from foreigners.

This proposal was brought before the Houses of Assembly of Nova Scotia and New Brunswick, but, after passing that of the former, it was thrown out by the Council, though I could not learn on what grounds.

It was notorious in the autumn of 1852 that many unscrupulous persons were endeavouring to procure British registers for American vessels, to enable them to fish near the shores, and to evade the Convention of 1818; and the Lieutenant-Governor, with my entire concurrence, directed the Comptroller of Customs at Halifax to order his subordinates at the outports to exercise due vigilance, and to take steps to ascertain that the transfers were made in good faith, and that the vessels gave up their foreign registers. The Commissioners of Customs have disapproved of this precaution, as it is not prescribed by the Act of Parliament for the Amendment of the Navigation Laws; but a double nationality is so contrary to the spirit of the law, that I trust the Lords of Her Majesty's Treasury will see fit to recommend its modification. I feel assured that if this is not done, and the views of the Commissioners of the Customs be made public, it will become much more difficult to carry out the Convention of 1818 in the manner directed by Her Majesty's Government.

The Commissioners of Customs, in a report to the Lords of the Treasury, dated the 31st October, 1853, have, to my great regret, censured the Comptroller of Customs at Halifax for his compliance with the suggestion made by the Lieutenant-Governor and myself, while they have applauded the Comptroller at Prince Edward Island, who manifestly neglected some of the provisions of the law, as appears by the same letter, because he only required the simple declaration to issue a British register.

Much, therefore, as I concur in Commander Purvis's suggestions, with regard to Newfoundland and the Magdalen Islands, I cannot expect that they can be carried out, except with the aid of the officers of the Customs in the different colonies, with the approbation of the Lords of the Treasury, who have expressed their concurrence in the view taken by the Commissioners—"that the present law sanctions no such inquiry," an alteration of which I hope may be considered worthy of attention.

I beg to add that I have had continual reason to observe the irregularities which prevail in the registers and clearances of the vessels belonging to the North American provinces.

The Secretary of the Admiralty,

I have, &c.
(Signed) G. F. SEYMOUR.