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CONFIDENTIAL.

## CORRESPONDENCE

RESPECTING THE

BRITISH NORTH AMERICAN FISHERIES.

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1871-73.





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CONFIDENTIAL.

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No. 1.

*Mr. Holland to Mr. Hammond.—(Received January 7.)*

Sir, *Downing Street, January 6, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing copies of a correspondence between Sir E. Thornton and himself on the subject of the seizure of the United States' schooner "Granada," by the Canadian police vessel "Ida E.," for an infraction of the Customs Laws of the Dominion.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure 1 in No. 1.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Government House, Ottawa, December 20, 1870.*  
I HAVE the honour to transmit herewith for your information, copy of a correspondence which has passed between Her Majesty's Minister at Washington and myself on the subject of the seizure of the United States' schooner "Granada," by the Canadian police vessel "Ida E.," for an infraction of the Custom laws of the Dominion.

I have, &c.  
(Signed) LISGAR.

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Inclosure 2 in No. 1.

*Sir E. Thornton to Lord Lisgar.*

My Lord, *Washington, December 8, 1870.*  
I HAVE the honour to inclose copy of a Resolution which was submitted to the House of Representatives by Mr. Buffinton, a member from Massachusetts, relative to the seizure by the "Ida E." of the American vessel "Granada," at Port Hood, Nova Scotia.  
The seizure of this vessel for smuggling is mentioned in the inclosure of your Excellency's despatch of the 8th ultimo. Should any further details relative to the capture of this vessel have reached your Excellency, I should be much obliged if they could be forwarded to me.

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

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## Inclosure 3 in No. 1.

*Resolution.*

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

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

## Inclosure 4 in No. 1.

*Lord Lisgar to Sir E. Thornton.*

Sir,

*Ottawa, December 13, 1870.*

I HAVE the honour to acknowledge the receipt of your letter of the 8th instant, on the subject of the seizure by the Canadian police vessel “Ida E.” of the United States’ schooner “Granada.” I have caused an application to be made to the proper Department for all the details relating to this vessel, and so soon as I receive them I will again communicate with you.

I have, &c.  
(Signed) LISGAR.

## Inclosure 5 in No. 1.

*Lord Lisgar to Sir E. Thornton.*

Sir,

*Government House, Ottawa, December 15, 1870.*

I HAVE the honour to forward, in accordance with the request contained in your despatch of the 8th instant, all the information my Government possesses up to this date, of the seizure of the United States’ schooner “Granada,” at Port Hood.

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

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

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

I have, &c.  
(Signed) LISGAR.

## Inclosure 6 in No. 1.

*Report.*

*Department of Customs, Ottawa, December 15, 1870.*

THE despatch of Sir Edward Thornton, of the 8th December, inclosing a copy of a Resolution submitted on the 7th instant to the House of Representatives relative to the seizure of this schooner at Port Hood, Nova Scotia, requests that any further details relative thereto should be forwarded to him.

The first information given by Captain Tory, Commander of the “Ida E.,” and holding a commission as an officer of Customs, was, by telegraph, on the 1st November, stating

that he had "seized American fishing schooner 'Granada,' at Port Hood, for smuggling—vessel in the hands of the Custom-house officers, Guysborough."

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

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

"Schooner 'Granada' seized by Tory—infraction of Customs laws. Had on board molasses, kerosine oil, boxes tobacco, tea, liquor, and other dutiable goods; value about 1,000 dollars."

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

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

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

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

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

"Delay deciding on 'Granada' case until receive full information. If captain trading in our ports with 1,000 dollars' worth of goods, must impose penalty equal to exaction on our vessels and merchants—small penalty would not do this."

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

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

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

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

Memorandum of Articles on board the Prize Schooner "Granada;" but as the Cargo has not been discharged, a correct Inventory cannot be obtained.

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

(Signed) JAMES MARSHALL, Collector.

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

November 11.—Received reply from the Minister of Customs, submitting the following telegram from Mr. Blanchard :—

\* There is no direct communication by telegraph with Guysborough—hence the delay.

† Presumed the captain of the "Granada" is referred to, although it is not so stated.

*“Halifax, 10th instant.*

“Owners of ‘Granada’ have deposited 800 dollars, and I have discharged, awaiting orders of Government.”

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

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

(Signed) S. L. TILLEY,  
*Master of Customs.*

No. 2.

*Sir F. Rogers to Mr. Hammond.*—(Received January 9.)

Sir, *Downing Street, January 7, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing a revised list of vessels seized by Imperial and Canadian cruisers, for violation of the Fishery and Revenue Laws during the past season.

A copy of this despatch has also been communicated to the Admiralty.

I am, &c.  
(Signed) FREDERIC ROGERS.

Inclosure 1 in No. 2.

*Lord Lisgar to Lord Kimberley.*

My Lord, *Government House, Ottawa, December 15, 1870.*  
WITH reference to my Secret despatch of the 4th November last, on the subject of the fisheries, I have the honour to inclose a revised list of vessels seized by Imperial and Canadian police cruisers, for violation of the Fishery and Revenue Laws during the past season.

Full particulars of each case will be sent to your Lordship when the legal proceedings shall have closed.

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 2.

REVISED SCHEDULE of Vessels seized by Imperial and Canadian Cruizers for Violation of the Fishery and Revenue Laws, during the current season, to date, December 14, 1870.

Name of Vessel.	Tonnage.	Name of Master or Owner.	Place of Ownership.	Date of Seizure.	Place of Seizure, and Distance of Locality from Shore.	Whether hovering, at anchor, or trading actively, fishing, having fished, or preparing to fish.	When and how tried, and with what result, and if defended by Counsel.	By whom Seizure was made.	Remarks.
Wampatrick ..	Tons. 40	Mr. Goodwin ..	Plymouth, U.S. ..	1870 June 27	About 1 1/4 miles from the shore, off the north shore of Aspy Bay, N.S.	Actively fishing, the men on board in the act of hauling in their lines.	Condemned by Vice-Admiralty Court at Halifax.	James A. Tory, schooner "Ida E."	
J. H. Nickerson	70	Mr. McDonald ..	Salem, Mass., U.S. ..	June 30	Within 3 cables' length from shore, on east side of Bay Ingonisto, N.S., and immediately inside of Ingonisto Island.	At anchor, preparing to fish, and a quantity of fresh caught herrings in the hold, taken on the spot, having been previously warned off.	Vice-Admiralty Court, Halifax; still pending. Counsel retained in defence.	Ditto.	
Minnie ..	..	Mr. Campbell ..	Halifax, N.S. ..	July 28	Aspy Bay, N.S. ..	Smuggling ..	Ditto ..	Ditto.	
Lettie ..	57	Owner, Mr. McGowan Master, Mr. Beeman	Prince Edward Island.	Aug. 18	Half a mile off the light inside Gaspé Harbour, Province of Quebec.	Fishing 7 days in Gaspé harbour, and preparing to fish at time of seizure.	In course of litigation in Courts of New Brunswick.	H. E. Betts, schooner "Ella G. Maclean."	So named on register; but the ship's articles give the names J. C. Hall, owner, and Wm. Hearn, master; also violation of the 103rd section Merchant Shipping Act.
Lizzie A. Tarr ..	63	Messrs. Tarr, Brothers	Gloucester, Mass., U.S.	Aug. 27	St. Margaret's Bay, north shore, Gulf of St. Lawrence, Province of Quebec, 350 yards from shore.	At anchor. Lines set, on which were six halibut.	Tried at Quebec, in Vice-Admiralty Court; condemned and sold.	N. Lavoie, schooner "La Canadienne."	
A. H. Wanson ..	63	Mr. Webber ..	Ditto ..	Sept. 3	Less than 2 miles south of Seawolf Island, and within 3 miles of shore of Cape Breton, N.S.	Throwing out bait, and crew casting their fishing lines.	Vice-Admiralty Court, Halifax; still pending. Counsel retained in defence.	J. E. E. Carmichael, schooner "Sweepstake."	
H. B. Lewis ..	31	Mr. Watson ..	Halifax, N.S. ..	Sept. 19	Under Henry Island, near Port Hood, N.S.	Smuggling ..	Ditto ..	Ditto.	
A. J. Franklin ..	..	Mr. Nass ..	Gloucester, Mass., U.S.	Oct. 15	Within 2 miles of shore at Broad Cove, Cape Breton, N.S.	Herring fished in the cove, and actually found with mackerel wet and dripping, and hooks baited with fresh bait; also, fish, blood, and mackerel offals on deck.	Vice-Admiralty Court, Halifax. Still pending.	James A. Tory, schooner "Ida E."	
Grenada ..	..	..	Princetown, Mass., U.S.	Oct. 25	..	Smuggling ..	Taken to Halifax for adjudication; still in process	Ditto.	
Romp ..	..	Mr. Oliver ..	Eastport, Maine, U.S.	Nov. 8	Back Bay, Oliver's Wharf, Co. Charlotte, N.B.	Having fished at Three Islands, Grand Manan.	In course of liquidation in Courts of New Brunswick.	Albert Betts, schooner "Water Lily"	
White Fawn ..	64	Mr. Marshall ..	Gloucester, Mass., U.S.	Nov. 25	Head Harbour, Campo Bello.	Preparing to fish at Head Harbour, Campo Bello.	Taken to St. John's for adjudication.	Ditto.	

Name of Vessel.	Tonnage.	Name of Master or Owner.	Place of Ownership.	Date of Seizure.	Place of Seizure, and Distance of Locality from Shore.	Whether hovering, at anchor, or trading actively, fishing, having fish, or preparing to fish.	When and how tried, and with what result, and if defended by Counsel.	By whom Seizure was made.	Remarks.
S. G. Marshall.	..	..	..	..	..	..	..	H.M.S. "Valorous"	[This Department is without any official information from the Admiral in command or the seizing officers regarding those cases, but gathers from the public newspapers that such seizures were made by the Imperial vessels named.]
Albert	..	..	..	..	..	..	..	Ditto ..	
Clara F. Friend.	..	..	..	..	..	..	..	H.M.S. "Plover"	

*Department of Marine and Fisheries, Fisheries Branch,  
Ottawa, December 14, 1870.*

(Signed) **W. J. WHITCHER,**  
For the Honourable Minister of Marine and Fisheries.

## No. 3.

*Mr. Holland to Mr. Hammond.—(Received January 21.)*

Sir, *Downing Street, January 20, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from Mr. Thomas Hughes, applying, on the part of the Anglo-American Committee, who are preparing a statement of the Canadian Fisheries' question, for a copy of the Instructions given to British officers in command of vessels of war in the Canadian waters.

Lord Kimberley will be glad to be informed whether, in Lord Granville's opinion, these Instructions can be properly communicated to the Anglo-American Committee.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 3.

*Mr. Hughes to the Earl of Kimberley.*

My Lord, *Athenæum Club, January 11, 1871.*  
ON the part of the Anglo-American Committee, who are preparing a statement of the Canadian Fisheries Question, I have to request that we may be furnished with a copy of the Instructions given to British officers in command of vessels of war in the Canadian waters, and am, &c.

(Signed) THOS. HUGHES.

No. 4.

*Mr. Hammond to the Secretary to the Admiralty.*

Sir, *Foreign Office, January 23, 1871.*  
WITH reference to your letter of the 21st of May last, I am directed by Earl Granville to transmit to you, for the consideration of the Lords Commissioners of the Admiralty, a copy of a letter from the Colonial Office, inclosing a copy of one from Mr. Thomas Hughes,\* applying, on the part of the Anglo-American Committee, who are preparing a statement of the Canadian Fisheries Question, for a copy of the Instructions addressed to Her Majesty's naval officers in Canadian waters, and which were forwarded, in May last, to Sir E. Thornton, for communication to the United States' Government, I am to request that you will move the Lords of the Admiralty to inform Lord Granville what answer should be returned to the letter from the Colonial Office.

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

No. 5.

*Mr. Wolley to Mr. Hammond.—(Received January 27.)*

Sir, *Admiralty, January 26, 1871.*  
I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 23rd instant, forwarding a copy of a letter from the Colonial Office, relative to an application, on the part of the Anglo-American Committee, for a copy of the Instructions given to the officers in command of Her Majesty's ships engaged in the protection of the Canadian fisheries; and I am commanded by their Lordships to transmit herewith, for the information of Earl Granville, a copy of a reply already given to the Colonial Office on this subject.

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

## Inclosure in No. 5.

*Mr. Wolley to Sir F. Rogers.*

Sir,

*Admiralty, January 23, 1871.*

I HAVE laid before my Lords Commissioners of the Admiralty your letter of 20th instant, requesting that you may be informed whether, in their Lordships' opinion, a copy of the Instructions given to the officers in command of Her Majesty's ships engaged in the protection of the Canadian fisheries, may properly be communicated to the Anglo-American Committee, who are preparing a statement of the Canadian Fishery Question.

2. In reply I am commanded by their Lordships to request that you will state to the Earl of Kimberley, that although it is unusual to furnish official documents to unofficial Committees, yet, as these Instructions, which were issued confidentially, have been subsequently forwarded to the United States' Government by the Foreign Office, and have been laid before Congress, my Lords have no objection, so far as this Department is concerned, to their being furnished to the Committee, if the Secretary of State considers it expedient that the confidential letter of the Colonial Office, dated 12 April, 1866, on which the Instructions to the commanding officers are founded, should be so furnished.

I have, &amp;c.

(Signed) THOS. WOLLEY.

## No. 6.

*Sir F. Rogers to Mr. Hammond.—(Received January 31.)*

Sir,

*Downing Street, January 30, 1871.*

WITH reference to previous correspondence respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing copies of two Minutes of the Privy Council of the Dominion, having reference to the recent Message of the President of the United States to Congress.

I am also to inclose a copy of another despatch from the Governor-General, forwarding a Report concurred in by the Committee of the Privy Council, drawn up by the Honourable the Minister of Marine and Fisheries, respecting the protection of the fisheries, together with copies of two despatches addressed to the Governor-General relating to these documents.

Lord Kimberley desires me to request that you will move Lord Granville, to inform him of his views with respect to the two Minutes of Council respecting the President's Message.

I am, &amp;c.

(Signed) FREDERIC ROGERS.

## Inclosure 1 in No. 6.

*Lord Lisgar to the Earl of Kimberley, December 28, 1870.*

[See Confidential Papers printed by the Colonial Office.]

## Inclosures 2 and 3 in No. 6.

*Minutes by the Privy Council, dated 27th December, 1870, on the Message of the President of the United States to Congress; prepared for the consideration of Her Majesty's Government and for that of the United States.*

[Ibid.]

## Inclosure 4 in No. 6.

*Lord Lisgar to the Earl of Kimberley, October 28, 1870.*

[Ibid.]

## Inclosure 5 in No. 6.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 28th December, 1870.*

[Ibid.]

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## Inclosure 6 in No. 6.

*Report by Mr. Mitchell, dated November 1, 1870, on Imperial Despatches concerning the Protection of the In-shore Fisheries of Canada.*

[Ibid.]

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## Inclosure 7 in No. 6.

*The Earl of Kimberley to Lord Lisgar, January 24, 1871.*

[Ibid.]

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## Inclosure 8 in No. 6.

*The Earl of Kimberley to Lord Lisgar, January 26, 1871.*

[Ibid.]

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## No. 7.

*Mr. Holland to Mr. Hammond.—(Received February 3.)*

(Secret.)

Sir,

*Downing Street, February 2, 1871.*

WITH reference to my letter of the 30th ultimo, respecting the Canadian fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a secret despatch from the Governor-General of Canada, inclosing a copy of a private note which he had addressed to Sir E. Thornton, together with other documents relating to this subject, and to the navigation of the river St. Lawrence.

I am, &c.

(Signed) H. T. HOLLAND.

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## Inclosure 1 in No. 7.

*Lord Lisgar to the Earl of Kimberley.*

(Secret.)

My Lord,

*Government House, Ottawa, December 28, 1870.*

I HAVE the honour to send you three copies of a pamphlet entitled a "Review of President Grant's recent Message to the United States' Congress relative to the Canadian Fisheries and the Navigation of the St. Lawrence River," recently issued here.

It is written, as I am informed, under Ministerial inspiration.

I inclose the copy of a long letter which I have addressed to Sir Edward Thornton on the Fishery and St. Lawrence questions.

My Ministers have prepared three documents.

A statement of the Canada case.

A confidential communication to Her Majesty's Government, and a paper for transmission to Washington, or such use as Her Majesty's Government may think proper to make of it.

These papers were promised for to-morrow's mail, but they have not yet been furnished to me in their corrected form.

Not improbably Sir John A. Macdonald alone, or accompanied by a colleague, may

proceed to London in order to confer with your Lordship. The propriety of his doing so is still under discussion, but I have little doubt but that the mission will be decided upon.

I have, &c.  
(Signed) LISGAR.

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Inclosure 2 in No. 7.

*Lord Lisgar to Sir E. Thornton.*

(Private.)

My dear Sir Edward,

December 28, 1870.

I SPOKE to Sir J. A. Macdonald about the payment in the extradition case alluded to in your letter of the 23rd instant.

It appears the formal papers are nearly ready for transmission. The delay is due to Sir J. A. Macdonald's long illness, and not altogether complete recovery; besides, there are difficulties as to a part of the charges. The whole account will, I am told, be paid, but a paper of observations will accompany the communication as to the practice which, in the interest of both Governments, it will be desirable to observe in future.

I duly received your letter of the 22nd, but am still without the promised information. The introduction of the trading question, *i.e.*, allowing fishing-vessels to trade, seems to me superfluous, and only introduced to embarrass the question, and amuse Mr. Fish, at our expense.

No fair comparison can, as I before stated, be drawn between whaling vessels and vessels engaged not far from home in catching herrings, mackerel, &c. There is not the smallest necessity for the latter carrying a stiver in specie or notes. If Mr. Fish means that the fishing-vessel shall trade, as you say, "on the same terms as do other merchant vessels" she will have to come with a clearance, &c.; and, after having entered one port, return home. Such a privilege would be valueless. If he means that she shall be at liberty to break bulk, and go into one Canadian port after another, that means opening the coasting trade, which cannot be done incidentally as a bye question or adjunct to another settlement. The Canadians are perfectly ready to treat for reciprocal facilities and the opening of the coasting trade on terms of equality.

To return to the fishing trade *pur et simple*. The course of trade or operations (supposing the parties replaced on the same footing they held under the Reciprocity Treaty) would, I am told, probably be this. The United States' fishing boats would come to the Canadian coasts and follow the shoals of mackerel all the season, not returning home at all for, it may be, three or four months, but frequenting Canadian ports, and procuring in them all the supplies they needed. They would load their fish in the Canadian ports, and steamers, employed for the purpose, would ply regularly with the ports, and carry away the fish to the United States. This practice had begun to come into operation of late years, and was gradually gaining ground. If this be the right conjecture, it is difficult to fix the value of the fisheries in the aggregate, or the take of any single vessel, by reference to the tonnage.

A vessel of forty or sixty tons under the course of operations described to me as likely to ensue, might fill herself eight or even twelve times in a season, discharge her cargo in a Canadian port, and send them home by steamer, taking two or three hundred tons of fish. About 600 vessels frequent the Canadian coasts for the mackerel fishery. That number I am told, by several persons on whom reliance may be placed, has frequently been counted. Vessels licensed for cod fishing constantly engage in the mackerel fishing.

I send two papers. One gives the value of Canadian mackerel imported into the United States; the other the prices per barrel of the same fish in Halifax and Boston in 1869 and 1870.

It is not easy to tell what proportion the Canadian imported mackerel bears to that caught and brought in by United States' fishermen into United States' ports, but, taking it at one-fourth the total value of fish from Canadian waters, would be in 1869 4,000,000 dollars, in 1870, say, 3,500,000 dollars. The duty is 2 gold dollars a barrel, say at the prices given in the second paper 20 per cent. in 1869, 10 per cent. in 1870. (The vastly increased price in the latter year is ascribed to the efficiency of the measures taken to exclude the United States' fishing-vessels from the Canadian in-shore three miles limit; there are no deep-sea mackerel fisheries). The effect of the duty of 2 gold dollars a barrel on Canadian fish would be to raise the price of all the fish sold in the United States,

markets, say, half its own amount, or 1 dollar per barrel, equal to 10 per cent. on 4,000,000 dollars or 400,000 dollars in 1869, equal to 5 per cent. on 3,500,000 dollars, or 175,000 dollars in 1870.

Under all these circumstances I cannot help thinking 200,000 dollars a-year would be a fair and moderate tribute for the United States to pay to Canada for having the privileges she enjoyed under the Reciprocity Treaty restored to her enjoyment.

In a former letter I made a calculation about fish at, if I recollect right, 5 or 10 cents a barrel. I have since referred to a paper presented to the House of Representatives—40 Congress, 2nd Sess., Ex. Docs. 240 and 295. Pages 11, 12, and 13 treat of the Canadian fisheries, and though signed by Mr. Brege, were (I have ascertained secretly) written in Ottawa. He says, “2 dollars a ton license duty upon vessels for the season is about 20 cents a barrel upon the average catch.” He states it as an “indisputable fact” that the mackerel is caught almost wholly in Canadian waters. The fact I believe to be indisputable that of the mackerel nine-tenths of the catch is taken quite close to the shore, far within the three miles limit; so the amount, as calculated in my former letter, must be raised accordingly from 5 or 10 cents to 20 cents, to suit the Canadian view as stated above.

The vessels taken this season have averaged fully sixty tons, and over 600, I am told, have been repeatedly counted on the coasts.

As I was writing, Dr. Tupper came in to inquire if I knew anything of the following paragraph:—

“Washington, 27th.

“AN EXTRAORDINARY FISH STORY.—The British Minister, under instructions from home, has already taken the initiatory steps towards considering the fishery controversy, and arranging for settlement of claims that will arise from the seizure of our vessels. Sir E. Thornton has acknowledged the substantial correctness of Fish’s position, as shown by the diplomatic correspondence just published, running from April to November of the present year, relative to the Fishery Question. The Canadian authorities claim that their refusal to issue licenses to foreign fishermen does not interfere with American privileges under the Treaty of 1818, and that there are now no waters embraced in that Treaty under the control of the new Dominion. Fish takes opposite ground, and, in illustration, points to that portion of coast formerly known as Labrador, from Au Sablen to Magdalen Island. He also points to discrepancies in the position taken by the Home and Provincial authorities, one being that the Canadian line is three miles from the shore, while the other assumes that it is three miles from an imaginary line drawn across the mouth of all rivers and bays. Sir E. Thornton concurred in the general correctness of Fish’s position, and that he will make an adjustment of all points a comparatively easy task. It is well understood by the British Minister that the regulations made by Canada are illiberal and ill-advised, and the manner of their execution has an unfriendly spirit.”

I told him I did not, and then we proceeded to talk over the Fishery Question. He says Canada ought not to accept less for placing United States’ fishermen on the same footing as under the Reciprocity Treaty than a rent of 200,000 dollars a year, and the admitting, free of duty, into the United States of fish of all kinds, products of fish and of all other creatures living in the waters, and fish oil. He also talked of coal, but on that article I stopped him, as not *pari materia*.

You may consider this the outside Canadian view. Whatever Dr. Tupper admits every Nova Scotian and Canadian will admit.

Several eminent commercial men have told me they would accept these terms, and be glad to have the question set at rest, so if you can arrange for the articles as above being admitted free of duty, and get as near 200,000 dollars a year rent as possible for the in-shore fisheries, and have the proposal made by Mr. Fish, and duly authenticated by the Imperial recommendation, I think there will be little difficulty in procuring the adoption of the proposal.

Though I have talked the matter over with several of the best men of my Council separately, and they know my opinion, I still think that neither your name nor mine should appear.

The Council will not make any offer, nor state terms; they say it is useless, for state what terms they may the United States’ people will haggle and chaffer and try to beat them down.

I have told you Dr. Tupper’s view (do not mention his name); he knows as much about the fisheries as anyone, and as he is one of the most eloquent and earnest politicians in the Dominion, without him little can be done, with him everything. To the best of my judgment the terms he proposes, as stated above, are fair and right, and the advantages to be gained by the United States in cheapening their supplies of fish, and providing employ-

ment for their seamen, otherwise almost without employment, are so obvious and enormous that, unless like General Butler they deliberately mean to bully and cheat the Canadians out of their just rights, they will at once accept the terms mentioned.

It is right to explain that there are no such things as deep sea mackerel fisheries. The use of the term "deep sea" is inapplicable to what we are treating of. Again, by transshipping, the United States mean discharging the fish, completing the cleansing on shore, re-salting, and re-packing. So the operations comprized under the single word are several.

As regards the St. Lawrence, there is really nothing in dispute. President Grant complains without reason. The facilities accorded by the Reciprocity Treaty to the United States have never been withdrawn; neither private grievances nor public remonstrances have been brought to our notice. Yet the President expresses dissatisfaction. He adds, however, "the United States are ready to make any reasonable arrangement as to the policy of the St. Lawrence which may be suggested by Great Britain." Canada will of course follow as heretofore any instructions Her Majesty's Government may issue on the subject; so the decision appears to rest with Her Majesty's Government. There is, however, this to consider—the people of Chicago and the West desire to have the canals deepened and the locks enlarged. The cost on the Welland Canal alone is estimated at 260,000*l.* There are five or six other canals, with twenty-nine locks, to enable vessels to surmount the rapids, and rise of 200 feet between Montreal and Lake Ontario. These canals and locks must also be deepened and enlarged, at a cost of (say) 260,000*l.* more. Who is to pay all this money? Is it fair to throw all the charge on Canadian resources because President Grant is unreasonable?

I trouble you with all this as a suggestion in case it can be made use of. It gives tolerably sure grounds to go upon if the business can be made to assume the shape I mentioned of a proposal from the United States' Government offered on the authority of Her Majesty's Government for Canadian acceptance.

In the meantime my Privy Council have drawn up a statement of the Canadian case, and their views at great length, for the purpose of submitting it to Her Majesty's Government, and placing themselves in exact accord with them.

I send the pamphlet I promised.

Very truly yours,  
(Signed) LISGAR.

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Inclosure 3 in No. 7.

*Memorandum.*

THE value of fish exported to the United States in 1869 was 1,085,611 dollars, and in 1870, 887,465 dollars.

The duty paid will reach nearly or quite 200,000 dollars per annum.

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Prices current in Halifax and Boston for Prime and No. 1 Mackerel in 1869 and 1870 per Barrel of 200 lbs. Quotations in gold.

						1869.	1870.
						Dollars.	Dollars.
Halifax	..	..	..	..	..	10 to 12	18 to 20
Boston	..	..	..	..	..	14 to 16	27 to 29

Inclosure 4 in No. 7.

*Review of President Grant's recent Message to the United States' Congress, relative to the Canadian Fisheries and the Navigation of the St. Lawrence River.*

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Inclosure 5 in No. 7.

*Report by George W. Brega upon Trade with the Provinces of British North America, the Free Navigation of the River St. Lawrence, and the Gulf Fisheries.*

[Ex. Docs. 240 and 295 : 40th Congress, 2nd Session.]

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*Mr. Holland to Mr. Hammond.—(Received February 7.)*

Sir, *Downing Street, February 7, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, copies of two despatches, with their inclosures, which have been received from the Governor-General of Canada.

The first inclosing a telegram from the Commander of the "Water Lily," in which he reports the capture of the United States' fishing-vessel "Perseverance," for having fished within three marine miles of the shore.

The second reporting the seizure and condemnation of the United States' schooner "Romp" for the same cause.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 8.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Government House, Ottawa, January 18, 1871.*  
I HAVE the honour to transmit herewith a copy of a telegraphic message received by the Honourable the Minister of Marine and Fisheries, reporting the capture, by the Canadian police-vessel "Water Lily," of the United States' fishing-vessel "Perseverance."

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

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 8.

*Commander Betts to Mr. Mitchell.*

(Telegraphic.) *St. John, New Brunswick, January 14, 1871.*  
ON our arrival at Bliss Harbour, Captain Pring, of the schooner "Flying Mist," came on board the "Water Lily," and complained that his nets had been robbed of fish a few nights before our arrival, and that he believed the crew of the schooner "Perseverance" were the parties, and that the schooner was owned in Eastport, United States, to which place she had gone with the herrings she had caught while fishing close by them in the harbour. On the "Perseverance" arriving in Bliss Harbour, I boarded her, and informed the captain of the complaint against him, which he denied. About three hours after, I sent for him to come on board the "Water Lily," where he swore to the following statement:—

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

This was sworn to in presence of Alfred Vail and Robert Burns.

I believe the "Perseverance" is owned by the before-named citizens of the United States, and was fishing, had fished, and was preparing to fish in British waters, within three marine miles of the shore, for the benefit of American citizens. At the time of her seizure she was at anchor in 5 fathoms, about 200 fathoms from the fishing establishment of Henry Fry, M.P.P. Fry's Island and Bliss Island are at the mouth of L'Etang River, and in the county of Charlotte, in the Dominion of Canada. This vessel had

caught 120,000 herrings. Part were sold in the harbour, and part taken to Eastport. She had on board a certificate of British registry, naming one Joseph Patch as owner.

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Inclosure 3 in No. 8.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Government House, Ottawa, January 9, 1871.*

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

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

I have, &c.  
(Signed) LISGAR.

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Inclosure 4 in No. 8.

*Memorandum respecting the American Fishing-schooner "Romp."*

THE United States' fishing-vessel "Romp," of Eastport, measurement 20 tons register, Sumner Buckman, of Eastport, owner, James Oliver, master, was seized by Albert Betts, Esquire, Commander of the Marine Police schooner "Water Lily," while moored at a wharf in Back Bay, in the county of Charlotte, New Brunswick, on the 8th day of November, 1870, for having, on credible testimony, obtained, and, on the subsequent admission of the master, fished and caught about fifty barrels of herrings, on and before the 5th day of November, 1870, by the said master and crew, at the mouth of Grand Harbour, at the place called Three Islands, near Grand Manan Island, in the county of Charlotte, and province of New Brunswick, in Canadian waters, within three miles of the land.

The case has since been tried in the Vice-Admiralty Court at St. John, and the vessel condemned for infringing the Treaty and the Fishery Laws.

*Department of Marine and Fisheries, Ottawa,*

*January 18, 1871.*

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Inclosure 5 in No. 8.

*Deposition of Albert Betts and others.*

City of St. John, Province of New Brunswick.

In the matter of the schooner "Romp."

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

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

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

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

That the said appearers thereupon went in search of, and found and boarded, the said

schooner "Romp," at Oliver's Wharf, in said Back Bay, at about 11 o'clock on the forenoon of the said 8th day of November.

That there had apparently been landed from the said schooner "Romp," about fifty barrels of unpacked herring.

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

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

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

That at about 5 o'clock in the afternoon of the same day, James Oliver, the master of the said schooner "Romp," came on board the said schooner "Water Lily," and after being duly sworn, as required by law, made the following statement:—

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

That the said affidavit was made before these appearers Albert Betts, and Oliver Haley, and George G. Crompton, Second Lieutenant of the said schooner "Water Lily."

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

That this appearer took charge of the said vessel "Romp," placing on board the said George G. Crompton, Second Lieutenant, and three other men.

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

(Signed)

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

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

Before me,

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

Port of St. John, Province of New Brunswick.

I, William Henry Tuck, of the city of St. John, in the Province of New Brunswick, Notary Public by Royal authority, duly admitted and sworn, residing and practising at the city aforesaid, do hereby certify unto all whom it doth or may concern, that Albert Betts, Oliver Haley, Robert Burns, and Jacob Robblee, whose names are subscribed to the fore-

going affidavit, were on the 31st day of December instant severally sworn to the truth thereof before me at the said City of St. John, in testimony whereof I have hereunto subscribed my name and affixed my Seal-Notarial, at the said City of St. John, the 31st day of December, A.D. 1870.

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

No. 9.

*Mr. Holland to Mr. Hammond.—(Received February 11.)*

Sir, *Downing Street, February 9, 1871.*  
 WITH reference to my letter of the 6th ultimo, inclosing a copy of a despatch from the Governor-General of Canada, inclosing correspondence respecting the seizure of the United States' schooner "Granada," by the Canadian police-vessel "Ida E." for an infraction of the Customs Laws of the Dominion, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further despatch from the Governor-General on this subject.

I am, &c.  
 (Signed) H. T. HOLLAND.

Inclosure 1 in No. 9.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Government House, Ottawa, January 19, 1871.*  
 WITH reference to my despatch of December 20, 1870, on the seizure of the "Granada," I have the honour to forward herewith an extract from the Diary of Captain Tory, the officer in command of the Dominion schooner "Ida E.," who made the seizure, with a Memorandum thereon by the Department of Marine and Fisheries on the state of the weather when the "Granada" came into port.

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

3. I have not yet received Mr. Blanchard's Report (promised at the end of the Memorandum from the Customs Department of December 15, 1870, forwarded under cover of my despatch dated December 20), but so soon as it reaches me I will forward a copy for your Lordship's information.

I have, &c.  
 (Signed) LISGAR.

Inclosure 2 in No. 9.

*Extract from Captain Tory's Diary relating to the Seizure of the Schooner "Granada."*

*Tuesday, 25th October. On board the "Ida E."—At Port Hood. The "Granada," of Princetown, Massachusetts, Reynolds, master, from Strait of Canso, said he was on a fishing voyage. Had on board the following goods, viz. :—*

- 1 puncheon of molasses.
- 3 casks paraffin oil.
- 8 quarter-boxes tobacco.
- 1 case rubber boots.
- 1 30-gallon cask of gin.
- 1 bundle of oil-clothes.
- 2 chests tea.
- 12 fishing nets.
- 10 coils cordage.
- 4 bundles and 2 coils lines.
- Lot corkwood and hooks.
- 20 barrels flour.
- Salt and sundry other articles.

Had purchased butter, beef, potatoes, empty barrels. Had no papers to show his port of destination.

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

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

## No. 10.

*The Secretary to the Admiralty to Mr. Hammond.*—(Received February 16.)

Sir, *Admiralty, February 15, 1871.*  
 WITH reference to my letter of the 2nd November, reporting the capture of the American fishing vessels “Clara F. Friend” and “Foam,” by Her Majesty’s ships “Plover” and “Valorous,” I am commanded by my Lords Commissioners of the Admiralty to request that you will inform Earl Granville that Vice-Admiral Fanshawe, in a letter dated the 22nd December, reports that the “Clara F. Friend” was condemned for contravention of the fishery laws at the Vice-Admiralty Court, Charlotte Town, on the 12th December; and that the “Halifax Daily Reporter and Times” newspaper of the 12th December states that the “Foam” had also been condemned at the same Court.

I am, &c.  
 (Signed) VERNON LUSHINGTON.

## No. 11.

*Mr. Holland to Mr. Hammond.*—(Received February 20.)

Sir, *Downing Street, February 17, 1871.*  
 WITH reference to the despatch of the Governor-General of Canada, of the 18th of January, a copy of which was inclosed in my letter of the 7th instant, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further despatch from Lord Lisgar respecting the seizure of the American fishing schooner “Perseverance” for an infraction of the fishery laws of the Dominion.

I am, &c.  
 (Signed) H. T. HOLLAND.

## Inclosure 1 in No. 11.

*Governor-General the Earl of Lisgar to the Earl of Kimberley.*

My Lord, *Government House, Ottawa, January 24, 1871.*  
 WITH reference to my despatch of the 18th instant, I have the honour to transmit herewith a copy of the depositions made by the seizing officer in the case of the American fishing schooner “Perseverance,” recently captured by the Canadian police vessel “Water Lily,” for an infraction of the fishery laws of the Dominion.

I have, &c.  
 (Signed) LISGAR.

## Inclosure 2 in No. 11.

*Deposition of Albert Betts and others.*

City of St. John, New Brunswick.

APPEARED personally, Albert Betts, fishery officer, in command of the schooner "Water Lily," a vessel in the service of the Government of Canada, and employed in the service of protecting the fisheries; Henry Edwin Betts, first officer on board the said vessel; Oliver Hayley, sailing master; and Robert Burns, boatswain of the said vessel "Water Lily," and made oath as follows: That on the 7th day of January instant, the said schooner "Water Lily" was lying at Bliss Harbour, in the County of Charlotte and Province of New Brunswick, within three marine miles of the coast or shore, with these appearers on board; that whilst the said schooner "Water Lily" was lying in Bliss Harbour as aforesaid, a Captain Ring, of the schooner "Flying Mist," came on board the "Water Lily," and complained that fish had been stolen from his nets a few nights before the arrival of the "Water Lily" at Bliss Harbour, and that he believed that the crew of a schooner called the "Perseverance" were the persons who had stolen the fish, and the schooner "Perseverance" was owned at Eastport, in the State of Maine, one of the United States of America, and that the said schooner had gone to Eastport aforesaid with a cargo of fish, which she had caught on the 6th day of January instant, in said Bliss Harbour, and within three marine miles of the coast or shore; that the said schooner "Perseverance" got back to said Bliss Harbour from Eastport aforesaid on the 11th day of January instant; that on the 12th day of January instant, this appearer, Albert Betts, boarded the said schooner "Perseverance," and told Stephen Thorpe, the master thereof, the complaint against him, but he denied that his crew had stolen fish; that the appearer, Albert Bliss, about three hours after this time, sent for the said master, Stephen Thorpe, who came on board the "Water Lily," and upon oath made the following statement, to wit:

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

That this Appearer, Albert Betts, thereupon, on the said 12th day of January instant, seized the said schooner "Perseverance" while she was lying in Bliss Harbour aforesaid, and about 200 fathoms from Fry's Island, so called, at the mouth of L'Etang River. That at the time this Appearer seized the said schooner "Perseverance" as aforesaid, one of the crew of the said schooner was setting his nets in said Bliss Harbour, in British waters, and within three marine miles of the coast or harbour. That at the time of the said seizure, the said master, Stephen Thorpe, claimed to be a British subject, and that the said vessel was a British vessel, because she was registered in the name of Joseph Patch, of Campo Bello, in the said county of Charlotte. That this Appearer, Albert Betts, found no flag, either British or foreign, on board said vessel. That he did find on board said vessel "Perseverance" a certificate of British registry, dated the 2nd day of June, A. D. 1866, from which it appeared that the said vessel was owned by Joseph Patch, of Campo Bello aforesaid, in the said county of Charlotte; that the date of the said vessel's registry is the 9th day of August, 1860; his official number is 55,387, and his registered tonnage is  $21\frac{16}{100}$  tons. That this Appearer, Albert Betts, seized the said schooner "Perseverance," because the said schooner, being actually owned by citizens of the United States, had been, on the sixth day of January instant, fishing without a license at Bliss Harbour aforesaid, in the county of Charlotte, and Province of New Brunswick, being in British waters, and within three marine miles of the coast or harbour, the fish caught at this time having been taken to Eastport, and disposed of as caught by a vessel belonging to the United States; and because the said schooner, at the time of her said seizure, had no license, and was then actually fishing, by having her nets set in Bliss Harbour aforesaid, in British waters, and within three marine miles of the coast or harbour; and because the said schooner, although sailing under a certificate of British registry, was trading as a schooner belonging to the United States, and was owned by citizens of the United States. That this Appearer, Albert Betts, took charge of the said vessel "Perseverance," and proceeded with her to the Harbour of St. John, in the said Province of New Brunswick, where she arrived on Friday, the 13th day of the said month of January; and on the

following Saturday, the 14th day of January, the said vessel "Perseverance" was delivered into the custody of James R. Rivel, Esq., Collector of the said port of St. John.

(Signed) ALBERT BETTS.  
H. EDWIN BETTS.  
OLIVER HALEY.  
ROBERT BURNS.

On the 18th day of January, A.D. 1871, the said Albert Betts, Henry E. Betts, Oliver Haley, and Robert Burns, were severally duly sworn to the truth of this Affidavit, at the said city of St. John,

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

Port of St. John, New Brunswick.

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

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

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

No. 12.

*Viscount Enfield to Mr. Holland.*

(Private and Confidential.)

Sir, *Foreign Office, February 18, 1871.*

WITH reference to your letters of the 8th of November and 17th of December, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that a letter has been received from the Admiralty reporting the condemnation by the Vice-Admiralty Court at Charlotte Town, of the "Clara F. Friend" for contravention of the fishery laws, and that it was stated in the "Halifax Daily Reporter and Times" newspaper that the "Foam" had also been condemned by the same Court.

I am to request you will inform Lord Kimberley that Sir J. Rose, in a despatch recently received,\* says that Mr. Fish was very anxious to prevent the irritation which he feared would arise if one or two vessels then under seizure, and in regard to which there was doubt, should be condemned, and that as the offences in these cases, if committed at all, appeared to have been involuntary. Mr. Fish had furnished him privately with the papers, and asked him to endeavour to procure the assent of the Canadian Government for their release. General Butler, he adds, was very eager for a condemnation, and had recommended the owners to abandon their vessels, as he was advised that the offence was not one within the terms of the Treaty, and he thought his grievance would be strengthened if he could make out a case of illegal action by the Canadian authorities.

It appears probable that the vessels referred to in the Admiralty letter are those to which Mr. Fish alludes, and I am to request that you will suggest to Lord Kimberley whether it might not be advisable to instruct the Canadian Government to release them, supposing the identity of the vessels to be established, and if there should not appear to be any insuperable objection to such a course.

I am, &c.  
(Signed) ENFIELD.

No. 13.

*Mr. Holland to Mr. Hammond.—(Received February 21.)*

Sir, *Downing Street, February 20, 1871.*

WITH reference to my letter of the 9th instant, respecting the seizure of the United States' schooner "Granada" by the Canadian police vessel "Ida E.," I am directed by the

\* In volume of Joint High Commission Papers.

Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further despatch from the Governor-General of Canada on the subject.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 13.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Government House, Ottawa, February 2, 1871.*

WITH reference to my despatch of January 19, on the subject of the "Granada," I regret that I cannot at present send your Lordship any further details.

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

I have, &c.  
(Signed) LISGAR.

No. 14.

*Mr. Holland to Viscount Enfield.—(Received February 23.)*

(Private and Confidential.)

Sir,

*Downing Street, February 23, 1871.*

I HAVE laid before the Earl of Kimberley Viscount Enfield's letter of the 18th instant, on the subject of the condemnation by the Vice-Admiralty Court at Charlotte Town of the "Clara F. Friend" and the "Foam" for contravention of the fishery laws.

Lord Kimberley hardly thinks the fishing vessels referred to by Mr. Fish can be the "Clara F. Friend" and the "Foam," as Commander Poland reported on 2nd October that the "Clara F. Friend" was captured on the 30th September, and it appears by a letter from the Admiralty of the 28th December that she was condemned on the 12th and ordered to be sold on the 19th of that month; and as in the Halifax "Daily Reporter" and "Times" of the 12th December it is stated that the "Foam," which was captured on the 3rd September, had been condemned.

As regards the offences for which those vessels were seized, Lord Kimberley finds that the Lieutenant-Governor of Prince Edward Island states in a despatch dated 25th November that the "Clara F. Friend" was seized by Her Majesty's ship "Plover" while fishing within the three miles limit: that the evidence was so strong against her that she would have unquestionably been condemned; and that evidently her owner was of this opinion also. And he reports that she had been the subject of a daring outrage, having been boarded by her owner and an armed party whilst lying at Charlotte Town, and carried off to sea. She was subsequently re-captured by Her Majesty's ship "Plover."

The "Foam" was captured by Her Majesty's ship "Valorous" as reported by Captain Hardinge to the Admiral on September 3rd, and proceedings were to be instituted against her for "unduly assuming a British character" and other infractions of the Merchant Shipping Act of 1854, as well as for fishing within the prohibited limits. Captain Hardinge points out that such evasions of the Merchant Shipping Act left unchecked would quite cripple the cruisers employed in protecting the fisheries.

In these circumstances, and looking to the strong feeling manifested in the Dominion with respect to the encroachments of the Americans on the Canadian fishing grounds, Lord Kimberley does not think it would be advisable to interfere with the course of law by instructing the Canadian Government to release these vessels.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 15.

*Mr. Hammond to Sir J. Rose.*

Sir,

*Foreign Office, February 28, 1871.*

IN your letter of the 2nd instant\* you state that there were one or two vessels then under seizure which Mr. Fish was very anxious that the Canadian Government should release. I am directed by Earl Granville to request that you will, if possible, furnish him with the names of these vessels, and that you will inform him whether the schooner "White Feudra," which, in your letter of the 9th instant, you say that the Canadian Government had agreed to release, was one of them.

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

No. 16.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, March 3, 1871.*

WITH reference to your letter of the 30th of January, and to your subsequent letters containing various communications from the Canadian Government respecting the Fishery Question, I am directed by Earl Granville to state to you, for the information of the Earl of Kimberley, that his Lordship is of opinion that it would be impossible at present to deal with the matter, which is now being discussed at Washington.

I am to add that his Lordship concludes that Sir J. Macdonald will have taken with him to Washington all the papers connected with this question.

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

No. 17.

*Sir E. Thornton to Earl Granville.—(Received March 18.)*

(No. 91.)

My Lord,

*Washington, March 6, 1871.*

WITH reference to my despatches Nos. 453, 460, and 477 of last year, I have the honour to inclose copies of a letter and of its inclosures which I have received from Her Majesty's Consul at Portland, relative to the case of a British schooner "Bessie." Mr. Murray forwards a letter addressed to him by a part owner of the vessel, claiming compensation for the detention of the vessel and the ill-treatment of the crew. In his reply Mr. Murray points out that the detention was brought about by the illegal conduct of the master of the "Bessie."

In my answer to Mr. Murray, copy of which is also inclosed, I have approved of the answer given by him.

I have not yet received any answer to the note which I addressed to Mr. Fish, relative to the seizure of the "Bessie" in British waters. I have since then spoken to him about it, when he informed me that he had directed that inquiries and a Report should be made upon the matter.

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

Inclosure 1 in No. 17.

*Consul Murray to Sir E. Thornton.*

Sir,

*Portland, March 2, 1871.*

I HAVE the honour to transmit to you herewith a copy of correspondence I have had with Mr. Alexander Rogers of New Brunswick, part owner of the schooner "Bessie," on the subject of compensation claimed by the owners for the detention of the vessel and for a fine and expenses imposed upon Captain Bacon by the United States' authorities for

\* In volume of Joint High Commission Papers.

having carried off a Revenue officer who had been placed on board the "Bessie" at Eastport, in consequence of a charge of smuggling butter having been preferred against him.

I reported this case in my despatches of last year.

I trust that my reply to Mr. Bacon may meet with your approval.

I have, &c.

(Signed) HY. JOHN MURRAY.

Inclosure 2 in No. 17.

*Mr. Rogers to Consul Murray.*

*Hopewell Hill, Albert County, New Brunswick,*

*February 24, 1871.*

Respected Sir,

I WOULD beg to inquire what action you have taken in reference to the matter of the schooner "Bessie," which came under your notice in October last. Captain Bacon says that he gave you a statement of the affair which happened at Eastport, and also of the brutal manner in which he and the crew were treated at the time of the capture in British waters. Will we have to submit to the imposition of having the vessel detained sixteen days, expenses to the amount of about 700 dollars, and the captain fined 300 dollars and treated in a manner unbecoming any civilized nation?

Is there any prospect of us recovering a compensation through you, or should we put the matter before the Dominion Government? Any information you may give us will be thankfully received by your humble servant,

(Signed)

ALEX. ROGERS,

*Part owner of schooner "Bessie."*

Inclosure 3 in No. 17.

*Consul Murray to Mr. Rogers.*

Sir,

*Portland, March 1, 1871.*

I HAVE to acknowledge the receipt of your communication dated the 24th ultimo requesting to be informed what action I have taken in reference to the matter of the schooner "Bessie," and whether there is any prospect of your recovering compensation for the detention of your vessel at Eastport. The expenses you had been put to by the fine and costs imposed upon Captain Bacon by the United States' authorities, and the treatment experienced by the captain and crew of the "Bessie" at the time of their capture in British waters.

In reply I beg to state that the case was duly reported by me at the time to Sir E. Thornton, Her Majesty's Minister at Washington, to whom I forwarded the statement of Captain Bacon to which you allude.

As from the tenor of your observations you appear to be under some misconception of the true nature of the case, I beg to recall to you that Captain Bacon was convicted of one of the most serious offences that can be committed against the Revenue laws of any country—that of carrying off a Revenue officer placed on board and in charge of a vessel detained by the authorities on a charge of smuggling, and which rendered him and his vessel liable to the heaviest penalties. As there can be no doubt about these facts, I do not see the grounds upon which any compensation could be awarded you for the detention of your vessel which the criminal conduct of your own captain originated.

As to the capture of the "Bessie" in British waters by an American steamer, that, I presume, is a question that entirely rests between the two Governments, and upon which I am not now called upon to offer any opinion.

The charges of ill-treatment of the captain and crew of the "Bessie" at the time of their capture by the steamer is not unfounded, as it was an uncalled-for and reprehensible proceeding on the part of the men employed by the Deputy-Collector of Customs, but some allowance must be made for the natural irritation felt by them at the very high-handed conduct of Captain Bacon in carrying off their Government officer. I happen to know, however, that the rough conduct was taken into consideration by the United States' District Attorney and by the United States' Commissioner, when imposing the fine of 300 dollars on Captain Bacon, and which they thought was very moderate in view of the serious nature of his offence.

I am, &c.

(Signed)

HENRY JOHN MURRAY.

## Inclosure 4 in No. 17.

*Sir E. Thornton to Consul Murray.*

Sir,

*Washington, March 6, 1871.*

I HAVE to acknowledge the receipt of your despatch of the 2nd instant, and of its inclosures, and I have to convey to you my approval of the answer which you have addressed to Mr. Alexander Rogers, part owner of the schooner "Bessie," on the subject of compensation claimed by the owners for a fine and expenses imposed upon the master of the "Bessie" by the United States' authorities.

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

## No. 18.

*Sir E. Thornton to Earl Granville.—(Received March 18.)*

(No. 92.)

My Lord,

*Washington, March 7, 1871.*

WITH reference to my despatch No. 91 of yesterday's date, I have the honour to inclose copy of a note from Mr. Fish, in which he declares that the trespass committed by United States' authorities upon British waters in the case of the capture of the British schooner "Bessie" was not authorized, and cannot be approved by the United States' Government, and expresses his regret at the occurrence.

In the presence of this declaration, and considering the improper conduct of the master of the "Bessie," I shall not, unless otherwise instructed by your Lordship, make any further remonstrance or any demand for compensation for the owners.

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

## Inclosure in No. 18.

*Mr. Fish to Mr. Thornton.*

Sir,

*Department of State, Washington, March 6, 1871.*

WITH reference to the case of the schooner "Bessie," of St. John, New Brunswick, which was the subject of your note to this Department of the 7th of November last, I have to state that, pursuant to the request therein contained, careful inquiry has been made, the result of which leads to the impression, at least, that that vessel was, as alleged, seized in British waters.

It is presumed, however, to be unnecessary to say that such a proceeding was not authorized by this Government. The "Bessie," while under seizure by the Custom-house at Eastport, with a custodian on board, set sail and escaped. The Deputy Collector, impelled, perhaps, by a sense of his accountability for the escape, chartered a steamer, which went in quest of the "Bessie," and overtook her at a point within British waters.

There is nothing, however, to show that the Commander of the steamer had any directions to make the seizure beyond the jurisdiction of the United States. Indeed, it is presumed that he must have been quite unaware that he was trespassing on British jurisdiction. No such trespass was authorized or can be approved by this Government, even if it were merely accidental; I am consequently directed to express my regret at the occurrence.

I have, &c.  
(Signed) HAMILTON FISH.

## No. 19.

*Earl Granville to Sir E. Thornton.*

(No. 84.)

Sir,

*Foreign Office, March 21, 1871.*

I HAVE received your despatch No. 92 of the 7th instant, inclosing a copy of a note you have received from Mr. Fish in regard to the case of the British schooner "Bessie."

In reply, I have to express to you the satisfaction of Her Majesty's Government at the conclusion which has been arrived at by the United States' Government in this case, and to acquaint you that Her Majesty's Government approve your intention of letting the matter drop.

I am, &c.  
(Signed) GRANVILLE.

No. 20.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, March 21, 1871.*  
WITH reference to my letter of the 22nd of December last, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, two despatches from Her Majesty's Minister at Washington relative to the case of the British schooner "Bessie," together with a copy of a despatch which his Lordship has addressed to Sir E. Thornton in reply to the latter despatch.\*

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

No. 21.

*Sir F. Rogers to Mr. Hammond.—(Received March 25.)*

Sir, *Downing Street, March 24, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada, forwarding a copy of a Report of the Canadian Privy Council, approving a draft of Special Instructions to the commanders of the Canadian cruisers for the approaching fishing season.  
I am also to inclose the draft of a despatch which, with Lord Granville's concurrence, Lord Kimberley proposes to address to the Governor-General in reply.  
The despatch from the Secretary of State of the 27th of July, referred to by the Governor-General, was communicated to you in my letter of the 25th of July last.

I am, &c.  
(Signed) FREDERIC ROGERS.

Inclosure 1 in No. 21.

*Lord Lisgar to the Earl of Kimberley, March 2, 1871.*

[See Confidential Papers printed by the Colonial Office.]

Inclosure 2 in No. 21.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 27th February, 1871.*

ON a Memorandum, dated 25th February, 1871, from the Honourable the Minister of Marine and Fisheries, having reference to the despatch from the Right Honourable the Secretary of State for the Colonies, dated 27th July last, and to the Minutes in Council adopted in connection with the subject of regulations for the guidance of commanders of the Marine Police cruisers to be employed in protecting the in-shore fisheries during the approaching season, and submitting (pending the proceedings of the Joint High Commission) a draft of Special Instructions to the commanders of Canadian cruisers with reference to the laws affecting fishing by foreign vessels, in accordance with the concluding recommendation of the Report of the 1st November last.

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

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

Inclosure 3 in No. 21.

*Special Instructions to Fishery Officers, ex officio Magistrates, in command of Government Vessels engaged as Marine Police in Protecting the In-shore Fisheries of Canada.*

[Ibid.]

Inclosure 4 in No. 21.

*Proposed Despatch to Lord Lisgar.*

[Ibid.]

No. 22.

*Viscount Enfield to Mr. Hammond.*

(Immediate.)

Sir,

*Foreign Office, April 6, 1871.*

IN reply to your letter of the 24th ultimo, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs in the proposed despatch to Lord Lisgar, a draft of which was inclosed in your above-mentioned letter, in regard to the Report of the Canadian Privy Council as to the special instructions given to the commanders of the Canadian cruisers for the approaching fishery season.

I have, &c.

(Signed) ENFIELD.

No. 23.

*Mr. Herbert to Mr. Hammond.—(Received May 19.)*

Sir,

*Downing Street, May 18, 1871.*

I AM directed by the Secretary of State for the Colonies to transmit to you copies of correspondence relative to the fisheries, received from the Governor-General of the Dominion of Canada.

I am, &c.

(Signed) R. G. W. HERBERT.

Inclosure in No. 23.

*Papers presented to the House of Commons of the Dominion of Canada.*

No. 24.

*Mr. Holland to Mr. Hammond.*

Sir,

*Downing Street, June 14, 1871.*

WITH reference to my letters of the 25th of March and 28th of April,\* inclosing copies of despatches from the Lieutenant-Governor of Prince Edward Island, relating to the Fishery Question, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further despatch from the Lieutenant-Governor on the subject.

I am, &c.

(Signed) H. T. HOLLAND.

\* In Confidential volume containing proceedings of the Joint High Commission.

## Inclosure 1 in No. 24.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Confidential.)

My Lord,

*Government House, May 4, 1871.*

IN my Confidential despatch of the 2nd March, I communicated to your Lordship the opinion of my Government on the question of admitting United States' fishing-vessels into the ports of this Island for the purposes of trade. In my Confidential despatch of the 29th of March I forwarded to your Lordship a second Minute of Council on the subject of the fisheries, in which my Government repeated their previously expressed opinion that American fishermen ought not to be debarred from refitting their vessels at the stores of the local merchants, or from transshipping fares legally taken outside the three-mile line, but that the privilege of the in-shore fisheries ought not to be granted except on the condition of adequate trade concessions in return.

2. I observe from the journals of the Legislature that during the Session which terminated on the 15th ultimo, the Legislative Council and House of Assembly passed Resolutions (copies inclosed) confirmatory of the opinions above quoted. I have not been requested, either by the Legislature or by my advisers, to communicate these Resolutions to your Lordship; at the same time I think I cannot do wrong in acquainting you that my Government accurately reflected the feeling of the country when they advocated the continuance of amicable trade relations, and the protection of the in-shore fisheries.

I have, &amp;c.

(Signed) WILLIAM ROBINSON.

## Inclosure 2 in No. 24.

*Extract from Journals of the Legislative Council.*

THE Legislative Council in Committee of the whole House . . . report that they are gratified at the satisfactory result of the appeal made by the late Government of this island to Her Majesty's Principal Secretary of State for the Colonies, whereby United States' fishing-vessels are now permitted entry in the ports of this island, and are allowed to land and transship fish therefrom, inasmuch as the exclusion of the said fishing-vessels from our said ports operated injuriously upon our trade and revenue. The people of the Colony generally would, therefore, regret the re-imposition of the restrictions placed upon United States' fishing-vessels, during the principal part of the summer of last year.

The Committee, however, are strongly opposed to granting foreign fishing-vessels the great privilege of our in-shore fisheries, without receiving commensurate commercial advantages in exchange therefor.

*Extract from Journal of House of Assembly.*

The Committee of the whole House . . . report that they are gratified at the result of the appeal made by the late Government to the Secretary of State, whereby American fishing-vessels are admitted to entry in the ports of the Colony, and permitted to land and transship the fish from them, inasmuch as the exclusion of the said fishing-vessels from the ports of this island operated prejudicially upon its trade and revenues. The inhabitants of this island, generally, would therefore view with regret the re-imposing the prohibition which was enforced in the latter months of the past year.

The Committee, however, express a strong opinion against allowing such vessels the privilege of our in-shore fisheries without the United States granting us adequate trade concessions in return.

## No. 25.

*Mr. Wolley to Mr. Hammond.—(Received June 19.)*

Sir,

*Admiralty, June 16, 1871.*

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, extracts from a general letter of

the 2nd instant, from the Naval Commander-in-chief on the North American and West Indian station, reporting the movements of Her Majesty's ships in connection with the protection of Canadian fisheries.

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

Inclosure in No. 25.

*Vice-Admiral Fanshawe to the Secretary to the Admiralty.*

(Extract.)

June 2, 1871.

\* \* \* \* \*

THE Governor of Newfoundland informs me, by letter dated the 24th of May, that "a complaint has recently been made to the Government of Newfoundland by a person named John Penny, a resident of Great Jervois, Hermitage Bay, on the south coast of the island, respecting the encroachments of American vessels upon our fishing-grounds in that locality," and a telegram from Captain Malcolm on the 31st states that he was about to proceed to that place. On my arrival here I received a telegram from Governor Hill to the same effect, and requesting the presence of a vessel of war at Fortune Bay. I therefore dispatched the "Racoon" on the 28th May, with orders to call at St. Pierre and Fortune Bay, to endeavour to pick up the "Danæ," and to communicate with the Governor of Newfoundland and ascertain his wishes. In dealing with trespassers Captain Howard has been directed to guide himself by the general instructions for the protection of fisheries, and his special attention is drawn to the rider, dated 18th May, 1871.

When his presence is no longer required at Fortune Bay the "Racoon" will cruise for the protection of the fisheries on Stations 4 and 5 (west coast of Cape Breton, and north coast of Prince Edward Island) until the arrival of the "Niobe" from Bermuda about the 10th June, when the latter ship will take charge of those stations, and the "Racoon" proceed to No. 6 (north coast of New Brunswick).

The "Philomel" will proceed to station 3 (east coast of Cape Breton) to-morrow.

The "Fly" is cruising upon stations 1 and 2 (Bay of Fundy).

No. 26.

*Mr. Wolley to Mr. Hammond.—(Received July 1.)*

Sir,

*Admiralty, July 1, 1871.*

WITH reference to my letter of the 16th ultimo and to former correspondence, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State for Foreign Affairs, a copy of a despatch No. 256 of the 13th ultimo, from Vice-Admiral Fanshawe, reporting the orders given by him in regard to the suspension of the Instructions for the protection of Canadian fisheries.

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

Inclosure in No. 26.

*Vice-Admiral Fanshawe to the Secretary to the Admiralty.*

Sir,

*"Royal Alfred," Halifax, June 13, 1871.*

I HAVE the honour to acknowledge the receipt of two telegrams from the Lords Commissioners of the Admiralty, received at Halifax on the 10th and 12th instant respectively, on the subject of the Canadian fisheries.

2. The following directions have, in consequence, been given to the commanding officers of Her Majesty's ships employed on Canadian fishery service; and the Governor-General of Canada and the Minister at Washington have been notified accordingly:—

I. The Instructions for the Protection of the Fisheries 1871, are suspended, except that the limits of the cruising stations will remain the same as those prescribed in Appendix B. of the Fishery Instructions, and that Articles 4, 5, and 8, and the first and third paragraph of Article 9, will still be acted upon.

II. Her Majesty's ships will, in future, abstain from active measures for enforcing the fishery laws; but they are instructed to assist the local authorities to preserve order amongst the fishermen, and to protect the Colonial Revenue vessels from interference by any armed force.

III. Commanding officers are enjoined to be careful, in rendering assistance to the local authorities above alluded to, to act under requisitions from a magistrate or other properly constituted civil authority, in order that any steps they may take may be in strict conformity with the Colonial laws.

IV. In the protection of the Colonial Revenue vessels from interference by any armed force, commanding officers are ordered to take such immediate steps as the occasion may, in their judgment, require.

V. Finally, they are directed to consult with the principal civil authorities on their respective stations, with a view to regulating their movements in their command may deem most conducive to the effectual carrying out of these Instructions.

3. The following ships are now upon the respective stations, charged with the conduct of these duties, as modified by the present Instructions;—

Nos. I and II, Bay of Fundy, "Fly."

No. III, East Coast, Cape Breton, "Philomel."

No. IV, West Coast, Cape Breton, "Philomel."

No. V, North Coast, Prince Edward Island, "Niobe."

No. VI, North Coast, New Brunswick, "Racoon."

"Minstrel" to follow, and on the coast of Newfoundland, "Danaë," "Lapwing" to follow.

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

No. 27.

*Mr. Holland to Mr. Hammond.—(Received July 10.)*

Sir, *Downing Street, July 8, 1871.*  
WITH reference to previous correspondence respecting the instructions to the British Naval Officers on the North American station with regard to the Canadian fisheries.\* I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch received through the Admiralty from Vice-Admiral Fanshawe, reporting the orders given by him on this subject.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 27.

*Vice-Admiral Fanshawe to the Secretary to the Admiralty, June 13, 1871.*

[See Inclosure in No. 26.]

No. 28.

*Sir E. Thornton to Earl Granville.—(Received July 10.)*

(No. 213.)  
My Lord,

*Washington, June 26, 1871.*

I HAVE the honour to inclose copy of a note which I have received from Mr. Fish, in which he intimates that much anxiety is felt by American fishermen lest they should be exposed, while fishing in the neighbourhood of the Canadian Provinces, to the same "annoyances," as he is pleased to call them, to which they were subjected last year.

When I verbally expressed my regret to him that he should have sent me this note, which, in view of the liberal instructions which had been given to the Commanders of Her Majesty's and the Canadian cruisers, I assured him was quite unnecessary, he told me that he had received a multitude of letters upon the subject, from persons interested in the fisheries, who had suffered great losses during the last fishing season, and who now expressed their fears that they would not be allowed to enter Canadian ports, nor to fish

in bays. He added that, in reply, he had pointed out to the writers of these letters that the advantages promised by the Treaty of the 8th ultimo could not be enjoyed until action should have been taken by the Canadian Parliament, and that the Treaty of 1818 must still be the rule of their conduct, although he hoped that Her Majesty's and the Canadian authorities would put a liberal interpretation upon its provisions.

Although I have not been authorised to communicate to Mr. Fish the nature of the instructions which had been given upon this subject to the commanders of Her Majesty's and the Dominion vessels, I have thought that, under the circumstances, there would be no objection to my doing so, and I have therefore forwarded to him the note of which a copy is inclosed. You Lordship will perceive that I have also suggested the expediency of American fishermen not encroaching upon Canadian waters.

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

Inclosure 1 in No. 28.

*Mr. Fish to Sir E. Thornton.*

Sir, *Department of State, Washington, June 24, 1871.*  
MUCH anxiety is expressed, and made known to this Department, on the part of those concerned in the mackerel fishery near the coasts of the British Provinces, the season for which is about to open. Though aware that they cannot yet, technically, claim the privileges and immunities promised to them in the Treaty of Washington, they were in hopes that, through the forbearance of Her Majesty's authorities and those of the Colonies, they might no longer be subjected to the annoyances to which they have hitherto been liable. You are aware that I have had reason to share in those hopes. Believing, as I firmly do, that if they should be disappointed much irritation would be occasioned, which it is desirable should be avoided, and apprehending that the legislation on the part of the United States, stipulated for in the Treaty, might otherwise, at least, be retarded, I pray you again to move the respective Imperial or Colonial authorities, that nothing practicable or reasonable may be omitted which might tend to the result desired.

If you should think favourably of this request, you will pardon me for adding that it is highly important that it should be complied with as soon as may be convenient.

I have, &c.  
(Signed) HAMILTON FISH.

Inclosure 2 in No. 28.

*Sir E. Thornton to Mr. Fish.*

Sir, *Washington, June 26, 1871.*  
I HAVE the honour to acknowledge the receipt of your note of the 24th instant, and to assure you that, as far as the action of Her Majesty's naval officers or of those of the Canadian Government is concerned, there is no cause for anxiety to citizens of the United States engaged in the fisheries in the neighbourhood of the British Provinces so long as they may respect the laws upon the subject now in force. The tenor of the instructions issued to those officers, both by Her Majesty's Government and by that of the Dominion, are of the most liberal nature; and though they continue to hold the opinion that, under the Treaty of 1818, United States' fishermen are prohibited from frequenting Colonial ports and harbours for any other purposes but for shelter, repairing damages, purchasing wood, and obtaining water, such prohibition will not be enforced during the present season; and they will be allowed to enter Canadian ports for the purposes of trade, and of transshipping fish and procuring supplies; nor will they be prevented from fishing outside of the three-miles limit in bays, the mouth of which is more than six miles outside.

It is to be hoped, however, that citizens of the United States will, on their part, contribute to the prevention of untimely collisions by refraining from encroaching, for the purpose of fishing, upon those waters from which, by the Treaty of 1818, and by the laws of Great Britain and Canada, they are excluded, until the legislation for ensuring to them the privileges and immunities agreed upon by the Treaty of the 8th ultimo shall have been carried out.

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

No. 29.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 12, 1871.*

WITH reference to previous correspondence in regard to the Canadian fisheries, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington,\* inclosing a copy of a note which he has addressed to Mr. Secretary Fish upon this subject; and I am to add, that Lord Granville has approved Sir E. Thornton's proceedings in this matter.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 30.

*Earl Granville to Sir E. Thornton.*

(No. 180.)

Sir,

*Foreign Office, July 12, 1871.*

I HAVE to acquaint you that Her Majesty's Government approve the note you addressed to Mr. Fish respecting Canadian fisheries, a copy of which is inclosed in your despatch No. 213 of the 26th ultimo.

I am, &amp;c.

(Signed) GRANVILLE.

No. 31.

*Mr. Holland to Mr. Hammond.—(Received July 27.)*

Sir,

*Downing Street, July 27, 1871.*

I AM directed by the Earl of Kimberley, to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, forwarding a copy of a Joint Address adopted by the Legislative Council and Assembly of New Brunswick on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 31.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Cacouna, July 5, 1871.*

AT the request of the Privy Council of Canada, I have the honour to transmit herewith a copy of a Joint Address adopted by the "Legislative Council and Assembly of the Province of New Brunswick, on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington."

I have, &amp;c.

(Signed) LISGAR.

Inclosure 2 in No. 31.

*Report of a Committee of the Honourable the Privy Council, dated June 13, 1871.*

THE Committee of Council have had under consideration a communication from the Lieutenant-Governor of New Brunswick, inclosing a Joint Address from the Legislative Council and Assembly of that Province, on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington; and they respectfully advise that a copy of the same be transmitted by your Excellency to the

Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government, as containing the views of the New Brunswick Legislature on that important question.

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

Inclosure 3 in No. 31.

*Address.*

To his Excellency the Right Honourable Baron Lisgar, P.C., K.C.B., G.C.M.G., Governor-General of the Dominion of Canada, &c.

The humble Address of the Legislative Council and House of Assembly of the Province of New Brunswick.

May it please your Excellency,

HAVING had under consideration certain provisions of the Treaty signed at Washington, on the 8th day of May instant, by the respective Commissioners of Great Britain and the United States, we most respectfully submit that, so far as the same relate to the fisheries, they are not satisfactory to the people of this Province, inasmuch as while they contain no definition of the existing rights and duties of the subjects and citizens of Great Britain and the United States, and postponing all questions growing out of the exercise and enforcement of such rights and duties, they prematurely and without sufficient consideration of Canadian interest moving thereto, substitute for the protection to which the British fisherman is fully entitled by public law, and which the recent enactments of the Parliament of Canada have largely secured, a policy of unlimited and dangerous concession.

The privileges accorded to the subjects of Great Britain by the XIXth and XXIst Articles of the Treaty, are by no means an equivalent for the privileges conferred on the citizens of the United States by the XVIIIth Article; the reciprocal privilege of fishing in certain American waters is barren and delusive, and the mode of determining and accounting for the excess in value of the privileges accorded by the Government of the United States is erroneous in principle and impracticable in execution, and the considerations of advantage are too remote and uncertain.

We would respectfully submit that any Treaty relating to the free use of the fisheries, and to the navigation of the rivers and canals of Canada should, at the same time, make such further provisions for the regulation of commerce and navigation as would render the same reciprocally beneficial and satisfactory; and we therefore hope that the Parliament of Canada will, under existing circumstances, adhere to, and carry out, the policy of protection of the fishery rights of the Dominion recently adopted, and will refuse its assent to the Articles of the said Treaty relating to the fisheries.

We respectfully urge upon your Excellency, in Council, the consideration of the matters herein set forth, and request that your Excellency will be pleased to cause this Address to be laid before the Dominion Parliament at its next Session.

(Signed) JOHN S. SAUNDERS,  
*President of the Legislative Council.*  
E. A. VAIL,  
*Speaker, House of Assembly.*

No. 32.

*The Secretary to the Admiralty to Mr. Hammond.—(Received July 28.)*

Sir,

*Admiralty, July 27, 1871.*

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Earl Granville, copy of a letter and its inclosures, dated the 1st instant, from the Commander-in-chief on the North American and West Indies station, relative to certain alleged encroachments by American fishermen on the fisheries at Newfoundland.

I am, &c.  
(Signed) VERNON LUSHINGTON.

## Inclosure 1 in No. 32.

*Vice-Admiral Fanshawe to the Secretary to the Admiralty.*

Sir, "Royal Alfred," July 1, 1871.  
 REFERRING to the third paragraph of my general letter of 2nd June, 1871, I have the honour to transmit herewith, for the information of the Lords Commissioners of the Admiralty, the result of the investigations made by Captain G. J. Malcolm, late of the "Danae," as to the alleged encroachments in the vicinity of Fortune Bay.

I have, &c.  
 (Signed) E. G. FANSHAWE.

## Inclosure 2 in No. 32.

*Captain Malcolm to Vice-Admiral Fanshawe.*

Sir, "Danae," at St. John's, June 22, 1871.  
 I HAVE the honour to report, in continuance of my letter of proceedings No. 14 of the 31st of May, that I left St. John's on the same day and proceeded to Harbour Britton, where I arrived on the 2nd instant, found there Captain Howard in Her Majesty's ship "Raccoon." I reported myself to him, and with his consent I did not anchor, but went on at once past Pass Island to Great Jervis Harbour, where I arrived the same day.

2. Great Jervis Harbour is where Mr. Penny resides, who had reported the encroachments of the Americans. I found, on speaking with him and Mr. Camp, the Revenue Officer, that they had only heard that the Americans had encroached, but had not seen them, saying that they believed they had done so at Pass Island and in Fortune Bay.

3. On the 5th instant I went in this ship up the North Arm of Despair Bay, where I received your telegram to return to St. John's before the 19th instant. On the same day I despatched Lieutenant Black in the 1st cutter of this ship to cruise in the neighbourhood of Pass Island.

4. On the 7th instant I went up the North East Arm, in which I found the American schooner "Lizzie A. Tarr," of Gloucester. Part of her crew, one of her boat and some colonial fishermen were employed fishing on the shore for herring with a net whose meshes were under the legal size. I warned all parties of the illegality of their employment, and said a repetition of their offence would lead to seizure. I here despatched Sub-Lieutenant Burr of this ship to cruise in the neighbourhood of Fox Island—Bay of Despair.

5. On the 9th instant I proceeded from Ship Cove North East Arm to Hermitage Cove, Hermitage Bay, where I arrived the same day.

6. On the 10th June Sub-Lieutenant Burr rejoined me in the "Whaler" he reported having met with "Lizzie Tarr" at King's Harbour, with the same fishermen who had been with her in North West Cove; he warned them against trespassing, and they promised not to do so again, and left the Bay of Despair. I consider that in this case Sub-Lieutenant Burr showed great tact and discretion. He had visited several fishing stations, and except in the above case no authenticated encroachments were reported.

The fishermen say the Americans came in and bought bait, and that they were annoyed by their concurring with them in the fishery.

7. On the 11th June Lieutenant Black joined me in the first cutter of this ship; he had visited Pass Island and several places in its neighbourhood. He reported one authenticated case of encroachment, in which the fishermen had taken the law into their own hands, and prevented the Americans fishing within bounds. He also reported to the same effect as Sub-Lieutenant Burr, relative to the jealousy against concurrence. The great sore is the use of bultows (trots), against the use of which most Colonial fishermen are averse. The Colonial Legislature could meet the difficulty by making the use of bultows illegal. Lieutenant Black displayed considerable zeal and perseverance whilst absent from the ship.

8. I left Hermitage Cove on the 12th instant, and arrived on the same day at Fortune. Here they knew nothing of American encroachments; had heard that they had been fishing illegally near Pass Island. They, for their part, complained of French encroachments near Dautzic Point. I would here remark, as I have done in my fishery letter, that all these people accept hearsay as fact, and as a rule supply foreigners with bait, and complain of them afterwards for fishing with it.

I have, &c.  
 (Signed) G. J. MALCOLM.

## No. 33.

*Mr. Holland to Mr. Hammond.—(Received July 29.)*

Sir,

*Downing Street, July 28, 1871.*

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, copies of correspondence inclosed in despatches which have been received from the Governor of Newfoundland, relating to certain alleged encroachments on the fishing grounds on the south coast of the Colony.\*

Lord Kimberley has informed the Governor that these proceedings do not seem to call for any action on the part of Her Majesty's Government.

I am, &c.  
(Signed) H. T. HOLLAND.

## No. 34.

*Mr. Odo Russell to Mr. Holland.*

Sir,

*Foreign Office, August 5, 1871.*

I AM directed by Earl Granville to transmit to you a copy of a letter from the Admiralty, inclosing, in original, to be returned, copies of a despatch from Vice-Admiral Fanshawe and Report from Captain Malcolm respecting the alleged encroachments of American fishermen on the British fisheries;† and I am to request that, in laying the same before the Earl of Kimberley, you will call his Lordship's attention to the nature of the complaints preferred against the American fishermen.

I am, &c.  
(Signed) ODO RUSSELL.

## No. 35.

*The Secretary to the Admiralty to Mr. Hammond.—(Received August 14.)*

Sir,

*Admiralty, August 11, 1871.*

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that Vice-Admiral Fanshawe, in a letter dated 28th July last, reports that, in consequence of a telegram received from the Lieutenant-Governor of Prince Edward's Island, to the effect that the fishery laws would not be enforced during the present season, Her Majesty's ships employed on fishery service will not visit the coast of Prince Edward's Island for the present.

I am, &c.  
(Signed) VERNON LUSHINGTON.

P.S.—A similar communication has been made to Colonial Office.

## No. 36.

*Mr. Pakenham to Earl Granville.—(Received August 14.)*

(No. 9.)

My Lord,

*Washington, August 1, 1871.*

THE telegram from the Lieutenant-Governor of Prince Edward's Island, copy of which I inclose, reached me on the 25th instant, and I communicated the substance of its contents to the Acting Secretary in charge of the State Department, in the note of which I transmit a copy. Mr. Fish acknowledges the receipt of the intelligence in a note, copy of which is also inclosed.

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

\* For inclosures see Colonial Office print, November 1871.

† No. 32.

## Inclosure 1 in No. 36.

*Lieutenant-Governor Robinson to Sir E. Thornton.**Charlotte Town, Prince Edward Island, July 25, 1871.*

GOVERNMENT of Prince Edward's Island, having considered proposal made by United States' Government through British Minister, has this day decided not to enforce Fishery laws during present season and pending consideration of Treaty by Legislature."

(Signed) WM. ROBINSON.

## Inclosure 2 in No. 36.

*Mr. Pakenham to Mr. Davis.*

Sir,

*Washington, July 26, 1871.*

I HAVE the honour to inform you that intelligence has reached me from the Lieutenant-Governor of Prince Edward Island to the effect that that Government yesterday decided not to enforce the Fishery laws during the present season, and pending the consideration of the Treaty by the Legislature of that portion of Her Majesty's dominions.

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

## Inclosure 3 in No. 36.

*Mr. Fish to Mr. Pakenham.*

Sir,

*Department of State, Washington, July 28, 1871.*

I HAVE the honour to acknowledge the receipt of your note of the 26th instant, announcing the decision of the Government of Prince Edward Island not to enforce the Fishery laws during the present season, and pending the consideration of the Treaty by the Legislature of that Province.

I have, &c.  
(Signed) HAMILTON FISH.

## No. 37.

*Mr. Herbert to Mr. Odo Russell.—(Received August 15.)*

Sir,

*Downing Street, August 15, 1871.*

I HAVE laid before the Earl of Kimberley your letter of the 5th instant, inclosing copies of correspondence received from the Board of Admiralty on the subject of the alleged encroachments of American fishermen on the British fisheries.

I am directed by his Lordship to return the papers, as requested, and to observe that these encroachments would appear to be of the same unimportant character as those previously reported by the Governor of Newfoundland in the correspondence communicated to the Foreign Office in the letter from this office of 28th ultimo, and that the reply to the Governor, of which the terms were then stated, would seem to dispose sufficiently of these cases.

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

## No. 38.

*Mr. Herbert to Mr. Odo Russell.—(Received August 16.)*

(Secret.)

Sir,

*Downing Street, August 15, 1871.*

I AM directed by the Earl of Kimberley to request that you will bring under the consideration of Earl Granville the following extracts from a letter addressed by Sir J. A.

Macdonald to Lord Lisgar, and inclosed in a secret despatch from Lord Lisgar, dated July 26th :—

“ 9. In my letter to Lord de Grey, I went on to say that it would be necessary that there should be a formal and official assurance given by Her Majesty’s Government, that at the expiration of the ten years mentioned in the Treaty, and at any time afterwards, Her Majesty’s Government would give notice to the United States of the termination of the fishery arrangement, if requested to do so by the Canadian Government.

“ 10. While, of course, the notice can only be given by the Imperial Government to that of the United States, or *vice versa*, yet, unless it were understood that Her Majesty’s Government would act when requested by Canada, the control of our fisheries would be, in effect, handed over for ever to England, which no Canadian Government or Parliament would ever agree to.”

It has occurred to Lord Kimberley that it may be worthy of consideration, whether the control of Canada over the continuance or discontinuance of those Articles of the Treaty which relate to the fisheries might not be provided for by the Dominion Legislature suspending the fishery laws for a period of twelve years (*i.e.*, ten years being the term mentioned in Article XXXIII of the Treaty, and two years being the term of the notice to be given for the termination of the arrangement), instead of suspending them, as was done in the case of the Reciprocity Treaty, for the period during which the Treaty may remain in force.

There can, of course, be no doubt that it is within the competency of the Dominion Legislature to pass such an enactment, but it is for Lord Granville’s consideration whether such an enactment would be a due compliance with the conditions of Article XXIII of the Treaty.

With reference to this question, Lord Kimberley would point out that Article XXII, by which it is provided that any sum of money which may be awarded as compensation to the Colonies for the fishery privileges ceded to the United States shall be paid by the United States in a gross sum seems inconsistent with the concession of those privileges for an indefinite term. If the sum to be awarded had been a yearly rent, the compensation would have been commensurate with the time, whatever it might have been, during which the Fishery Articles of the Treaty might have remained in force, but a gross sum must apparently be estimated with reference to some particular term of years, and if that term of years is, as may be assumed, to be the term of ten years, with two years’ notice mentioned in Article XXXIII, the admission of United States’ citizens to the Colonial fisheries for any period beyond twelve years would, as far as the money compensation goes, be a gratuitous concession, which could not be intended.

His Lordship would suggest to Lord Granville that it would be expedient to consult the Law Officers upon the points raised in this letter; and he would be glad if an early expression of their opinion could be procured, as it will be necessary for him before long to instruct Lord Lisgar as to the answer to be given to Sir J. A. Macdonald’s letter.

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

No. 39.

*Viscount Enfield to the Law Officers of the Crown.*

Gentlemen,

*Foreign Office, August 17, 1871.*

I AM directed by Earl Granville to transmit to you the accompanying letter from the Colonial Office, relative to the Canadian Fishery Question, and I am to request that you will take the same into your consideration, and favour his Lordship with your opinion at your earliest convenience, on the points raised therein.\*

I am, &c.  
(Signed) ENFIELD.

No. 40.

*The Law Officers of the Crown to Earl Granville.—(Received August 18.)*

My Lord,

*Temple, August 18, 1871.*

WE are honoured with your Lordship’s commands signified in Lord Enfield’s letter of the 17th instant, stating that he was directed to transmit to us the accompanying letter

from the Colonial Office, relative to the Canadian Fishery Question, and he was to request that we would take the same into our consideration, and furnish your Lordship with our opinion, at the earliest convenience, on the points raised therein.

In obedience to your Lordship's commands, we have the honour to report—

That with respect to the question raised in the letter of Sir J. Macdonald to Lord Lisgar, it certainly appears to us that it would be reasonable and proper that such formal and official assurance (as is suggested by Sir John Macdonald) should be given, to the effect that the Imperial Government would give notice to the Government of the United States of the termination of the fishery arrangements at such time after the period fixed by the Treaty as they should be requested to give the notice by the Government of the Dominion.

This, however, is rather a matter of policy than of law, and we offer our opinion only because we are invited to express it by your Lordship.

As to the other question, on which our opinion is desired, we think that as the XXXIIIrd Article of the Treaty seems to contemplate the possible endurance of the fishery arrangements beyond the ten years and the two years of notice, it would hardly be expedient to suspend the laws of the Dominion for the period of twelve years only. It might seem to indicate an unfriendly feeling towards the United States, and a foregone conclusion to put an end to the fishery arrangements at the first moment possible consistently with the Treaty. The payment of the compensation in a lump sum may be indeed a very good reason for putting an end, in fact, to the arrangement when the time, for which the compensation may be considered adequate, has run out. But we suggest that it would be better if the Government of the Dominion were content as before to suspend the fishery laws for the period of the duration of the Treaty. This would not prevent them from giving the notice, through the agency of the Imperial Government, when the ten years have run out, if they thought fit to do so. But it would leave them free to act as they might think best when the time came, and would remove all possible imputation of unfriendliness from the Government of the Dominion.

We have, &c.

(Signed)

R. P. COLLIER.  
J. D. COLERIDGE.  
TRAVERS TWISS.

No. 41.

*Mr. Herbert to Mr. Hammond.—(Received August 21.)*

Sir,

*Downing Street, August 19, 1871.*

WITH reference to my letter of the 30th of June,\* inclosing a copy of a despatch addressed to the Governor of Newfoundland, in reference to the prosecution of the seal fishery from the ports of that island by vessels of foreign nations, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of the reply which has been received from Governor Hill.

The Governor's despatch of the 17th of July,\* to which he refers, is communicated to you in another letter of this day's date.

I am, &c.

(Signed)

R. G. W. HERBERT.

Inclosure in No. 41.

*Governor Hill to the Earl of Kimberley.*

My Lord,

*Government House, Newfoundland, July 21, 1871.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 20th June, communicating to me the opinion of the Crown Law Officer respecting the prosecution of the seal fishery from the ports of this colony by vessels of foreign nations.

2. With respect to the legislation of the restrictive character pointed at by the Legislative Council in their Address to me of the 21st April, my Ministers wish me to inform your Lordship that the Executive Council did not approve of the enactment

\* See Colonial Office print, November 1871.

suggested in the address ; on the contrary, the Government of Newfoundland have refrained from taking any action to prohibit, by legislation or otherwise, the use of their territory for the purpose of the prosecution by foreigners of the seal fishery and the manufacture of seals into oil, until the opinion of Her Majesty's Government on this question had been made known to them.

3. The suggestions contained in my despatch of the 17th July are respectfully offered by my advisers, with an earnest desire that the settlement of a matter of such importance as the prosecution of the seal fishery from the ports of this Colony by vessels of foreign nations may be arrived at in a manner agreeable to the views of the British and American Governments, and satisfactory as regards the interests of the Colony.

I have, &c.  
(Signed) STEPHEN J. HILL.

No. 42.

*Mr. Herbert to Mr. Hammond.—(Received August 22.)*

Sir, *Downing Street, August 21, 1871.*  
WITH reference to my letter of this day's date,\* forwarding despatches from the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to inclose copies of despatches which, with Earl Granville's concurrence, his Lordship proposes to forward to the Governors of those islands by the mail of Friday next.

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

Inclosure 1 in No. 42.

*Proposed Despatch to Governor Hill.*

Sir, *Downing Street, August, 1871.*  
I HAVE the honour to acknowledge the receipt of your despatch of the 14th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington, so far as concerns the Colony under your Government.

Her Majesty's Government have learnt, with much satisfaction, that the Newfoundland Government have so willingly acceded to their wishes in this respect.

I have drawn Lord Granville's attention to the two questions raised in your despatch on the correspondence which passed on this subject between Sir Edward Thornton and Mr. Fish.

I have, &c.

Inclosure 2 in No. 42.

*Proposed Despatch to Lieutenant-Governor Robinson.*

Sir, *Downing Street, August, 1871.*  
I HAVE the honour to acknowledge the receipt of your despatch of the 25th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington so far as concerns the Colony under your Government.

Her Majesty's Government have learnt, with much satisfaction, that the Prince Edward Island Government have so willingly acceded to their wishes in this respect.

With regard to the observations contained in the Minutes of Council which you have forwarded, to the effect that the Prince Edward Island Government would readily accept any reasonable money-compensation in addition to the privileges granted as an equivalent, but that under the Treaty nothing of the kind is guaranteed, I do not understand why the Prince Edward Island Government should object to the reference of the question of the

\* See Colonial Office print, November 1871.

money-compensation to arbitration, which seems to be the fairest way of determining such a point, more especially as the fact stated in the Minute, that the rights of fishing conceded by the United States are comparatively worthless is, it must be presumed, capable of distinct proof.

I will communicate with Lord Granville as to the wish of your Government, in the event of the Act necessary to give effect to the Treaty being passed, to appoint a representative to give information to the Commission which is to meet at Halifax.

I have, &c.

No. 43.

*Mr. Odo Russell to Mr. Herbert.*

(Secret.)

Sir,

*Foreign Office, August 22, 1871.*

LORD GRANVILLE having referred to the Law Officers your letter of the 15th instant, in regard to the fishery arrangements with the United States, under the Treaty of Washington, I am now directed by his Lordship to transmit to you, to be laid before the Earl of Kimberley, a copy of their Report on the points raised in your letter, relative to the proposed action of the Canadian Legislature in the matter.\*

I am, &c.

(Signed) ODO RUSSELL.

No. 44.

*Mr. Odo Russell to Mr. Herbert.*

Sir,

*Foreign Office, August 22, 1871.*

I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, with reference to your letter of 1st instant, the accompanying copy of a despatch and of its inclosures, from Mr. Pakenham, reporting the decision of the Government of Prince Edward Island not to enforce the Fishery laws during the present season.†

I am, &c.

(Signed) ODO RUSSELL.

No. 45.

*Earl Granville to Mr. Pakenham.*

(No. 26.)

Sir,

*Foreign Office, August 25, 1871.*

I TRANSMIT herewith, for your information, copies of letters from the Colonial Office relative to certain alleged encroachments on the Newfoundland fisheries by American fishermen.‡

I am, &c.

(Signed) GRANVILLE.

No. 46.

*Earl Granville to Mr Pakenham.*

(No. 27.)

Sir,

*Foreign Office, August 25, 1873.*

WITH reference to your despatch No. 9 of the 1st instant, I have to acquaint you that the Lords of the Admiralty have been informed by Vice-Admiral Fanshawe that in consequence of a telegram received by him from the Lieutenant-Governor of Prince Edward Island, to the effect that the Fishery laws would not be enforced during the present season, Her Majesty's ships employed on Fishery service would not visit the coast of Prince Edward Island for the present.§

I am, &c.

(Signed) GRANVILLE.

\* No. 40.

† No. 36.

‡ Nos. 33 and 37.

§ No. 35.

No. 47.

*Viscount Enfield to Mr. Herbert.*

Sir, *Foreign Office, August 31, 1871.*  
 I HAVE laid before Earl Granville your letter of the 21st instant, inclosing copies of correspondence with the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island respecting the provisional admission of American fishermen to the in-shore fisheries of those islands; and I am, in reply, to request that you will state to the Earl of Kimberley that Lord Granville has no doubt that the Government of Newfoundland is right in assuming that the omission of the mention of Newfoundland in the passage in Mr. Fish's note to Sir E. Thornton referred to was unintentional. Her Majesty's Chargé d'Affaires at Washington will, however, be instructed to call Mr. Fish's attention to the omission as being understood to be by inadvertence. His Lordship wishes the Government of Newfoundland to be informed that the intention of the two notes was, that pending reciprocal legislation in, return for the immediate provisional admission of American fishermen to the in-shore fisheries, drawbacks should be granted on the import duties taken in the United States on the fish, oil and fish which are to be hereafter admitted free for a term of years, under the XXIst Article of the Treaty. I am to add that, as regards the desire expressed by the Government of Prince Edward Island that some person should be appointed to attend the Commission at Halifax, it appears to Lord Granville that it would not only be permissible but highly desirable that Prince Edward Island and the other Provinces should furnish the fullest information before the Commission as to the value of the in-shore fisheries on their coasts. The XXIVth Article of the Treaty provides that the Commissioners shall be bound to receive such oral or written testimony as either Government may present, and it will, consequently, be competent for the Government of Prince Edward Island to send to Halifax any person who may be selected as best capable of giving evidence on its behalf.

I am, &c.  
 (Signed) ENFIELD.

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No. 48.

*Viscount Enfield to Mr. Herbert.*

Sir, *Foreign Office, August 31, 1871.*  
 I AM directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship concurs in the despatches to the Governor of Newfoundland and Lieutenant-Governor of Prince Edward Island respecting the admission of American fishermen to the inshore fisheries of those islands, and of which drafts were inclosed in your letter of the 21st instant.

I am, &c.  
 (Signed) ENFIELD.

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No. 49.

*Earl Granville to Mr. Pakenham.*

(No. 32.)

Sir, *Foreign Office, August 31, 1871.*  
 WITH reference to Sir E. Thornton's despatch No. 155 of the 12th of May, I transmit to you herewith copies of a despatch from the Governor of Newfoundland, and of a letter to the Colonial Office respecting the omission of Newfoundland in the passage in Mr. Fish's note of the 8th of May therein mentioned;\* and I have to instruct you to call Mr. Fish's attention to this omission and to state to him that Her Majesty's Government understand it to have been inadvertent.

I am, &c.  
 (Signed) GRANVILLE.

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No. 50.

*Earl Granville to Mr. Pakenham.*

(No. 33.)

Sir,

*Foreign Office, August 31, 1871.*

WITH reference to my preceding despatch No. 32 of the same date, I inclose for your information, copies of correspondence with the Colonial Office respecting the provisional admission of American fishermen to the inshore fisheries of Newfoundland and Prince Edward Island.\*

I am, &c.  
(Signed) GRANVILLE.

No. 51.

*Mr. Wolley to Mr. Hammond.—(Received September 8.)*

Sir,

*Admiralty, September 6, 1871.*

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State for Foreign Affairs, that copies of despatches from the Governors of Prince Edward Island and Newfoundland agreeing, so far as those islands are concerned, to the recommendation of Her Majesty's Government that United States' fishermen should be allowed during the present season to use provisionally the privileges granted to them by the Treaty of Washington to fish within British waters on the coast of Canada, Prince Edward Island, and Newfoundland, have been received through the Colonial Office, and have been forwarded for the information of the Naval Commander-in-chief on the North American Station.

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

No. 52.

*Mr. Holland to Mr. Hammond.—(Received September 8.)*

Sir,

*Downing Street, September 8, 1871.*

WITH reference to my letter of the 23rd of June,† inclosing a copy of a despatch addressed by the Earl of Kimberley to the Governor-General of Canada, respecting certain provisions of the Treaty of Washington, I am directed by his Lordship to transmit to you, for the information of Earl Granville, a copy of a despatch received from Lord Lisgar in reply.

Lord Granville will perceive from the Minute of the Privy Council forwarded by the Governor-General, that the Canadian Government decline to admit United States' fishermen to the provisional enjoyment during the present season of the privileges granted by the Treaty.

I am, &c.  
(Signed) T. H. HOLLAND.

Inclosure 1 in No. 52.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Cacouna, August 15, 1871.*

WITH reference to your Lordship's despatch of the 17th June, which I duly referred to the Privy Council of the Dominion, I have the honour to transmit herewith, the Report of a Committee of that body containing their views on the subject of the Treaty of Washington in so far as it affects the interest of Canada.

I have, &c.  
(Signed) LISGAR.

\* Nos. 42 and 48.

† See Colonial Office print, November 1871.

## Inclosure 2 in No. 52

*Report.**Privy Council Chamber, Ottawa, Friday, July 28, 1871.*

Present :

The Honourable Dr. Tupper *in the Chair.*

„ Sir John A. Macdonald.  
 „ Sir George Et. Cartier.  
 „ Mr. Tilley.  
 „ Mr. Mitchell.  
 „ Mr. Campbell.  
 „ Mr. Chapais.  
 „ Mr. Langevin.  
 „ Mr. Howe.  
 „ Sir Francis Hincks.  
 „ Mr. Dunkin.  
 „ Mr. Aikins.

To his Excellency the Right Honourable John Baron Lisgar, G.C.B., G.C.M.G., P.C.,  
 Governor-General of Canada, &c., &c.

May it please your Excellency,

THE Committee of the Privy Council have had under their consideration the Earl of Kimberley's despatch to your Excellency dated the 17th June ultimo, transmitting copies of the Treaty signed at Washington on the 8th May last, by the Joint High Commissioners, and which has since been ratified by Her Majesty and by the United States of America, of the instructions to Her Majesty's High Commissioners, and of the Protocols of the Conferences held by the Commission, and likewise the Earl of Kimberley's despatch of the 20th June ultimo, explaining the failure of Her Majesty's Government to obtain the consideration by the United States' Commissioners of the claims of Canada for the losses sustained owing to the Fenian raids of 1866 and 1870.

The Committee of the Privy Council have not failed to give their anxious consideration to the important subjects discussed in the Earl of Kimberley's despatches, and they feel assured that they will consult the best interests of the Empire by stating, frankly, for the information of Her Majesty's Government the result of their deliberations, which they believe to be in accordance with public opinion in all parts of the Dominion.

The Committee of the Privy Council readily admit that Canada is deeply interested in the maintenance of cordial relations between the Republic of the United States and the British Empire, and they would therefore have been prepared, without hesitation, to recommend the Canadian Parliament to co-operate in procuring an amicable settlement of all differences likely to endanger the good understanding between the two countries. For such an object they would not have hesitated to recommend the concession of some valuable rights, which they have always claimed to enjoy under the Treaty of 1818, and for which, as the Earl of Kimberley observes, Her Majesty's Government have always contended, both Governments having acted on the interpretation given to the Treaty in question by high legal authorities. The general dissatisfaction which the publication of the Treaty of Washington has produced in Canada, and which has been expressed with as much force in the agricultural districts of the west, as in the maritime provinces, arises chiefly from two causes—

1st. That the principal cause of difference between Canada and the United States has not been removed by the Treaty, but remains a subject for anxiety.

2nd. That cession of territorial rights of great value has been made to the United States, not only without the previous assent of Canada, but contrary to the expressed wishes of the Canadian Government.

The Committee of the Privy Council will submit their views on both those points for the information of Her Majesty's Government, in the hope that, by means of discussion, a more satisfactory understanding between the two Governments may be arrived at. The Earl of Kimberley has referred to the rules laid down in Article VI of the Treaty of Washington, as to the international duties of neutral Governments, as being of special importance to the Dominion, but the Committee of the Privy Council, judging from past experience, are much more apprehensive of misunderstanding, owing to the apparent difference of opinion between Canada and the United States, as to the relative duties of friendly States in a time of peace. It is unnecessary to enter into any lengthened

discussion of the conduct of the United States during the last six or seven years with reference to the organization of considerable numbers of the citizens of those States under the designation of Fenians. The views of the Canadian Government on this subject are in possession of Her Majesty's Government, and it appears from the Protocol of Conference between the High Commissioners that the British Commissioners presented the claims of the people of Canada, and were instructed to state that they were regarded by Her Majesty's Government as coming within the class of subjects indicated by Sir Edward Thornton in his letter of 26th January last, as subjects for the consideration of the Joint High Commissioners. The Earl of Kimberley states that it was with much regret that Her Majesty's Government acquiesced in the omission of these claims from the general settlement of outstanding questions between Great Britain and the United States, and the Committee of the Privy Council, while fully participating in that regret, must add that the fact that this Fenian organization is still in full vigour, and that there seems no reason to hope that the United States' Government will perform its duty as a friendly neighbour any better in the future than in the past, leads them to entertain a just apprehension that the outstanding subject of difference with the United States, is the one of all others which is of special importance to the dominion. They must add that they are not aware that during the existence of this Fenian organization, which for nearly seven years has been a cause of irritation and expense to the people of Canada, Her Majesty's Government have made any vigorous effort to induce the Government of the United States to perform its duty to a neighbouring people who earnestly desire to live with them on terms of amity and who, during the Civil War, loyally performed all the duties of neutrals to the expressed satisfaction of the Government of the United States. On the contrary, while in the opinion of the Government and the entire people of Canada, the Government of the United States neglected, until much too late, to take the necessary measures to prevent the Fenian invasion of 1870, Her Majesty's Government hastened to acknowledge, by cable telegram, the prompt action of the President, and to thank him for it. The Committee of the Privy Council will only add on this painful subject, that it is one on which the greatest unanimity exists among all classes of the people throughout the dominion, and the failure of the High Commissioners to deal with it, has been one cause of the prevailing dissatisfaction with the Treaty of Washington.

The Committee of the Privy Council will proceed to the consideration of the other subject of dissatisfaction in Canada, viz., the cession to the citizens of the United States of the right to the use of the in-shore fisheries in common with the people of Canada. The Earl of Kimberley, after observing that the Canadian Government took the initiative in suggesting that a joint British and American Commission should be appointed, with a view to settle the disputes which had arisen as to the interpretation of the Treaty of 1818, proceeds to state that "the causes of the difficulty lay deeper than any question of interpretation," that "the discussion of such points as the correct definition of bays could not lead to a friendly argument with the United States," and that "it was necessary, therefore, to endeavour to find an equivalent which the United States might be willing to give in return for the fishery privileges."

In the foregoing opinion of the Earl of Kimberley the Committee of the Privy Council are unable to concur, and they cannot but regret that no opportunity was afforded them of communicating to Her Majesty's Government their views on a subject of so much importance to Canada prior to the meeting of the Joint High Commission.

When the Canadian Government took the initiative of suggesting the appointment of Joint British and American Commissioners, they never contemplated the surrender of their territorial rights, and they had no reason to suppose that Her Majesty's Government entertained the sentiments expressed by the Earl of Kimberley in his recent despatch. Had such sentiments been expressed to the Delegate appointed by the Canadian Government to confer with his Lordship a few months before the appointment of the Commission, it would at least have been in their power to have remonstrated against the cession of the in-shore fisheries, and it would, moreover, have prevented any Member of the Canadian Government from acting as a Member of the Joint High Commission, unless on the clear understanding that no such cession should be embodied in the Treaty without their consent. The expediency of the cession of a common right to the in-shore fisheries has been defended on the ground that such a sacrifice on the part of Canada should be made in the interests of peace.

The Committee of the Privy Council, as they have already observed, would have been prepared to recommend any necessary concession for so desirable an object, but they must remind the Earl of Kimberley that the original proposition of Sir Edward Thornton, as appears by his letter of 26th January, was that "a friendly and complete understanding should be come to between the two Governments as to the extent of the rights which

belong to the citizens of the United States and Her Majesty's subjects respectfully with reference to the fisheries on the coasts of Her Majesty's possessions in North America."

In his reply, dated 30th January last, Mr. Secretary Fish informs Sir Edward Thornton that the President instructs him to say that "he shares with Her Majesty's Government the appreciation of the importance of a friendly and complete understanding between the two Governments with reference to the subjects specially suggested for the consideration of the proposed Joint High Commission."

In accordance with the explicit understanding thus arrived at between the two Governments, Earl Granville issued instructions to Her Majesty's High Commission, which, in the opinion of the Committee of the Privy Council covered the whole ground of controversy.

The United States had never pretended to claim a right on the part of their citizens to fish within three marine miles of the coasts and bays, according to their limited definition of the latter term, and although the right to enjoy the use of the in-shore fisheries might fairly have been made the subject of negotiation, with the view of ascertaining whether any proper equivalents could be found for such a concession, the United States was precluded by the original correspondence from insisting on it as a condition of the Treaty. The abandonment of the exclusive right to the in-shore fisheries without adequate compensation was not therefore necessary in order to come to a satisfactory understanding on the points really at issue.

The Committee of the Privy Council forbear from entering a controversial discussion as to the expediency of trying to influence the United States to adopt a more liberal commercial policy.

They must, however, disclaim most emphatically the imputation of desiring to imperil the peace of the whole Empire in order to force the American Government to change its commercial policy. They have for a considerable time back ceased to urge the United States to alter their commercial policy, but they are of opinion that when Canada is asked to surrender her in-shore fisheries to foreigners, she is fairly entitled to name the proper equivalent. The Committee of the Privy Council may observe that the opposition of the Government of the United States to reciprocal free trade in the products of the two countries was just as strong for some years prior to 1854 as it has been since the termination of the Reciprocity Treaty, and that the Treaty of 1854 was obtained chiefly by the vigorous protection of the fisheries which preceded it, and that but for the conciliatory policy on the subject of the fisheries, which Her Majesty's Government induced Canada to adopt after the abrogation of the Treaty of 1854 by the United States, it is not improbable that there would have been no difficulty in obtaining its renewal.

The Committee of the Privy Council have adverted to the policy of Her Majesty's Government because the Earl of Kimberley has stated that there is no difference in principle between a money payment and "the system of licenses calculated at so many dollars a ton which was adopted by the Colonial Government for several years after the termination of the Reciprocity Treaty." Reference to the correspondence will prove that the license system was reluctantly adopted by the Canadian Government as a substitute for the still more objectionable policy pressed upon it by Her Majesty's Government, it having been clearly understood that the arrangement was of a temporary character. In his despatch of the 3rd March, 1866, Mr. Secretary Cardwell observed:—"Her Majesty's Government do not feel disinclined to allow the United States for the season of 1866 the freedom of fishing granted to them in 1854 on the distinct understanding that unless some satisfactory arrangements between the two countries be made during the course of the year this privilege will cease, and all concessions made in the Treaty of 1854 will be liable to be withdrawn." The principle of a money payment for the concession of territorial rights has ever been most repugnant to the feelings of the Canadian people, and has only been entertained in deference to the wishes of the Imperial Government. What the Canadians were willing, under the circumstances, to accept as an equivalent was the concession of certain commercial advantages, and it has therefore been most unsatisfactory to them that Her Majesty's Government should have consented to cede the use of the in-shore fisheries to foreigners for considerations which are deemed wholly inadequate. The Committee of the Privy Council need not enlarge further on the objectionable features of the Treaty, as it bears on Canadian interests. These are admitted by many who think that Canada should make sacrifices for the general interests of the Empire. The people of Canada, on the other hand, seem to be unable to comprehend that there is any existing necessity for the cession of the right to use their in-shore fisheries without adequate compensation. They have failed to discover that, in the settlement of the so-called Alabama claims, which was the most important question in dispute between the two nations, England gained such advantages as to be required to make further concessions at the expense of Canada; nor

is there anything in the Earl of Kimberley's despatch to support such a view of the question. The other parts of the Treaty are equally, if not more, advantageous to the United States than to Canada, and the Fishery Question must consequently be considered on its own merits, and if so considered, no reason has yet been advanced to induce Canada to cede her in-shore fisheries for what Her Majesty's Government have admitted to be an inadequate consideration.

Having thus stated their views on the two chief objections to the late Treaty of Washington, the Committee of the Privy Council will proceed to the consideration of the correspondence between Sir Edward Thornton and Mr. Fish, transmitted in the Earl of Kimberley's despatch of the 17th of June, and of his Lordship's remarks thereon. This subject has already been under the consideration of the Committee of the Privy Council, and a Report, dated the 7th June, embodying their views on the subject, was transmitted to the Earl of Kimberley by your Excellency. In his despatch of 26th June, acknowledging the receipt of that Report, the Earl of Kimberley refers to his despatch of the 17th of that month, and "trusts that the Canadian Government will, on mature consideration, accede to the proposal of the United States' Government on this subject." The Committee of the Privy Council, in expressing their adherence to the Report of the 7th of June, must add that the inapplicability of the precedent of 1854, under which the action of the Canadian Parliament was anticipated by the Government, to the circumstances now existing, appears to them manifest, the Treaty of 1854 was negotiated, with the concurrence of the Provincial Governments represented at Washington, and met with the general approbation of the people, whereas the fishery clauses of the late Treaty were adopted against the advice of the Canadian Government, and have been generally disapproved of in all parts of the Dominion.

There can hardly be a doubt that any action on the part of the Canadian Government, in anticipation of the decision of Parliament, would increase the discontent which now exists. The Committee of the Privy Council request that your Excellency will communicate to the Earl of Kimberley the views which they entertain on the subject of the Treaty of Washington, in so far as it affects the interests of the Dominion.

(Signed) WM. H. LEE, *Clerk, Privy Council, Canada.*

No. 53.

*Mr. Holland to Mr. Hammond.—(Received September 23.)*

(Secret.)

Sir,

*Downing Street, September 23, 1871.*

WITH reference to my letter of the 15th of August, and to your reply of the 22nd of that month, on the subject of a private communication addressed to Lord Lisgar by Sir J. A. Macdonald, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Secret despatch which Lord Kimberley has addressed to the Governor-General in reply.

I am, &c.

(Signed) H. T. HOLLAND.

Inclosure in No. 53.

*The Earl of Kimberley to Lord Lisgar.*

(Secret.)

My Lord,

*Downing Street, September 23, 1871.*

I HAVE the honour to acknowledge your Lordship's Secret despatch of July 26, inclosing copy of a communication from Sir John Macdonald, on the subject of the fishery clauses of the Treaty of Washington. Sir John Macdonald refers, in the first place, to two points, namely, the question of a compensation to Canada from the Imperial Treasury for losses caused by the Fenian raids, and the necessity that a formal and official assurance should be given by Her Majesty's Government to Canada that they will, at the expiration of the ten years fixed by the Treaty, or at any subsequent period, give notice to the United States of the termination of the fishery arrangements on being requested to do so by Canada.

With respect to the compensation for the Fenian raids, Sir John Macdonald states that Lord Ripon informed him confidentially that Her Majesty's Government had agreed to pay a sum of money to Canada in compensation for her Fenian claims, if all the other

questions were settled with the United States, and if he understood that it was not to be drawn into a precedent.

Lord Ripon, who has seen Sir J. Macdonald's letter, confirms the correctness of this statement. The words used by his Lordship, as nearly as he can remember, were that the Cabinet would agree to entertain the question of a moderate compensation to Canada, out of the Imperial Revenue, for the Fenian raids, if it was clearly understood to be no precedent for the future, but part of a great and final settlement between Great Britain and the United States. But after thus stating, with perfect fairness, the assurance given by Her Majesty's Government through Lord Ripon, Sir J. Macdonald, further on, says: "I hope that no attempt will be made to make the settlement of the former" [that is the Fenian claims] "contingent on our acceptance of the Treaty. Such an attempt I should consider a breach of the understanding, and would at once abandon any attempt to reconcile my colleagues or the people of Canada to the adoption of the Treaty."

I must confess I read this paragraph of Sir J. Macdonald's letter with extreme surprise. On his own showing, the assurance given to Lord Ripon as to the Fenian clauses, was contingent upon all the other questions being settled with the United States; and yet he says that he shall consider any attempt to make the fulfilment of that assurance contingent upon the acceptance of the Treaty of Canada a breach of the understanding.

How all the questions between Great Britain and the United States can be regarded as settled, if Canada rejects an important part of the Treaty, and the Fishery Question is thus left unsettled, I am altogether at a loss to imagine.

Her Majesty's Government will abide strictly and honourably by the promise they have given; but they entirely decline to admit that a confidential promise can be construed as if it were unconditional; and they are confident that, on further consideration, Sir J. Macdonald will himself see that he could have no grounds for reproach against them if they were to make the payment of any compensation to Canada for the Fenian claims contingent upon the acceptance of the Treaty by the Dominion Parliament. Still less would such a course on their part justify him in abandoning any attempt to cause the fulfilment of the condition upon which the promise was given.

As regards the assurance for which Sir J. Macdonald presses, that Her Majesty's Government will give notice of the termination of the fishery arrangements at the request of Canada, I may observe that no such measure was asked or given in the case of the Reciprocity Treaty; but Her Majesty's Government recognize that it is not unreasonable that Canada should desire some assurance on this point, and they will be ready, on receiving an official request from the Canadian Government to this effect, to declare that the greatest deference would be paid to the expression of the wishes of the Dominion, signified by addresses from both Houses of the Dominion Parliament, and that those wishes would certainly be attended to, subject of course to the necessary reservation of Her Majesty's discretion to take into consideration, in the interests of the whole Empire, the state of her relations with foreign Powers at the particular juncture.

After dealing with these two points, Sir J. Macdonald proceeds to complain generally of the manner in which Canada has been treated in the recent negotiations with the United States. He says that Canada asked England to negotiate for the appointment of a Commission to settle the "disputed questions" relating to the fisheries; that the United States consented to a Commission for the purpose, but desired to include other subjects, and that a Joint Commission was appointed on this basis, viz., "The settlement of the disputed questions as to the fisheries and other matters, Imperial and Colonial; that, on the question of the fisheries being taken up, the United States expressed a desire to find some mode of settlement which might dispense with the necessity of discussing the disputed fishery questions; that an attempt was made accordingly, and that, when it was found that the United States and Canada could not agree, it was the duty of the Commissioners to return to the original proposition to settle the disputed questions relating to the fisheries."

Upon this I have to observe that, although it is quite true that the questions which Canada originally wished to have referred to a Commission did not include the question of the cession of the Colonial fisheries to the United States for a compensation, this question was distinctly contemplated when the Joint Commission was appointed, and that Sir John Macdonald was perfectly aware of this when he consented to act as one of the Commissioners. In reply to an inquiry from you and Sir John Macdonald, received on February 3 by telegraph, to the effect that it was "important that Canada should know the points of agreement or difference between England and herself as to fishery rights," I informed you by telegraph on the 4th of February, that it would be impossible to pledge ourselves to a foregone conclusion on any particular point before entering into negotiation, but that,

as at present advised, we thought the right of Canada to exclusive fishing within the three miles limit beyond dispute, and only to be ceded for adequate compensation. On the 6th of February you telegraphed to me that Sir J. Macdonald consented to serve on the Commission.

In my confidential despatch to your Lordship of February 16, repeating in a somewhat fuller form the statement sent by telegraph on the 4th of February, I wrote "It would not be possible for Her Majesty's Government to pledge themselves to any foregone conclusion upon any particular point connected with these negotiations, but they have anxiously considered the questions which concern Canada, and they feel confident that the Canadian Government will agree with them that a satisfactory termination of the difficulties which have arisen with the United States can only be attained by taking as broad and liberal view as is consistent with the just rights and real interests of the Dominion." And in Earl Granville's instructions to the Joint Commissioners the following paragraph occurs, "Her Majesty's Government would be glad to learn that you were able to arrive at a conclusive understanding with the Commissioners of the United States upon the disputed interpretation of the Convention of 1818; but they fear that you will find it expedient that a settlement should be arrived at by some other means, in which case they will be prepared for the whole question of the relations between the United States and the British Possessions in North America as regards the fisheries, being referred for consideration and inquiry to an International Commission, on which two Commissioners, to be hereafter appointed in consultation with the Government of the Dominion should be the British Representatives."

It is manifest, therefore, that the question of the cession of the fisheries for a compensation was not an afterthought, and introduced merely at the instance of the United States' Commissioners, but that it was at the time of the appointment of the Joint Commission mentioned as a possible mode of settlement, even the particular form of compensation by money payment having been indicated in my despatch of February 16, as an arrangement that might be found advisable; and yet Sir J. Macdonald affirms that the disinclination of Lord Ripon to adopt any arrangement which simply contained clauses for ascertaining the respective rights of Americans and Canadians in the fisheries, and did not include a settlement temporary or permanent of the question, would have justified him in withdrawing from the Commission, as it was a direct breach of the engagement between England and Canada, under which he had consented to act on the Commission.

The references which I have made to the communications which passed when the Joint Commission was appointed, show that the course taken by Lord Ripon was in no way inconsistent with the explanations then given by Her Majesty's Government, and it is to be regretted that, if Sir John Macdonald was not satisfied with explanations which I gave in answer to his inquiry, he did not make known his objections before he joined the Commission.

When Sir John Macdonald proceeds to lay it down as the duty of the Commissioners to recur to the original proposition of the Canadian Government to deal only with the disputes as to the interpretation of the Treaty of 1818, when it appeared that the United States and Canada could not agree on any terms of settlement on a wider basis, he seems to forget that the Dominion has claimed and received the aid of the Imperial navy in protecting the Colonial fisheries from foreign encroachment, and that if any serious difference with the United States arose out of the disputes about the fisheries, the consequences would fall not on Canada alone, but upon the whole empire. Whilst, therefore, Her Majesty's Government fully recognize their obligation, in a matter which primarily concerns the Dominion, to pay the utmost regard to the interests and wishes of the Canadian people, they could not, consistently with their duty, consider the question exclusively from a Colonial point of view.

Sir J. Macdonald takes credit to himself for not having separated himself from his colleagues in the Commission, and for having signed the Treaty, notwithstanding the obloquy to which he foresaw he should expose himself by so doing.

I readily give Sir J. Macdonald the credit which he claims, but it may be doubtful whether he is consistent in declaring at the same time that, if the other Members of the Canadian Government should come to the conclusion that it will be useless to attempt to carry the Treaty through the Dominion Parliament, he will be a party to the rejection of the arrangement to which he thought it his duty to put his name as Commissioner.

Sir J. Macdonald says he cannot but feel irritated when he thinks that a Treaty could have been secured and Canada satisfied, since the United States could not have objected to a reference of the Fishery Question in a manner similar to that adopted in the Treaty as to other matters, and the questions relating to headlands and the right of fishermen to trade would have been settled by arbitration at once and for ever.

I am not aware upon what grounds Sir J. Macdonald bases this statement, certainly Her Majesty's Government have never received any information which could lead them to such a conclusion. I cannot think it necessary to enter into any serious argument as to the assertions of Sir J. Macdonald that the danger of collisions with the United States on account of the fisheries "simply a bugaboo raised by the Massachusetts fishermen" that "the people of the United States, as a whole, care little for the question," and that England was frightened by passages inserted in the President's message at the instigation of Mr. Butler. But I notice with pleasure that he says that he is so strongly attached to the British connection, and so deeply feels the importance of concert in action between Canada and Great Britain that personally he would be willing to accept the Treaty with all its imperfections, and that he will do his best to bring his colleagues to that way of thinking, and to procure a change in public opinion in Canada.

Sir J. Macdonald adds that he greatly fears failure, and I am aware of some of the difficulties of his position, but though it would be rash in me to hazard any opinion upon such a point in contradiction to one who possesses so much experience and authority in Canadian affairs, I shall be slow to believe that, if Sir J. Macdonald cordially supports the Treaty, which he has signed, his colleagues will abandon him, or the Canadian Parliament will refuse to do their part in bringing the differences between the British empire and the United States to a happy termination.

I request that you will communicate this despatch confidentially to Sir J. Macdonald, as the answer to his letter.

I have, &c.  
(Signed) KIMBERLEY.

No. 54.

*Mr. Hammond to Mr. Holland.*

(Secret.)

Sir, *Foreign Office, September 27, 1871.*

I AM directed by Earl Granville to acknowledge the receipt of your letter, marked Secret, of the 23rd instant, inclosing a copy of a despatch which the Earl of Kimberley has addressed to the Governor-General of Canada, in reply to the communication which was addressed to him by Sir A. Macdonald, on the subject of the Fishery Clauses of the Treaty of Washington; and, in reply, I am to request that you will state to Lord Kimberley that Lord Granville concurs in the terms of the despatch in question.

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

No. 55.

*Mr. Holland to Mr. Herbert.—(Received October 4.)*

Sir, *Downing Street, October 3, 1871.*

I AM directed by the Earl of Kimberley to transmit to you, for the information of Lord Granville, a copy of a despatch from the Governor-General of Canada, forwarding depositions taken with respect to the seizure of the United States' fishing schooner "Franklin S. Schenck" by the Canadian police-vessel the "New England."

In acknowledging this despatch Lord Kimberley has referred Lord Lisgar to the despatch addressed to him in the case of the "Samuel Gilbert," a draft of which accompanied my letter to you of the 18th of September.\*

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 55.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Quebec, September 13, 1871.*

I HAVE the honour to transmit to your Lordship copies of depositions made in connection with the seizure of the United States' fishing schooner the "Franklin S. Schenck" by the Canadian marine police-vessel the "New England."

\* Colonial Office print, November 1871.

I have forwarded copies of these depositions to Her Majesty's Chargé d'Affaires at Washington.

I have, &c.  
(Signed) LISGAR.

No. 56.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, October 7, 1871.*  
I AM directed by Earl Granville to acknowledge the receipt of your letter of the 3rd instant, inclosing the depositions in the case of the American fishing vessel "Franklin S. Schenk," which has been seized by a Canadian cruiser; and, in compliance with Lord Kimberley's request, I am to return to you these depositions.

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

No. 57.

*Mr. Pakenham to Earl Granville.—(Received October 18.)*

(Telegraphic.) *Washington, October 18, 1871.*  
AMERICAN fishing-vessel "Horton" cut out of Guysborough, Nova Scotia, by an American gang. No official particulars have reached me, but there is an unpleasant rumour about gun-boats on both sides.

No. 58.

*Mr. Pakenham to Earl Granville.—(Received October 20.)*

(Telegraphic.) *Washington, October 20, 1871.*  
NO gun-boat collision; but the ship cut out of Nova Scotian waters has arrived. Nothing from Lord Lisgar.

No. 59.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, October 20, 1871.*  
I AM directed by Earl Granville to transmit to you, confidentially, for the information of the Earl of Kimberley, the accompanying copies of two telegraphic despatches from Her Majesty's Chargé d'Affaires at Washington, respecting the cutting out of an American fishing-vessel, which had been seized for an infraction of fishery laws, from the Port of Guysborough, Nova Scotia.\*

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

No. 60.

*Mr. Pakenham to Earl Granville.—(Received October 21.)*

(Telegraphic.) *Washington, October 20, 1871.*  
GOVERNOR-GENERAL says that Canadian Government has not taken action in the cutting-out case. I have no official information of act. What are your wishes?

No. 61.

*Earl Granville to Mr. Pakenham.*

(Telegraphic.)

*Foreign Office, October 21, 1871.*

INFORM Her Majesty's Government with the facts connected with the cutting out of the "Horton," as soon as you are in possession of them.

No. 62.

*Mr. Hammond to Mr. Holland.*

(Confidential.)

Sir,

*Foreign Office, October 21, 1871.*

WITH reference to my letter of yesterday's date, I am directed by Earl Granville to transmit to you, confidentially, for the information of the Earl of Kimberley, the accompanying copy of a further telegraphic despatch from Her Majesty's Chargé d'Affaires at Washington, respecting the American fishing-vessel "Horton."†

I am, &amp;c.

(Signed) E. HAMMOND.

No. 63.

*Mr. Holland to Mr. Hammond.—(Received October 23.)*

Sir,

*Downing Street, October 21, 1871.*

WITH reference to previous correspondence respecting the Treaty of Washington, and the North American Fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Lieutenant-Governor of Prince Edward Island, inclosing a copy of a correspondence between himself and Mr. J. C. Hall, an American merchant, largely engaged in the exportation of fish from that island to the United States.

It will be observed, that Mr. Hall is apprehensive that, in consequence of the refusal of Canada to admit American fishermen to the privileges of the Treaty of Washington during the season of this year, the United States' Government may not allow the refund of the duties collected in the United States on fish-oil, and fish exported from Prince Edward Island during the fishery season.

Lord Kimberley thinks it would be desirable to ascertain from the United States' Government that the proposal will be made to Congress to refund the duties as regards Prince Edward Island and Newfoundland.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 63.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

My Lord,

*Government House, September 30, 1871.*

I HAVE the honour to submit a copy of a letter addressed to me by Mr. J. C. Hall, an American merchant, largely employed in the exportation of fish from Prince Edward Island to the United States, together with a copy of my reply.

2. Mr. Hall is apprehensive that the refusal of Canada to assent to the provisional arrangements proposed by the United States and assented to by this Colony, as reported in my despatch of the 25th June, may work adversely to the interests of those persons in Prince Edward Island, who have this year made large investments in the fishery business, in the expectation of receiving back the duties collected in the United States on fish oil and fish exported from this island into that country during the present fishing season.

3. I do not in the least apprehend that the action of Canada in withholding assent from an arrangement in respect of which it was necessary that each Colony concerned should decide for itself, will in any way prejudice the interests of Prince Edward Island, or

that the Government of the United States will be thereby deterred from recommending and urging upon Congress to refund the duties collected during the stipulated period on fish oil and fish from this Colony; and I felt justified in informing Mr. Hall that I considered his apprehensions unfounded.

4. An assurance to this effect from your Lordship, if one could be procured in time from the United States' Government, and your Lordship should think proper to ask for it, would be most satisfactory and reassuring to that section of the mercantile community to which Mr. Hall belongs, and would serve to counteract the depressing influence which the apprehensions now entertained may otherwise have on the late autumn trade of the Colony.

5. For previous correspondence on the subject of the provisional arrangement mentioned in this communication, I beg leave to refer your Lordship to your despatch of 17th June and mine of the 25th July, 1871.

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

Inclosure 2 in No. 63.

*Mr. Hall to Lieutenant-Governor Robinson.*

*Charlotte Town, Prince Edward Island,  
September 26, 1871.*

Sir,

AFTER the action of your Government giving effect to the Treaty of Washington, so far as the fisheries are concerned,—admitting fish from the United States, as bait or otherwise, free of duty into this Colony, and giving to United States' fishing vessels free access to the shore fisheries around this island,—those persons here who are engaged in the fishing business had supposed that their right on the meeting of Congress, to receive back the duties paid on all fish and fish oils exported by them to the United States since the 1st day of July could not be questioned.

Recent reports from the United States would, however, lead to the belief that the refusal of the Dominion of Canada to give effect to the Treaty of Washington may work adversely to the interests of this island and prejudice her claim to such return of duties.

As your Honour is probably aware, large investments have this year been made in the fishing business, based upon the expectation of receiving the benefit of this Treaty, and a heavy loss to this island must result if the duties are not returned.

I would, therefore, esteem it as a great favour if your Honour can give me any information bearing upon this subject.

I have, &c.  
(Signed) ISAAC C. HALL.

Inclosure 3 in No. 63.

*Mr. Robinson to Mr. Hall.*

Sir,

*Government House, September 29, 1871.*

I AM directed by the Lieutenant-Governor to acknowledge the receipt of your letter of the 26th instant, on the subject of the Treaty of Washington.

2. The Government of the United States requested Her Majesty's Government to urge the Governments of Canada, Newfoundland, and Prince Edward Island, to make for the present season, within their respective jurisdiction, such relaxations and regulations as it might be in their power to adopt, with a view to the provisional admission of American fishermen to the liberty which is proposed to be secured to them by the Treaty of Washington; the Government of the United States undertaking in return to recommend and urge upon Congress, at their next Session, to refund to the parties paying the same, any duties collected in the United States on and after the 1st July, on fish oil and fish (with certain exceptions) the produce of the fisheries of the above Colonies respectively, if a similar arrangement should be made with respect to the admission into the Colonies as aforesaid of fish oil and fish (with like exceptions) being the produce of the fisheries of the United States.

3. Prince Edward Island assented to the proposed arrangement; Canada did not assent to it; and you are apprehensive that such refusal on the part of Canada may work adversely to the interests of those persons in Prince Edward Island, who have this year

made large investments in the fishing business, in the expectation of receiving back the duties paid by them on fish oil and fish exported from this island into the United States during the present fishing season.

4. The Lieutenant-Governor is of opinion that your apprehensions are unfounded. An arrangement, sanctioned by Her Majesty's Government, has been entered into between the Governments of the United States and Prince Edward Island, and the Lieutenant-Governor does not apprehend that the action of Canada in withholding her assent from a similar arrangement, will be attended with the prejudicial result which you have recently been led to anticipate.

I have, &c.  
(Signed) KILDARE C. ROBINSON,  
*Private Secretary.*

No. 64.

*Mr. Holland to Mr. Hammond.—(Received October 23.)*

Sir, *Downing Street, October 21, 1871.*  
I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, forwarding depositions in the case of the seizure of the United States' schooner "Edward A. Horton" by the Canadian Government schooner "Sweepstakes," for violation of the Fishery Laws of the Dominion.

In acknowledging this despatch, Lord Kimberley has referred Lord Lisgar to the despatch addressed to him in the case of the "Samuel Gilbert," a draft of which accompanied my letter to you of the 18th of September.\*

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 64.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Government House, Ottawa, October 4, 1871.*  
I HAVE the honour to transmit herewith a copy of the depositions of the seizing officer in connection with the seizure of the United States' schooner "Edward A. Horton," for violating the Fishery Laws of the Dominion of Canada.

I have forwarded a copy of the depositions to Her Majesty's Chargé d'Affaires at Washington.

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 64.

*Deposition of James Alexander Tory.*

Dominion of Canada, Province of Nova Scotia, Guysborough to wit:

I, JAMES ALEXANDER TORY, of Guysborough, in the county of Guysborough, Esquire, Commander of the Government schooner "Sweepstakes," do make oath, and say as follows:—

I left Port Hood, in the Island of Cape Breton, in and with the said schooner "Sweepstakes," on Friday morning, the 1st of September instant, and stood across into Antigonish Bay, in the Province of Nova Scotia. On arriving in the said bay, I saw a number of fishing-vessels under the land on the southern side of Cape Genge. Among the number I thought one was an American, and I was therefore induced to work towards her. I discovered that she was an American fishing-schooner. She was then off Morristown Chapel, which bore west by south, and within a mile of the shore. She had been so for about two hours previous. When I was about a mile distant from said schooner, the said schooner made sail, and ran from the shore, and was within about a

\* See Colonial Office print.

mile and a half from the said shore when I compelled her to heave to. I then boarded her, and found her to be the American fishing-schooner "Edward A. Horton," of Gloucester, Massachusetts, in the United States of America, and commanded by Captain William H. Gray. Previous to his making off the shore as aforesaid, the said schooner was lying to in the position for fishing. When I boarded her, I asked the captain what he was doing there? He said he had been fishing. I asked him the quantity he had caught there? He said about half a barrel a man. I then asked him the number of his men? He said fifteen. I then asked him to show me the fish. He went forward and took the cover off several barrels, and I saw the fish. They were mackerel. They were newly split, and had just been salted with the blood fresh upon them. The captain and a number of his crew then admitted the violation of the law in the manner aforesaid, and begged to be released. They also said that they had left the Strait of Canso the day before, had fished at the place where I found them on the previous evening, and anchored there for the night, and had fished there all that morning. The time of my boarding the said schooner was between 11 and 12 A.M. of the said 1st of September instant. I therefore seized the said schooner for the reasons and under the circumstances hereinbefore stated, and sent her to the port of Guysborough, where, in company with the "Sweepstakes," under my command, she arrived on the afternoon of the 2nd instant, and was placed by me in the custody of James Marshall, Esquire, Collector of Customs there, on this the 4th day of September instant.

(Signed) JAMES A. TORY.

Sworn at Guysborough, in the county of Guysborough, this 4th day of September, A.D. 1871.

Before me,  
(Signed) WILLIAM G. SCOTT, *Justice of the Peace and Commissioner for taking Affidavits in the Supreme Court.*

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Inclosure 3 in No. 64.

*Deposition of Edward Nangle.*

Dominion of Canada, Province of Nova Scotia, Guysborough, to wit:

I, EDWARD NANGLE, of Halifax, in the province of Nova Scotia, second mate of the Government schooner "Sweepstakes," commanded by James Alexander Tory, Enquire, do make oath and say that I have heard read the affidavit of the said James Alexander Tory hereunto prefixed, and that the statements therein contained up to the statement of the heaving to of said American schooner "Edward A. Horton" therein mentioned are to my personal knowledge correct and true; and in addition thereto I make oath and say that I distinctly saw the crew of the said American schooner throwing bait before she made sail off the shore, as in said affidavit mentioned, and before she was brought to by the said Government schooner "Sweepstakes." I was not on board of the said American schooner at the time of her seizure nor before her arrival at the port of Guysborough, and cannot therefore testify as to what occurred on board of her on that occasion, but when at Port Mulgrave on the day of and after her seizure, the Captain of the said American schooner stated to me that the fishing for which he was seized was the first occasion on which he had fished in-shore and within the limits during the present summer. The remaining statements in the affidavit of the said James Alexander Tory as to the said schooner having been brought to the Port of Guysborough and placed in the custody of the Collector of Customs there are also true and correct.

(Signed) EDWARD NANGLE.

Sworn at Guysborough, in the county of Guysborough, this 5th day of September, A.D. 1871.

Before me,  
(Signed) WILLIAM G. SCOTT, *Justice of the Peace and Commissioner for taking Affidavits in the Supreme Court.*

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Inclosure 4 in No. 64.

*Deposition of Alexander Walsh and Michael Keating.*

Dominion of Canada, Province of Nova Scotia, Guysborough, to wit.

WE, Alexander Walsh and Michael Keating, the younger, both of the County of Guysborough, seamen on board of the Government schooner "Sweepstakes," commanded

by Captain James Alexander Tory, do make oath and say for ourselves respectfully as follows:—

That we have heard read the affidavit of the said James Alexander Tory hereunto prefixed, and that the same is to our respective personal knowledge true and correct in every particular excepting such part thereof as relates to the bearing of Morrystown Chapel from the American schooner "Edward A. Horton" in said affidavit mentioned, as to which fact we have no personal knowledge in consequence of not having noticed the position of said Chapel from the compass; and excepting also such part of said affidavit as refers to the acknowledgment on the part of the master of the crew of said American schooner as to their having fished on the same ground on the evening previous to the seizure. We, the deponents, have, however, since the seizure severally heard some of the crew of said American schooner acknowledge that they had on the occasion in question violated the Law by fishing on the ground where the said schooner was seized and within the limits, and under the circumstances stated in the said affidavit of the said James Alexander Tory.

(Signed) ALEXANDER WALSH.  
MICHAEL KEATING.

Sworn at Guysborough in the county of Guysborough, this 5th day of September, A.D. 1871.

Before me, by the said deponents, viz., Alexander Walsh and Michael Keating the younger,

(Signed) WILLIAM G. SCOTT, *Justice of the Peace and Commissioner for taking Affidavits in the Supreme Court.*

No. 65.

*Mr. Holland to Mr. Hammond.—(Received October 27.)*

(Secret.)

Sir, *Downing Street, October 26, 1871.*

WITH reference to your letter of the 21st instant, and to previous correspondence respecting the case of the United States fishing vessel "Horton," I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a telegram received from the Governor-General of Canada on the subject.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 65.

*Lord Lisgar to the Earl of Kimberley.*

(Telegraphic.)

*October 25, 1871.*

"HORTON" lying at wharf. Sailors in storehouse on shore. No guard on board. Rescuers managed somehow to get possession of sails and steal away with vessel. No opposition and no violence. No pursuit by Canadian authorities.

No. 66.

*Mr. Pakenham to Earl Granville.—(Received November 6.)*

(No. 80.)

My Lord,

*Washington, October 18, 1871.*

A REPORT was current here yesterday evening that the American fishing schooner, "E. A. Horton," lately seized by the Dominion cutter "Sweepstakes" for violation of the Fishery Laws, and taken to Guysborough, Nova Scotia, for adjudication, had been cut out thence during the night of the 10th instant by a party of American fishermen, and that she was now on her way back to the United States. It was also stated that British gun-boats were supposed to be in pursuit, and that United States' gun-boats had been hastily dispatched in that direction with orders to prevent her recapture at all hazards.

I think it by no means unlikely that the cutting out may have taken place, but I have great doubts as to the reality of the movements of the respective gun-boats, the whole affair seeming enveloped in a cloud of mingled exaggeration and conjecture.

I have requested Her Majesty's Consul at Boston, Massachusetts, to send to me by telegraph such information as he may be able to procure on the matter, and on its receipt I will lose no time in forwarding it to your Lordship.

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

No. 67.

*Mr. Pakenham to Earl Granville.—(Received November 6.)*

(No. 84.)

My Lord,

*Washington, October 22, 1871.*

WITH reference to my telegram of 19th instant, announcing the arrival of the "E. A. Horton," recently cut out of the Nova Scotian port of Guysborough, I have now the honour to state that, on her reaching Gloucester, a general ovation took place, the usual inevitable speeches were delivered, and her captain was presented with a purse of a 1,000 dollars.

Mr. Consul Henderson informs me that the whole matter is enveloped in such a cloud of contradiction and conjecture that he is unable to obtain any fact beyond that of the cutting out. I inclose copy of his official Report on the subject, as also of a letter from the Consular Agent at Gloucester.

Extracts from Boston newspapers are also inclosed.

I have received as yet no intimation of the occurrence, and no complaint, either from Canada or Nova Scotia, and shall content myself for the present with a passive position, watching the course of events, and reporting accordingly, a line of conduct which I venture to hope your Lordship will not disapprove.

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

Inclosure 1 in No. 67.

*Consul Henderson to Mr. Pakenham.*

Sir,

*British Consulate, Boston, October 18, 1871.*

I CALLED this morning on Judge Russell, Collector of Customs at this port, with the object of ascertaining the particulars regarding the American vessel "E. A. Horton," which was reported in the newspapers to have been captured off the coast of Nova Scotia by the Canadian cruiser "Sweepstakes," and to have escaped from the port of Guysborough, where she had been taken for adjudication for violation of the Fishery Laws.

Judge Russell told me that he had no information in regard to the capture and escape of this vessel beyond what was reported in the newspapers.

He stated, at the same time, that it was reported that two Dominion cruisers were lying in wait for the "E. A. Horton" in the vicinity of the port of Gloucester, and that measures had been taken to ascertain the truth of these reports, and all further particulars.

I have telegraphed to Mr. Cyrus Story, British Consular Agent at Gloucester, to report to me all he can ascertain in regard to this matter, and forward to you by this evening's post the "Boston Daily Journal," specially referred to by Judge Russell, as containing the account of what had taken place, and which he believed to be substantially correct.

I have, &c.  
(Signed) C. A. HENDERSON.

Inclosure 2 in No. 67.

*Mr. Story to Consul Henderson*

Dear Sir,

*Gloucester, October 19, 1871.*

YOUR telegram was received last night, but too late to reply by evening mail. In reply, I would say that there are a thousand and one Reports in regard to the transaction, of various degrees of absurdity, but nothing reliable. As far as can be ascertained, the first statement telegraphed to the "Boston Traveller," from Halifax, was in a measure correct, "that the schooner was cut out by a party from the Gut of Canso," but as far as

I have been able to ascertain, there was no vessel at Guysborough assisting in the work of cutting out the schooner.

The "Horton" arrived last evening. If I can learn anything reliable, I will write you.

I am, &c.  
(Signed) CYRUS STORY.

## No. 68.

*Mr. Pakenham to Earl Granville.—(Received November 6.)*

(No. 86.)

My Lord,

*Washington, October 24, 1871.*

WITH reference to my despatches Nos. 80 and 84 of the 18th and 22nd instant, relating to the abstraction of the American fishing vessel "E. A. Horton," from the Nova Scotian port of Guysborough, during the night of the 10th instant, I have now the honour to state that the particulars which have reached me of the occurrence have been so unreliable in their nature, and so largely based on mere rumour, that I have not felt justified in calling the attention of the Department of State to the matter in any way, not even by word of mouth. I considered that any observations which I might make would be at once open to hostile criticism, if not to positive contradiction, and would afford ample material for malevolent comment in the public press, which, as your Lordship is aware, is seldom inclined to be charitable in its remarks where England is concerned.

This attitude of entire reserve on the subject, I propose to maintain until I am honoured with the receipt of your Lordship's instructions.

I understand the incident occurred at about the time of the meeting between the President of the United States and the Governor-General of Canada, and it is possible that it may have been discussed between them, but no information of such having been the case has reached me.

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

P.S.—Since writing the above, I observe that the Secretary of the Treasury on being applied to for the issue of fresh papers to the "E. A. Horton," has refused to accede to the request until the whole matter has undergone investigation.

F. P.

## No. 69.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, November 8, 1871.*

WITH reference to your letter of the 6th ultimo, marked Secret, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, copies of three despatches from Her Majesty's Chargé d'Affaires at Washington, relative to the case of the American fishing schooner, "E. A. Horton."\*

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

## No. 70.

*Mr. Pakenham to Earl Granville.—(Received December 18.)*

(No. 97.)

My Lord,

*Washington, November 7, 1871.*

WITH reference to my despatch No. 83 of the 21st ultimo, recording the contents of your Lordship's telegram, directing me to procure and forward to Her Majesty's Government the facts connected with the cutting out of the "E. A. Horton" from a Nova Scotian port, I have the honour to state that, immediately on receipt of the telegram, I forwarded one to Lord Lisgar, requesting such information for the use of your Lordship as he might be able to procure. As I thought it probable that he would have already been

\* Nos. 66, 67, and 68.

in communication with the Governor of Nova Scotia on the subject, I considered it the best course to pursue for obtaining reliable information, and bearing in mind the fact that here we have no cyphers for exchanging telegrams with Nova Scotia.

His Excellency's reply reached me the next day, to the effect that, on his arrival at Ottawa, he would communicate with me. He has already been there for some time, as two written despatches, dated from thence and signed by him, connected with other business, have reached me, but on the subject of the "E. A. Horton" he maintains a profound silence to this day.

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

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## No. 71.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, November 22, 1871.*  
WITH reference to my letter of the 8th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Mr. Pakenham relative to the case of the "E. A. Horton."\*

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

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## No. 72.

*Mr. Holland to Mr. Hammond.—(Received November 28.)*

(Confidential.)

Sir, *Downing Street, November 27, 1871.*  
I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 22nd instant, inclosing copy of a despatch from Mr. Pakenham relative to the case of the "E. A. Horton."

With reference to Mr. Pakenham's remarks with regard to his not having received any information from Lord Lisgar on this case in answer to a telegram which he addressed to his Lordship on the subject, I am desired to state, for Earl Granville's information, that Lord Lisgar confidentially reported, on the 3rd of this month, that, owing to the Premier's illness, he had not yet been enabled by the Privy Council to send authentic information as to their views upon this subject.

I am, &c.  
(Signed) H. T. HOLLAND.

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## No. 73.

*Mr. Meade to Mr. Hammond.—(Received December 7.)*

Sir, *Downing Street, December 6, 1871.*  
WITH reference to previous correspondence respecting the rescue of the United States' vessel "E. A. Horton," I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the accompanying copy of a despatch from the Governor-General of Canada, inclosing a Minute of the Privy Council of the Dominion on this subject.

Lord Kimberley desires me to state that he proposes, with Lord Granville's concurrence, to inform the Governor-General that Her Majesty's Government recognize with satisfaction the moderate and dignified course adopted by the Ministers of the Dominion; that such conduct is eminently calculated to promote and strengthen the friendly relations with the United States' Government, which is the earnest desire of Her Majesty's Government, as it must be of the Dominion Government, to see maintained in their full integrity; and that Her Majesty's Government will carefully consider whether the circumstances of

the case require that a representation should be made on the subject to the Government of the United States.

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

Inclosure 1 in No. 73.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Government House, Ottawa, November 16, 1871.*

IN accordance with the recommendation contained in its concluding paragraph, I have the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion, stating their views in reference to the rescue of the United States' fishing-vessel "E. A. Horton."

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 73.

*Report of a Committee of the Privy Council, approved by the Governor-General, on the 13th day of November, 1871.*

THE Committee of Council to whom was referred the consideration of the annexed Report of the Honourable the Minister of Marine and Fisheries with the accompanying correspondence in relation to the rescue of the United States' fishing-vessel, "F. A. Horton," have the honour to report as follows:—

The Committee are of opinion that the gross carelessness exhibited in guarding the vessel will be suitably requited by the loss of the prize-money there might have been realized had she been properly protected.

The Committee consider that any question of indignity to the flag may properly be left to the Imperial Government, who alone are competent to deal with it.

Believing that the rescue of this vessel has been planned by parties in the United States, who, for objects of their own, desire to create difficulty, and thereby disturb the *entente cordiale* which exists between that country and the British Empire, the Committee of Council do not feel called upon to recommend that any reclamation of the vessel in question shall be made by the Government of the Dominion; and the Committee are the more ready to advise this course from the conviction which they entertain that the Customs authorities of the United States will not, under the circumstances as they exist, furnish the owners of the "E. A. Horton" with the papers required to make her of any value.

The Committee of Council further recommend that a copy of this minute, if approved by your Excellency, be transmitted, with the annexed correspondence, for the information of the Right Honourable the Secretary of State for the Colonies.

Certified,  
(Signed) WM. H. LEE, *Clerk, Privy Council.*

Inclosure 3 in No. 73.

*Report by Mr. Mitchell.*

*Ottawa, October 30, 1871.*

THE Undersigned has the honour to report, for the information of the Governor-General in Council, that the United States' fishing schooner, "E. A. Horton," of Gloucester, of Massachusetts, which was captured by the Canadian cruizer "Sweepstake" (Commander James A. Tory), on the 1st ultimo, at Antigonish Bay, Nova Scotia, for illegally fishing on that day and the day previous within one mile from the shore, near Cape George, Nova Scotia, and placed in charge of the Customs Collector, James Marshall, Esq., at Guysborough, Nova Scotia, was, on the night of the 8th instant, rescued from legal custody.

It since appears from reports and statements in the American press, that the rescued

vessel had returned to the port of Gloucester, and that her rescue had been effected by one of the former owners, assisted by other American citizens.

This vessel had been placed in dock at the port of Guysborough, which was considered perfectly safe, and her apparel and cargo stored on the premises of Mr. Condon, under watch. The buildings were broken open, and all the property under seizure was forcibly removed, as above stated.

It was impossible, in the absence of the Marine Police cruisers, to make any efficient efforts to effect a recapture.

The Undersigned is informed that it is considered probable that the watchman was bribed; and Captain P. A. Scott, R.N., the officer in chief command of the Marine police, has been directed to make prompt and strict investigation into all the circumstances of the rescue, and to report on the same; having also especial reference to determining if negligence or connivance had occurred on the part of any persons connected with the custody of the seized vessel. A statement of particulars, so far as at present ascertained, was made by the seizing officer, and mailed to this Department on the 25th instant. When received, the same will be communicated to the Governor-General in Council in connection with the present Report.

The whole respectfully submitted.

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

Inclosure 4 in No. 73.

*Memorandum.*

*Ottawa, October 31, 1871.*

IN connection with a report of yesterday's date, the Undersigned has the honour to inclose herewith, for the information of the Governor-General in Council, copy of further correspondence relating to the rescue of the United States' fishing vessel "E. A. Horton."

Respectfully submitted.

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

Inclosure 5 in No. 73.

*Captain Scott to Mr. Mitchell.*

Sir,

*Halifax, October 25, 1871.*

I HAVE the honour to forward the only information concerning the case of the "E. A. Horton," that I have been able to collect.

I have just seen Captain Tory, who tells me that he has not been able to discover anything further regarding her case; I think it needless to state that the story of the boarding of American vessels by a Dominion cruiser off Gloucester, Massachusetts, as stated in the American papers, is an entire fabrication,

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

Inclosure 6 in No. 73.

*Commander Tory to Captain Scott.*

Sir,

*"Guysborough," October 16, 1871.*

IN reference to a watchman on board the schooner "E. A. Horton," I called upon Mr. Marshall, the Custom-house officer, to make inquiry, and his answer I beg leave to inclose you.

You will see that he employed Condon to watch her. Condon is now not at home, consequently I cannot get his statement respecting his not watching her on the night of rescue, or his removing his blocks from his house to his store; to say the least of it, the circumstance looks suspicious.

I remain, &c.  
(Signed) JAMES A. TORY.

## Inclosure 7 in No. 73.

*Mr. Marshall to Captain Tory.*

Sir,

*Manchester, October 16, 1871.*

IN reply to your question respecting a watchman on board the schooner "Edwin A. Horton," I would say that she was placed in Condon's dock at high water, alongside the schooner "Nickerson." Her sails were put on the third floor of Condon's store, her blocks were put in Condon's dwelling-house, and I employed him to take charge of the vessel as watchman, at the rate of 60 cents a day while she remained at his wharf.

This sum may be considered small for such service, but it was in consideration of his having a large bill against the "Nickerson," and anticipated her also remaining for a length of time. I cannot give you any information respecting her rescue further than on going to my office on Monday morning I was informed that she was gone, and Mr. Condon told me that his store had been broken open, and her sails, with one of the "Nickerson's," taken out, also that he had removed the blocks from the house to the store, and that they were also taken.

I remain, &c.  
(Signed) JAMES MARSHALL.

## No. 74.

*Mr. Pakenham to Earl Granville.—(Received December 9.)*

(No. 120.)

My Lord,

*Washington, November 28, 1871.*

WITH reference to your Lordship's despatch No. 78 of the 27th ultimo, respecting the admission of United States' fishermen to the Canadian fisheries during the season of this year, and the question of the refunding of the duties collected in the United States on fish oil and fish exported from Prince Edward Island during the fishing season, I have the honour to inclose, in copy, the note which I addressed to Mr. Fish on the subject, and requesting an early reply for your Lordship's information.

From the somewhat querulous tone of Mr. Fish's answer, copy of which is also inclosed, it would seem that the prompt and liberal conduct of the Legislature of Prince Edward Island in this matter, has but small chance of being reciprocated by the Government of the United States.

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

## Inclosure 1 in No. 74.

*Mr. Pakenham to Mr. Fish.*

Sir,

*Washington, November 14, 1871.*

I HAVE the honour to inclose copy of a letter from an American merchant residing at Charlotte Town, Prince Edward Island, to the Lieutenant-Governor of that Colony, as also copy of the Governor's reply, and from which it will be seen that Mr. Hall entertains doubts as to whether the refusal of Canada to assent to the provisional arrangement proposed by the United States, and assented to by the Legislature of that Colony, may not work adversely to the interest of those persons in Prince Edward Island who have this year made large investments in the fishery business, in the expectation of receiving back the duties collected in the United States on fish oil and fish exported from that island into the United States during the present fishery season.

Application has been made to Earl Granville by the Colonial Office on this subject, and I have been directed to endeavour to ascertain whether the proposal will be made to Congress on its meeting, to refund those duties as regards Prince Edward Island and Newfoundland.

I should feel obliged if you would cause me to be early informed on the subject, so that I may forward the reply of the United States' Government to Earl Granville with as little delay as possible.

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

## Inclosure 2 in No. 74.

*Mr. Fish to Mr. Pakenham.*

Sir, *Department of State, Washington, November 24, 1871.*  
 I HAVE the honour to acknowledge the receipt of your note of the 14th instant, inclosing a copy of a letter from Isaac C. Hall, Esquire, an American merchant residing at Charlotte Town, Prince Edward Island, to the Lieutenant-Governor of that Colony, and also a copy of the Lieutenant-Governor's reply, relating to the anticipated effects of the refusal of Canada to assent to the provisional arrangement proposed by this Government, and assented to by the Legislature of that Colony, contained in my note of May 8, 1871, to Sir Edward Thornton, upon the interests of the persons in Prince Edward Island, who have this year made large investments in the fishery business in expectation of receiving back the duties collected in the United States on fish oil and fish, exported from that island into the United States during the present fishing season.

In reply, I have the honour to state that, the United States deals on the subject with Great Britain, and the proposal made in May last, contemplated the united action of all the British Colonies. The Dominion of Canada did not consent, and has greatly annoyed American fishermen. It was not contemplated, nor would it be practicable, to separate them, or carry into effect for one, what the President was willing to recommend for all, of those Colonies.

I have, &c.  
 (Signed) HAMILTON FISH.

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## No. 75.

*Viscount Enfield to Mr. Meade.*

Sir, *Foreign Office, December 12, 1871.*  
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 6th instant, with its inclosures, communicating the decision of the Canadian Government respecting the case of the "E. A. Horton;" and I am to state to you, for the information of the Earl of Kimberley, that Lord Granville concurs in the answer which his Lordship proposes to return to the Governor-General.

I am, &c.  
 (Signed) ENFIELD.

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## No. 76.

*Mr. Holland to Mr. Hammond.—(Received December 15.)*

(Secret.)

Sir, *Downing Street, December 15, 1871.*  
 WITH reference to the letters from this office of the 27th November and 6th instant relative to the case of the "E. A. Horton," I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, the copy of a Secret despatch from Lord Lisgar on the same subject, which was omitted by mistake when the former papers were transmitted.

I am, &c.  
 (Signed) H. T. HOLLAND.

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## Inclosure 1 in No. 76.

*Lord Lisgar to Lord Kimberley.*

(Secret.)

My Lord, *Government House, Ottawa, November 16, 1871.*  
 WITH reference to my despatch of this day's date, I have the honour to forward a copy of a despatch, under cover, of which I forwarded the Minute of the Privy Council of the Dominion with regard to the "E. A. Horton" to Her Majesty's Chargé d'Affaires at Washington. I also inclose copies of the telegrams alluded to in that despatch.

2. Your Lordship will observe that I have requested that no action may be taken in the premises until instructions shall have been received from Her Majesty's Government.

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 76.

*Lord Lisgar to Mr. Pakenham.*

(Secret and Confidential.)

Sir,

*Government House, Ottawa, November 16, 1871.*

WITH reference to your telegram to me of the 21st ultimo, and my reply of the 22nd, I have the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion on the subject of the rescue of the United States' fishing-vessel "E. A. Horton."

2. I send this document solely for your information, as you appeared anxious about the case, and I particularly request that it may be treated as confidential, and that no action may be taken upon it until the formal instructions of Her Majesty's Government in the premises shall have reached you.

3. This Minute, as now drawn up, only came to my hands on the 13th instant, and will be forwarded to the Secretary of State for the Colonies by the mail of the 18th instant.

I have, &c.  
(Signed) LISGAR.

Inclosure 3 in No. 76.

*Mr. Pakenham to Lord Lisgar.*

(Telegraphic.)

*Washington, October 21, 1871.*

LORD GRANVILLE requires precise facts as to the affair of the "Horton." Will you kindly cause them to be communicated to me?

Inclosure 4 in No. 76.

*Lord Lisgar to Mr. Pakenham.*

(Telegraphic.)

*October 22, 1871.*

RECEIVED telegram of 21st. Will communicate on my return to Ottawa.

No. 77.

*Viscount Enfield to Mr. Holland.*

Sir,

*Foreign Office, December 16, 1871.*

WITH reference to your letter of the 21st October, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Mr. Pakenham, and of its inclosures, in regard to the admission of United States' fishermen to the Canadian fisheries during the season of this year, and the question of refunding the duties collected in the United States on fish-oil and fish exported from Prince Edward Island during the fishing season.\*

I am, &c.  
(Signed) ENFIELD.

No. 78.

*Mr. Pakenham to Earl Granville.—(Received December 20.)*

(No. 129.)

My Lord,

*Washington, December 7, 1871.*

WITH reference to my despatch No. 86 of the 24th of October, and to previous despatches on the subject of the "E. A. Horton," I have the honour to acquaint your Lordship that fresh papers have now been issued to this vessel.

The two preceding applications to this effect on the part of her Captain and General Butler, of Massachusetts, were met by the Secretary of the Treasury by a refusal.

I have, &amp;c.

(Signed) F. PAKENHAM.

No. 79.

*Mr. Meade to Mr. Hammond.—(Received December 21.)*

Sir,

*Downing Street, December 20, 1871.*

WITH reference to your letter of the 16th instant, on the question of the refund by the Government of the United States of the duties collected in that country on fish oil and fish exported from Prince Edward Island and Newfoundland during the fishing season, I am directed by the Earl of Kimberley to transmit, to be laid before the Earl Granville, a copy of a despatch which he proposes, with his Lordship's concurrence, to address to the Lieutenant-Governor of Prince Edward Island on this subject.

If Lord Granville should concur in the despatch copies of it will be forwarded for the information of the Governments of Canada and Newfoundland.

I am, &amp;c.

(Signed) R. H. MEADE.

Inclosure in No. 79.

*Proposed Despatch to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, December, 1871.*

I HAVE been in communication with the Secretary of State for Foreign Affairs on the subject of your despatch, of the 30th of September, in which you inclosed copies of a correspondence between yourself and Mr. J. C. Hall, respecting the question of the refund of the duties collected in the United States on fish-oil and fish exported from Prince Edward Island during the fishery season.

Inquiry has been made of the United States' Government on the subject of the introduction of a Bill into Congress to provide for the refunding of duties paid upon fish and fish-oil, the produce of the fisheries of Prince Edward Island and Newfoundland, but Her Majesty's Government regret to say that the United States' Government have replied that the proposal made in May last contemplated the united action of all the British North American Colonies, and that it would not be practicable to separate them or carry into effect for one what the President was willing to recommend for all those Colonies.

I have, &amp;c.

No. 80.

*Lord Tenterden to Mr. Holland.*

Sir,

*Foreign Office, December 22, 1871.*

WITH reference to Mr. Hammond's letter of the 8th ultimo, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a further despatch from Mr. Pakenham relative to the case of the "E. A. Horton."\*

I am, &amp;c.

(Signed) TENTERDEN.

## No. 81.

*Sir E. Thornton to Earl Granville.—(Received December 23.)*

(No. 259.)

My Lord,

*Washington, December 12, 1871.*

I HAVE the honour to inform your Lordship that General N. P. Banks, a member from Massachusetts, yesterday submitted to the House of Representatives a Bill to carry into effect the provisions of the Treaty between Great Britain and the United States of the 8th of May last, relating to the fisheries; and another to give effect to the provisions of Treaty relating to the British and American Claims Commission. These two Bills were read a first and second time, ordered to be printed, and referred to the Committee on Foreign Affairs.

I have as yet been unable to obtain the text of the Bills; but I understand that the second asks for the grant of funds to meet the expenses of the Commissioners at Geneva and Washington.

It is said that General Butler intends to oppose the passage of these Bills, and to make the most of the fact of the presentation to the Commission at Washington of Confederate Cotton Loan Claims; but I hope that before the discussion comes on, the Commission may have agreed upon a decision which will deprive the General of that weapon at least.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 82.

*Mr. Hammond to Mr. Meade.*

Sir,

*Foreign Office, December 28, 1871.*

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 28th instant, and to state to you in reply, for the information of the Earl of Kimberley, that his Lordship concurs in the terms of the despatch which Lord Kimberley proposes to address to the Lieutenant-Governor of Prince Edward's Island, on the question of the refund, by the Government of the United States, of the duties collected in that country on fish oil and fish exported from Prince Edward's Island and Newfoundland during the fishery season.

I am, &c.

(Signed) E. HAMMOND.

## No. 83.

*Earl Granville to Sir E. Thornton.*

(No. 222.)

Sir,

*Foreign Office, December 29, 1871.*

I COMMUNICATED to the Colonial Office a copy of Mr. Pakenham's despatch No. 20 of the 28th ultimo, relative to the question of the refund by the United States Government of the duties collected in that country on fish oil and fish exported from Prince Edward Island and Newfoundland during the fishery season; and I now transmit to you, for your information, a copy of a despatch which, with his Lordship's concurrence, Lord Kimberley is about to address to the Lieutenant-Governor of Prince Edward's Island on the subject.\*

Copies of the inclosed despatch will also be forwarded for the information of the Governments of Canada and of Newfoundland.

I am, &c.

(Signed) GRANVILLE.

*Mr. Herbert to Lord Tenterden.—(Received January 6.)*

Sir, *Downing Street, January 5, 1872.*

WITH reference to your letter of the 22nd ultimo, inclosing a despatch from Mr. Pakenham, in which he states that fresh papers had been issued to the "E. A. Horton," I am directed by the Earl of Kimberley to request to be informed whether Earl Granville has formed any opinion on the question of making a representation to the United States respecting the seizure of this vessel.

It will be necessary, at no distant date, to inform the Canadian Government of the decision of Her Majesty's Government on this point.

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

No. 85.

*Memorandum by Lord Tenterden respecting the rescue of the American Fishing-boat  
"E. A. Horton" from Canadian custody.*

THE "E. A. Horton" was captured by a Canadian cruiser for breach of the fishery laws on the 1st of September. She was rescued and carried to Gloucester, Massachusetts, on the 8th of October.

Various exaggerated rumours appeared about her in the American newspapers, and Mr. Pakenham telegraphed for instructions.

He was told by telegraph, on the 21st of October, to inform Her Majesty's Government of the facts as soon as he was in possession of them.

He replied by a despatch, No. 84, on the 22nd of October, that he had heard no reliable particulars, and "should content himself for the present with a passive position."

On the 24th he reported, No. 86, that he was still without information, and had not "yet felt justified in calling the attention of the Department of State to the matter in any way;" adding that the Secretary of the Treasury had refused to grant the vessel fresh papers "until the whole matter has undergone investigation."

On the 7th of November he stated that he had written to Lord Lisgar for particulars, but had received no reply (No. 97).

On the 7th of December, No. 129, he reported that fresh papers had now been issued to the vessel.

On the 6th of December the Colonial Office, who had had copies of all Mr. Pakenham's preceding despatches, stated that it was proposed to inform the Canadian Government "that Her Majesty's Government will carefully consider whether the circumstances of the case require that a representation should be made on the subject to the Government of the United States."

Lord Granville concurred in this, December 12, but, owing apparently to Mr. Hammond's illness, nothing was done in the matter. I was absent at the time at Geneva.

The Colonial Office now, January 5, inquire what decision has been come to.

The fact is, that no decision has been come to.

Query. Reply to Colonial Office that the matter has not escaped attention, but that, in the absence of information from Mr. Pakenham, who, as will be seen from his despatch No. 97, had been in communication with Lord Lisgar, no decision has been arrived at, and that the case, as represented by the Canadian authorities, will be referred to the Law Officers for a preliminary Report, and Sir E. Thornton instructed to furnish at once any information possessed by Her Majesty's Legation, and to inquire of the Government of the United States what they know of the matter.

(Signed) TENTERDEN.

*Foreign Office, January 9, 1872.*

No. 86.

*Viscount Enfield to the Law Officers of the Crown.*

Gentlemen,

*Foreign Office, January 13, 1871.*

I AM directed by Earl Granville to transmit to you the accompanying papers, as marked in the margin,\* in regard to the seizure of the United States' vessel "E. A. Horton" by a Canadian cruizer for a breach of the fishery laws, her subsequent rescue, and the issue of newspapers to her by the United States' authorities; and I am to request that you will take these papers into your consideration, and favour his Lordship with your opinion on the case as represented by the Canadian authorities,

I am, &c.  
(Signed) ENFIELD.

No. 87.

*Viscount Enfield to Mr. Herbert.*

Sir,

*Foreign Office, January 13, 1873.*

IN reply to your letter of the 5th instant, requesting to be informed whether Earl Granville had formed any opinion of making a representation to the United States respecting the rescue of the vessel "E. A. Horton," I am directed by his Lordship to state to you, for the information of the Earl of Kimberley, that the matter has not escaped attention, but that, in the absence of information from Mr. Pakenham, who, as will have been seen from his despatch No. 97 of the 7th of November, of which a copy was sent to the Colonial Office in Mr. Hammond's letter of the 22nd November, had been in communication with Lord Lisgar, no decision has been arrived at.

The case, however, as represented by the Canadian authorities, will be referred to the Law Officers for a preliminary Report, and Sir E. Thornton will be instructed to furnish at once any information possessed by Her Majesty's Legation on the subject.

I am, &c.  
(Signed) ENFIELD.

No. 88.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, January 13, 1872.*

FURNISH me at once with any information you may possess in regard to the seizure of the vessel "E. A. Horton" by a Canadian cruizer for a breach of the fishery laws, and her subsequent rescue.

No. 89.

*Sir E. Thornton to Earl Granville.—(Received January 14.)*

(Telegraphic.)

*Washington, January 13, 1872.*

WITH reference to your telegram of to-day, I possess no information except what has been sent by the Governor-General of Canada, which will have been transmitted some time ago to the Colonial Office.

No. 90.

*The Law Officers of the Crown to Earl Granville.—(Received January 20.)*

My Lord,

*Temple, January 20, 1872.*

WE are honoured with your Lordship's commands signified in Viscount Enfield's letter of the 13th instant, stating that he was directed by your Lordship to transmit to us the accompanying papers in regard to the seizure of the United States' vessel "E. A. Horton"

\* Colonial Office, October 21 and 26; Mr. Pakenham's No. 84, October 22; Colonial Office, December 6 and 15; Mr. Pakenham's No. 129, December 7; Colonial Office, January 5, 1871.

by a Canadian cruiser for a breach of the fishery laws, her subsequent rescue, and the issue of newspapers to her by the United States' authorities, and he was to request that we would take the papers into our consideration, and favour your Lordship with our opinion on the case as represented by the Canadian authorities.

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

That this case is, in our opinion, clearly distinguishable from a border raid, where American territory is made the direct base of an enterprise in violation of the laws of a neighbouring State, and the raiders withdraw with their plunder immediately into American territory. The schooner "Horton" appears to have escaped from the dock where she was in custody, into the high seas, where she might have been pursued, and although she was subsequently carried into an American port, we are of opinion that the latter circumstance does not require that a representation should be made by Her Majesty's Government to the Government of the United States on the subject of her escape from Canadian territory.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSEL.  
T. TWISS.

## No. 91.

*Sir E. Thornton to Earl Granville.—(Received January 27.)*

(No. 21.)

My Lord,

*Washington, January 15, 1872.*

WITH reference to your Lordship's telegram of the 13th instant, directing me to transmit any information I may possess relative to the capture and subsequent release of the American vessel "E. A. Horton," I have the honour to state that I am unable to furnish any further details beyond what was transmitted by Lord Lisgar to Mr. Pakenham, which had been already forwarded to Her Majesty's Secretary of State for the Colonies. Any statement which might be made by the master and the crew of the vessel, even if I could obtain it, would not inspire much faith as to its correctness.

In a conversation with Mr. Fish a few days ago, he casually alluded to the case, and said that the Secretary of the Treasury had for a long time refused to supply the vessel with fresh papers; but as Her Majesty's Government had allowed all that time to pass without making any representation upon the subject to the Government of the United States, Mr. Boutwell had at length decided upon complying with the petition of the owner for new papers. Mr. Fish believed, however, though he was not confident, that some condition accompanied the delivery of the papers, as to the vessel's appearing in case she were called upon to do so.

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

## No. 92.

*Sir E. Thornton to Earl Granville.—(Received January 27.)*

(No. 26.)

My Lord,

*Washington, January 15, 1872.*

IT is generally understood that whenever the Treaty of the 8th of May last may be brought to the attention of the House of Representatives, for the purpose of obtaining the passage of the laws necessary for its fulfilment, General Butler will do his utmost to prevent their being carried. He will chiefly oppose the stipulations with regard to the fisheries, which more nearly affect his constituents.

In the consideration of these constituents he has a rival in Dr. Loring, who is exerting himself to succeed General Butler at the next general election. With this view Dr. Loring has been endeavouring to persuade the Gloucester fishermen that General Butler is injuring their interests in attempting to prevent legislation to carry out the fishery stipulations of the Treaty, and that their object should rather be to make no opposition to them, but to urge Congress to allow to the New England fishermen a bounty upon their vessels employed in the fisheries. Dr. Loring, who is now here, affirms that this suggestion has found great favour with General Butler's constituents.

In a recent conversation with Mr. Fish I alluded to the proposal which, it is said, Dr. Loring has arrived here for the purpose of submitting to Congress, and said that it

seemed to me to be opposed to the spirit of the Treaty. It was the object of the stipulations contained in that document, that the Canadians and American fishermen should be put on an equal footing; whilst the Americans were to be allowed to fish in Canadian waters, Canadian vessels were to be allowed to import fish into American ports on the same terms as American vessels already did. If a bounty was to be paid to the latter by the United States, there would be no longer any equality.

Mr. Fish expressed his belief that a bounty was now paid by the Government of the Dominion to Canadian fishermen, which, I said, I did not think was the case. But at any rate, he replied, the Canadians could always fit out, equip, and navigate their vessels at a much cheaper rate than citizens of the United States. Mr. Fish, however, added that he was not sorry to hear of Dr. Loring's suggestion, because it would create a division amongst the enemies of the Treaty, and would render General Butler's opposition much weaker than it otherwise might have been. In this opinion I am inclined to acquiesce, nor do I believe there is any danger that Congress will grant any bounty whatever to the New England fishermen.

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

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No. 93.

*Viscount Enfield to Mr. Herbert.*

Sir, *Foreign Office, January 31, 1872.*  
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton respecting the probable opposition of General Butler to the stipulations contained in the Treaty of Washington of May 8, having reference to fisheries.\*

I am, &c.  
(Signed) ENFIELD.

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No. 94.

*Viscount Enfield to Mr. Herbert.*

Sir, *Foreign Office, January 31, 1872.*  
WITH reference to your letter of the 5th instant, as regards the case of the "E. A. Horton," I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a despatch from Sir E. Thornton, reporting his inability to obtain any further details in connection with the case, and giving the substance of a conversation he had had with Mr. Fish respecting the vessel in question.†

I am, &c.  
(Signed) ENFIELD.

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No. 95.

*Viscount Enfield to Mr. Herbert.*

(Confidential.)

Sir, *Foreign Office, February 3, 1872.*  
I AM directed by Earl Granville to acquaint you that his Lordship referred to Her Majesty's Law Officers your letter of the 5th instant, together with the previous correspondence in regard to the seizure of the United States' vessel "E. A. Horton;" and I am now to transmit to you, confidentially, to be laid before the Earl of Kimberley, a copy of a report which has been received in reply from those officers.‡

I am, &c.  
(Signed) ENFIELD.

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No. 96.

*Mr. Holland to Viscount Enfield.—(Received February 9.)*

Sir,

*Downing Street, February 8, 1872.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of an opinion of the Law Officers of the Crown with regard to the case of the United States' fishing vessel "E. A. Horton."

Lord Kimberley concludes that Earl Granville concurs in the view taken by the Law Officers, and he proposes therefore, if his Lordship has no objection, to address the despatch to the Governor-General of Canada, of which a draft is inclosed.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure in No. 96.

*Proposed Despatch to Lord Lisgar.*

My Lord,

*Downing Street, February , 1872.*

WITH reference to the concluding paragraph of my despatch of the 15th of December last, respecting the case of the United States' fishing vessel "E. A. Horton," I have the honour to inform you that Her Majesty's Government, after a careful consideration of the facts stated by the Canadian Government, and after consulting the Law Officers of the Crown, are of opinion that the circumstances do not require that a representation should be made by Her Majesty's Government to the United States' Government on this subject.

I have, &amp;c.

No. 97.

*Sir E. Thornton to Earl Granville.—(Received February 12.)*

(No. 56.)

My Lord.

*Washington, January 29, 1872.*

I HAVE the honour to inclose a copy of a Bill, which was submitted to the House of Representatives by General Butler, on the 22nd instant, "to promote and sustain the American fisheries under the Treaty of Washington." It proposes that a relief and indemnity for the loss and damage to that industry occasioned by the Treaty of Washington during its operation on the fisheries, of 6 dollars per ton be paid to each vessel employed in the fisheries of not less than 20 nor more than 100 tons.

The Bill was read twice and referred to the Committee on Foreign Affairs.

I have, &amp;c.

(Signed) EDWD. THORNTON.

Inclosure in No. 97.

42nd Congress, 2nd Session.—H. R. 1080.

In the House of Representatives, January 22, 1872.

[Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.]

Mr. Benjamin F. Butler, on leave, introduced the following Bill:—

*A Bill to Promote and Sustain the American Fisheries under the Treaty of Washington.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that, in lieu of the protection now provided by law for American fishermen, a relief and indemnity, for the loss and damage to that industry occasioned by the Treaty of Washington during its operation on the fisheries, of six dollars upon each ton of any vessel not less than twenty nor more than one hundred measured tons burden, although such vessel shall exceed such measurement licensed for and actually engaged in fishing for at least four months in any year, shall be given to each vessel

employed, to be paid by the collector of the port where the vessel claiming such relief shall be enrolled or registered, under such rules and regulations as to proof as shall be established by the Secretary of the Treasury.

No. 98.

*Mr. Hammond to Mr. Holland.*

Sir

*Foreign Office, February 13, 1872.*

I AM directed by Earl Granville to transmit to you for the information of the Earl of Kimberley, a copy of a despatch from Sir E. Thornton, inclosing a copy of a Bill submitted to the United States' House of Representatives, for promoting and sustaining American fisheries under the Treaty of Washington.\*

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

No. 99.

*Viscount Enfield to Mr. Holland.*

Sir,

*Foreign Office, February 14, 1872.*

IN reply to your letter of the 8th instant, I am directed by Earl Granville to state to you, for the information of the Earl of Kimberley, that his Lordship concurs in the despatch which Lord Kimberley proposes to address to the Governor-General of Canada, relative to the case of the "E. A. Horton."

I am, &c.  
(Signed) ENFIELD.

No. 100.

*Sir E. Thornton to Earl Granville.—(Received February 18.)*

(No. 67.)

My Lord,

*Washington, February 5, 1873.*

DURING a visit which I paid to Mr. Fish at the State Department on the 1st instant, he told me that a delegation from the New England fishermen had been urging upon the Committee on Foreign Affairs of the House of Representatives, that it should recommend to the House the rejection of the clauses of the Treaty of the 8th of May last, relating to the fisheries as being prejudicial to their interests, or if that could not be obtained, that a Bill should be presented to the House and supported by the Committee, granting a bounty to the vessels engaged in the fisheries, so that they might compete with the more cheaply-built and equipped Canadian fishing vessels.

Mr. Fish stated that he had subsequently had an interview with the delegators and had pointed out to its members that a bounty in favour of the fishing vessels would be an invidious distinction which it might be difficult to carry through the House, and that the continuance of such a payment would probably cost them the constant exercise of their influence and the expenditure of time and money. He pointed out to them that it would be wiser to secure the benefits offered by the Treaty, and with a view to facilitating competition with Canadian vessels, to satisfy themselves with certain advantages which it was intended to submit to Congress with reference to the whole of the United States mercantile shipping in general. Mr. Fish explained that it was proposed to ask Congress that all materials used for the construction and equipment of merchant vessels and stores for consumption on board of them, should be relieved of all import duty or internal taxation. Mr. Fish expressed his belief that he had persuaded the New England Delegation that this measure would be more beneficial to the fishermen than the rejection of the fishery clauses of the Treaty, or the granting of a bounty to United States' fishing vessels. He added that General Banks, the Chairman of the Committee, was engaged in preparing a Bill for this purpose, and that it would be introduced almost simultaneously with the Bills rendered necessary by the Treaty, in the success of which General Banks took the greatest interest.

On the following day (the 2nd instant) Mr. Fish and the Secretary of the Treasury, at the request of the Committee on Foreign Affairs, attended its meeting, and I understand the former expressed his opinion that to add to the Bill for carrying out the Treaty another to give a bounty to American fishing vessels would give the Canadian fishermen cause of complaint and might endanger the ratification of the Treaty by the Canadian Parliament. Mr. Boutwell stated that he intended soon to lay a Bill before the Committee on Commerce of both Houses, tending to provide legislation for the revival of American Commerce and of the shipping interests in general.

It is said to have been finally agreed by the Committee on Foreign Relations that the Bill for carrying out the Treaty should be reported to the House to-day, but without any particular recommendation from the Committee, it being understood that its members might at their option support it or not.

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

No. 101.

*Viscount Enfield to Mr. Holland.\**

Sir, *Foreign Office, February 21, 1872.*  
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton, relative to the fishery clauses of the Treaty of Washington.†

I am, &c.  
(Signed) ENFIELD.

No. 102.

*Mr. Holland to Mr. Hammond.—(Received March 9.)*

Sir, *Downing Street, March 8, 1872.*  
WITH reference to the correspondence noted in the margin‡ on the question of the refund by the Government of the United States of the duties collected in that country on fish oil, and fish exported from Prince Edward Island and Newfoundland during the fishery season of last year, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, in order that such action may be taken in the matter as his Lordship may deem expedient, a copy of a despatch from the Lieutenant-Governor of Prince Edward Island, inclosing a Minute of his Executive Council, protesting against the decision adopted by the United States' Government, as explained in Mr. Fish's note to Mr. Pakenham, of the 24th of November last.

Lord Kimberley greatly regrets this proceeding on the part of the United States, which may, he fears, seriously increase the difficulty of obtaining the consent of the Colonial Legislatures to the Treaty of Washington.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 102.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

My Lord, *Government House, February 8, 1872.*  
HAVING communicated to my advisers your Lordship's despatch of the 30th December, respecting the question of the refund of those duties collected in the United States on fish oil and fish exported from Prince Edward Island during the fishing season of 1871, I have the honour to forward, at their request, a Minute of Council containing observations which they are desirous of submitting to your Lordship upon this important subject.

I beg leave, on behalf of this Colony, to express an earnest hope that your Lordship

\* A similar letter was addressed to the Board of Trade.

† No. 100.

‡ Nos. 64, 77, 79, and 82.

may be enabled to comply with the request preferred by my advisers, and "to urge upon the United States' Government the necessity of paying a claim the justice of which cannot be disputed."

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

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Inclosure 2 in No. 102.

*Minute.*

At a Meeting of a Committee of the Executive Council of Prince Edward Island, in the Council Chamber, on the 2nd day of February, 1872,

Present :

The Honourable Mr. Pope.  
 " Mr. Colonial Secretary.  
 " Mr. Attorney-General.  
 " Mr. Macdonald.  
 " Mr. Richards.  
 " Mr. De Furgey.

The following Minute, addressed to the Right Honourable Earl Kimberley, Her Majesty's Principal Secretary of State for the Colonies, on the subject of his Lordship's despatch of the 30th December, 1871, to Lieutenant-Governor Robinson, was adopted by the Committee and ordered to be handed to the Lieutenant-Governor for transmission :—

To the Right Honourable Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies, &c.

The Committee of the Executive Council of Prince Edward Island have had under consideration your Lordship's despatch, dated the 30th December, 1871, addressed to Lieutenant-Governor Robinson on the subject of the "refund of duties collected in the United States on fish-oil and fish exported from Prince Edward Island during the season of 1871;" also a despatch, dated 25th July, from Lieutenant-Governor Robinson to your Lordship on the same subject; also copy of a despatch dated at Washington, 12th May, 1871, addressed to Earl Granville by Sir Edward Thornton, British Minister at Washington, and inclosing a letter which he had received from Hamilton Fish, Esq., of the Department of State, Washington, dated 8th May, 1871, with Sir E. Thornton's reply thereto, on the subject of a proposed provisional arrangement he wished to make with the respective Colonies named therein, until legislative action could be had.

In Mr. Fish's letter of 8th May last,\* he proposed to Sir Edward Thornton in the following words, viz., that, as the Treaty could "not come into full operation until the legislation contemplated in that instrument shall have taken place, and as it seems to be in accordance with the interests of both Governments, in furtherance of the objects and spirit of the Treaty, that the citizens of the United States should have the enjoyment of that liberty during the present season, I am directed by the President to express to you his hope that Her Majesty's Government will be prepared, in the event of the ratification of the Treaty, to make on their own behalf, and to urge the Government of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to make for the season referred to, within their respective jurisdictions, such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the Treaty. The Government of the United States would be prepared at the same time to admit British subjects to the rights of fishing in the waters of the United States specified in the Treaty; but as the admission into the United States free of duty of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets the views of the British Government, recommend and urge upon Congress at their next Session, that any duties which may have been collected on and after the 1st of July next, on fish-oil and fish, the produce of the fisheries of the Dominion of Canada and

\* In High Commission volume.

of Prince Edward Island, shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British possessions of fish-oil and fish (with certain exceptions as in the Treaty) being the produce of the United States."

This proposal was agreed to by the Government of Prince Edward's Island, at the urgent request of Her Majesty's Imperial Government, and on the 24th July last an order was issued in accordance therewith. From that date American fishermen had free use of the in-shore fisheries of this island, and landed fish and fish-oil without being charged any duty therefor; while the merchants of this island, placing full faith and confidence in Mr. Fish's proposal, exported their fish to the United States, relying implicitly on the good faith of the United States' Government, and never doubting but that the President would recommend to and urge upon Congress the expediency of making provision for the refunding of the duties which they had paid.

The Committee of the Executive Council now learn with great surprise that, on inquiries being made on the subject of refunding those duties, the United States' Government have replied that the President did not intend to urge upon Congress the introduction of a Bill in accordance with Mr. Fish's proposition.

It would appear that the ground taken by the President of the United States for declining to recommend to Congress the introduction of a Bill having for its object the refund of the duties paid on British fish during the past season is, that his "proposal, made through Mr. Fish in May last, contemplated the united action of all the British Colonies, and that it would not be practicable to separate them, or carry into effect for one what the President was willing to recommend for all those Colonies."

The Committee submit that the Treaty of Washington itself recognizes the power of each Colonial Government or Legislature to act for itself, independently of the other; that no legislation on the part of one of those Governments can interfere with or affect or bind the territory within the jurisdiction of another Colonial Government. That the Government of this island did, on the recommendation of Her Majesty's Imperial Government, on the 24th of July last, issue an order (as proposed by Mr. Fish) giving effect to the Treaty within this island, and admitting American fishermen to the free use of its fisheries during the season of 1871. The American fishermen at once availed themselves of this valuable privilege, and during the season of 1871 were not molested in the prosecution of the fisheries around the shores of this island. That the United States' Consul resident here was duly notified of the relaxations made in favour of American fishermen; and that Sir Edward Thornton was at the same time informed by telegraph by Lieutenant-Governor Robinson, that the proposals of Mr. Fish were agreed to by the Government of this island. That the Government of the United States accepted all the advantages thus conferred upon their fishermen during the whole season of 1871; and now, when the season has ended, and application is made to them to fulfil their part of the agreement thus virtually made, they repudiate the payment of the equivalent for the advantages they received, on the ground that the whole of the provinces named did not unitedly accept their proposals. If they purposed taking this course, they should at once, on becoming aware that the Government of the Dominion of Canada had not acceded to their proposals, have intimated to the Government of this island, through the proper official channel, that it was not their intention to fulfil their own stipulations unless united action was taken on them by all the Colonies, and have forbidden their fishermen to take fish within a marine league of the shores of Prince Edward Island.

Refunding those duties to the parties who pay the same is, by Mr. Fish's proposal, made contingent only on the suggestion meeting with the approval of the British Government, and not on any united action of Colonial Governments. That it did meet the approval of Her Majesty's Government is proved by your Lordship's despatch, dated 17th June, 1871, addressed to Lord Lisgar, as well as by the action of the Government of this island on the 24th July last, and by the free admission during the past season of American fish and fish-oil to the ports of this island, and of American fishermen to the privilege of the in-shore fisheries thereof.

The Committee of the Executive Council, therefore, consider it to be their duty to call the special attention of your Lordship to this extraordinary breach of faith on the part of the United States' Government, by which our mercantile men will sustain heavy pecuniary losses, and they trust that Her Majesty's Imperial Government will cause the British Minister at Washington to continue earnestly to urge upon the United States' Government the necessity of paying a claim, the justice of which cannot be disputed.

The Treaty of Washington not having yet been ratified by the Legislatures of the several Provinces named therein, the moral effect of the repudiation by the United States of the provisional arrangement of last season will, if such a course be persisted in,

materially strengthen the opposition to the legislation necessary to give effect to the said Treaty.

(Signed)

JAMES C. POPE.  
T. HEATH HAVILAND, *Colonial Secretary.*  
FREDK. BRECKEN, *Attorney-General.*  
A. A. MACDONALD.  
WM. RICHARDS.  
JOHN DE FURGEY.

Certified,

(Signed)

WILLIAM DES BRISAY, *Assistant Clerk, Executive Council.*

No. 103.

*Mr. Holland to Mr Hammond.—(Received March 9.)*

(Confidential.)

Sir,

*Downing Street, March 8, 1872.*

WITH reference to my letter of this day's date, inclosing a copy of a despatch from the Lieutenant-Governor of Prince Edward Island on the question of the refund, by the Government of the United States, of the duties collected in that country on fish-oil and fish exported from Prince Edward Island and Newfoundland during the fishery season of last year, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Confidential despatch from the Lieutenant-Governor on the same subject.

I have, &c.

(Signed)

H. T. HOLLAND.

Inclosure in No. 103.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Confidential.)

My Lord,

*Government House, February 8, 1872.*

WITH my despatch of this date your Lordship will receive a Minute of Council, containing observations which my advisers are desirous of submitting to your Lordship with respect to the question of the refund of the duties collected in the United States on fish-oil and fish exported from Prince Edward Island during the fishing season of 1871.

Having been personally instrumental in bringing about the adoption by the Government of Prince Edward Island of the provisional arrangement proposed by Mr. Fish in his letter to Sir Edward Thornton, of the 8th of May last, I have thought it due, both to the Colony and to myself, to recommend the request contained in the Minute of Council to your Lordship's favourable consideration; at the same time I wish to assure your Lordship that, while the decision at which the Government of the United States have now arrived was by me wholly unexpected, I will not fail, should that decision be maintained, to do all in my power to allay the feeling of irritation which, as my advisers infer in the concluding paragraph of their minute, will unquestionably be thereby created in the Colony.

3. Some of the arguments put forward by my advisers appear to me to be unanswerable, and if any warmth of language be observable in their Minute, I hope your Lordship will make due allowance for Ministers who, having to justify their action to the Legislature and the country, are contending for a set-off to the privileges which they were asked to, and did accord, on the promise, as they understood it, that in due time Congress would be applied to for an equivalent.

I have, &c.

(Signed)

WILLIAM ROBINSON.

No. 104.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, March 18, 1872.*

WITH reference to your letter of the 8th instant, I am directed by Earl Granville to transmit to you a draft of a despatch which his Lordship proposes to address to Sir E.

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Thornton, instructing him to urge the United States' Government to reconsider their decision as to the refund of the duties on fish and fish-oil imported from Prince Edward Island; and I am to request that you will move the Earl of Kimberley to inform Earl Granville whether he concurs in this draft, which embodies the views expressed in the minute of the Executive Council of Prince Edward Island.

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

## No. 105.

*Sir E. Thornton to Earl Granville.—(Received March 23.)*

(No. 162.)

My Lord,

*Washington, March 12, 1872.*

I UNDERSTAND that a Circular has been issued by the Secretary of the Treasury addressed to the Collectors of Customs of the United States, informing them as to the conduct which should be observed by American fishermen in the neighbourhood of Canada during the approaching fishing season. I have the honour to inclose an article from the "New York Herald" of the 10th instant purporting to give the substance of this Circular, but I hope to be able to obtain copies of it in a day or two, and to forward some of them to your Lordship.

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

## No. 106.

*Mr. Holland to Mr. Hammond.—(Received March 26.)*

Sir,

*Downing Street, March 25, 1872.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 18th instant, inclosing the draft of a proposed despatch to Sir E. Thornton on the subject of the refund of the duties collected in the United States on fish and fish-oil imported into that country from Prince Edward Island.

Lord Kimberley desires me to state that he concurs in the proposed despatch to Sir E. Thornton.

I am, &c.  
(Signed) H. T. HOLLAND.

## No. 107.

*Earl Granville to Sir E. Thornton.*

(No. 110.)

Sir,

*Foreign Office, March 26, 1872.*

WITH reference to Mr. Pakenham's despatch No. 120 of the 28th of November, inclosing a copy of a note from Mr. Fish, stating that the United States' Government were not prepared to take steps with a view to refunding of duties collected on fish-oil and fish imported from Prince Edward Island, I have to state to you that the attention of Her Majesty's Government has again been called to this subject, and to the difficulty which may arise, in consequence of this decision of the United States, in obtaining the consent of the Colonial Legislatures to the Treaty of Washington.

The proposal of the United States' Government, as made in Mr. Fish's note to you of the 8th of May last, was to the effect that, pending the legislation necessary to carry out the provisions of the Treaty, Her Majesty's Government should make on their own behalf, and should urge the Governments of Canada, Prince Edward Island, and Newfoundland to make arrangements for admitting American fishermen to the liberty which they would enjoy under the Treaty, and that on their part the United States' Government would be prepared to admit British subjects to fishing rights in the United States' waters specified in the Treaty, and would recommend Congress to authorize the refunding of duties collected after the 1st of July on fish and fish-oil, the produce of Canada and Prince Edward Island, if a similar arrangement was made with respect to the admission into the British possessions of fish-oil and fish, being the produce of the United States.

Her Majesty's Government agreed to this proposal, and at their urgent request the Government of Prince Edward Island issued, on the 24th July, an order in accordance with it. From that date American fishermen ever had free use of the in-shore fisheries of the island and have landed fish and fish oil without duty, and the merchants of Prince Edward Island believing that the United States' Government would, in pursuance of their part of the agreement, propose to Congress to make provision for refunding the duties levied on fish and fish oil imported into the United States from Prince Edward Island, have freely exported their products, and the Government of the Colony were quite unprepared for the course now taken by the United States' Government.

It appears from Mr. Fish's note to Mr. Pakenham of the 24th of November that the ground taken by the President for declining to bring forward a Bill for the refund of duties is, that "the proposal made through Mr. Fish contemplated the united action of all the British Colonies, and that it would not be practicable to separate them or carry into effect for one what the President was willing to recommend for all these Colonies."

Her Majesty's Government consider that the Treaty of Washington itself recognizes the power of each Colonial Government or Legislature to act for itself independently of the other, nor can any legislation on the part of one of those Governments interfere with, or affect, or bind the territory within the jurisdiction of another Colonial Government.

The Government of Prince Edward Island have issued an order giving effect to the provisions of the Treaty and admitting American fishermen to the free use of their fisheries during the season of 1871. The American fishermen have availed themselves of the privilege, and the United States' Consul was duly notified of the relaxation made in their favour, while you were informed by telegraph of the acceptance by the Government of Prince Edward Island of Mr. Fish's proposals.

The United States' Government accepted all the advantages thus conferred upon their fishermen during the whole season of 1871, and the Government of Prince Edward Island fully expected that their Colony would receive an equivalent for those advantages.

No intimation was given by the United States' Government that they did not intend to fulfil their part of the arrangement, unless united action was taken by all the Colonies, and the Government of the Island could not therefore have anticipated that such a course would be pursued, nor did Mr. Fish's original proposal make the refunding of the duties contingent on such united action.

Under these circumstances, and taking into consideration the serious pecuniary hopes which will fall upon the merchants of Prince Edward Island if these duties are not refunded, Her Majesty's Government trust that the United States' Government will reconsider their decision, and will not persist in refusing to carry out their part of an arrangement which they themselves originated, and which was proposed to the Government of Prince Edward Island by Her Majesty's Government in the full confidence that that Colony would receive from the United States an equivalent for the concessions which it was recommended to make.

I am, &c.  
(Signed) GRANVILLE.

No. 108.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, March 26, 1872.*  
I AM directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, forwarding an account, extracted from the "New York Herald," of a Circular said to have been issued by the United States' Government respecting the regulations to be observed by American fishermen in regard to the Canadian fisheries.\*

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

No. 109.

*Mr. Holland to Viscount Enfield.—(Received March 27.)*

(Secret.)

Sir,

*Downing Street, March 26, 1872.*

WITH reference to your letter of the 31st of January respecting the probable opposition of General Butler to the stipulations contained in the Treaty of Washington having reference to fisheries, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada upon the question of the supposed payment of bounties to Canadian fishermen.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 109.

*Lord Lisgar to the Earl of Kimberley.*

(Secret.)

My Lord,

*Government House, Ottawa, March 6, 1872.*

I HAVE the honour to acknowledge the receipt of your Lordship's Secret despatch of February 6, 1872, transmitting a copy of a despatch received through the Foreign Office from Sir Edward Thornton respecting the probable opposition of General Butler to the stipulations contained in the Treaty of Washington with reference to the Canadian fisheries.

2. I communicated copies of these despatches, in confidence, to the Dominion Privy Council, and beg now to inclose a copy of their Secret Report, from which your Lordship will perceive that Mr. Fish was in error in supposing that any bounties are allowed to Canadian fishermen.

I have, &amp;c.

(Signed) LISGAR.

Inclosure 2 in No. 109.

*Secret Report of a Committee of the Privy Council, approved by the Governor-General on the 1st March, 1872.*

THE Committee of Council have had under consideration a Secret despatch, dated 6th February, 1872, from the Right Honourable the Secretary of State for the Colonies, inclosing copy of a despatch received from Sir Edward Thornton, having reference to a proposed system of fishing-bounties to United States' fishermen, and alluding to an impression entertained by Mr. Fish that a bounty is now paid by the Government of Canada to Canadian fishermen; and, on the recommendation of the Honourable the Minister of Marine and Fisheries, they advise that your Excellency will be pleased to inform the Earl of Kimberley that no bounties of any kind whatever are allowed to Canadian fishermen.

Certified,

(Signed) WM. H. LEE, Clerk, Privy Council.

No. 110.

*Earl Granville to Sir E. Thornton.*

(No. 118.)

Sir,

*Foreign Office, March 30, 1872.*

I REFERRED to the Colonial Office your despatch No. 26 of the 15th January, in which you reported a conversation with Mr. Fish as to a proposal for paying bounties to the New England fishermen, and I have received from that Department a copy of a Report from the Government of Canada stating that no bounties of any kind whatever are allowed to Canadian fishermen.

I am, &amp;c.

(Signed) GRANVILLE.

No. 111.

*Sir E. Thornton to Earl Granville.—(Received April 1.)*

(No. 166.)

My Lord,

Washington, March 18, 1872.

WITH reference to my despatch No. 162 of the 12th instant, I have the honour to inclose three copies of the Circular addressed by the Secretary of the Treasury to the Collectors of Customs, pointing out the laws and regulations by which United States' fishermen must be guided in the neighbourhood of Her Majesty's Possessions in North America.

I have already forwarded copies to his Excellency the Governor-General of Canada, and shall send others to Vice-Admiral Fanshawe, Commander-in-chief of Her Majesty's Naval Forces on the North America and West India Station, as soon as he shall arrive at Annapolis, where I expect him on or about the 24th instant.

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

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Inclosure in No. 111.

Navigation Division, Circular No. 5.

*Relative to the Fisheries on the Coasts of the British North American Colonies.*

*Treasury Department, Washington, Delaware County,  
March 6, 1872.*

To Collectors of Customs,

AS the season for fishing on the coast of the British Possessions in our vicinity is approaching, it is considered important that fishermen of the United States intending to pursue their business in the locality mentioned, should be thoroughly acquainted with the laws and regulations governing the matter, in order to avoid incurring the penalties for violations thereof. To that end the following Circular, issued by this Department June 9, 1870, is republished, as containing information still applicable.

You will please endeavour to bring the contents of the Circular to the attention of all parties concerned, at the same time notifying them that the provisions of the Treaty between the United States and Great Britain, proclaimed July 4, 1871, relating to the fisheries, will not go into effect until the laws required to carry them into operation shall have been passed by the various Governments mentioned in Article XXXIII, and warning them that their business must yet be carried on subject to the restrictions existing at the time of the ratification of the Treaty.

*Circular.*

\* \* \* \* \*

“In compliance with the request of the Secretary of State, you are hereby authorized and directed to inform all masters of fishing vessels, at the time of clearance from your port, that the authorities of the Dominion of Canada have terminated the system of granting fishing licenses to foreign vessels, under which they have heretofore been permitted to fish within the maritime jurisdiction of the said Dominion, that is to say, within three marine miles of the shores thereof; and that all fishermen of the United States are prohibited from the use of such in-shore fisheries, except so far as stipulated in the 1st Article of the Treaty of October 20, 1818, between the United States and Great Britain, in virtue of which the fishermen of the United States have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramean Islands; on the Western and Northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbours, and creeks from Mount Joly, which was, when the Treaty was signed, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and have also liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, above described, and of the coast of Labrador, unless the same, or any portion thereof, be settled, in which case it is not lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground; and also are admitted to enter any other bays or harbours, for

the purpose of shelter or repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever, subject to such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges reserved to them, as above expressed. Fishermen of the United States are bound to preserve the British laws and regulations for the regulation and preservation of the fisheries to the same extent to which they are applicable to British or Canadian fishermen.

"The Canadian law, of the 22nd of May, 1868 (31 Vict., cap. 61), entitled 'An Act respecting Fishing by Foreign Vessels,' and the Act assented to on the 12th of May, 1870, entitled 'An Act to amend the Act respecting Fishery by Foreign Vessels,' among other things, enact, that any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy, cruising and being in the waters of Canada, for the purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate, on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat, within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, and stay on board so long as she may remain within such place or distance; and that any one of such officers or persons, as are above-mentioned, may bring any ship, vessel, or boat, being within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit 400 dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and has been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours of Canada not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof, shall be forfeited. And that all goods, ships, vessels, and boats, and the tackle, rigging, apparel, and furniture, stores and cargo, liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act. And every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.

*"It will be observed that the warning formerly given is not required under the Amended Act, but that vessels trespassing are liable to seizure without such warning.*

"On January 8, 1870, the Governor-General of the Dominion of Canada, in Council, ordered that suitable sailing vessels, similar to the "La Canadienne," be chartered and equipped for the service of protecting the Canadian in-shore fisheries against illegal encroachments by foreigners, these vessels to be connected with the police force of Canada, and to form a marine branch of the same. It is understood that, by a change of the boundaries between Canada and Labrador, the Canadian territory now includes Mount Joly and a portion of the shore to the east thereof, which, in the Treaty of 1818, was described as the southern coast of Labrador. This municipal change of boundary does not, however, interfere with the rights of American fishermen, as defined by the Treaty, on that portion of what was the southern coast of Labrador, east of Mount Joly."

There is reason to apprehend that the Canadian authorities will adopt similar measures towards preventing encroachments upon the British fisheries during the season of 1872.

Very respectfully,  
 (Signed) GEO. S. BOUTWELL,  
 Secretary of the Treasury.

No. 112.

*Mr. Hammond to Mr. Holland.\**

Sir, *Foreign Office, April 5, 1870.*  
 WITH reference to my letter of the 26th ultimo, I am directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, inclosing a Circular issued by the United States' Government respecting the British North American fisheries.†

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

No. 113.

*Sir E. Thornton to Earl Granville.—(Received April 8.)*

(No. 179.)

My Lord,

*Washington, March 25, 1872.*

I HAVE the honour to inform your Lordship that, on the 19th instant, General Banks, instructed by the Committee on Foreign Affairs, of which he is Chairman, moved in the House of Representatives that the consideration of the Bill to carry out the provisions of the Treaty of Washington relating to the fisheries, which had been assigned for that day, should be postponed to that day four weeks. The motion was agreed to by the House.

It is generally understood that this step has been taken because, during the present discussion with Her Majesty's Government, as to the interpretation of the Treaty, the consideration of the Bill might give rise to some very disagreeable observations with regard to Her Majesty's Government; indeed, there is little doubt that General Butler is prepared, when the debate may come on, to make all opposition to the passage of the Bill.

It is also supposed that there is a desire on the part of the Representatives to become acquainted with the feelings of the Parliament of the Dominion of Canada before proceeding to the discussion of the Bill, which is the same as that of which three copies were inclosed in my despatch No. 266 of the 18th of December last.

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

No. 114.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, April 9, 1872.*  
 WITH reference to my letter of December 27th last, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton reporting the postponement for four weeks of the consideration by the United States' House of Representatives of the Bill to carry out the provisions of the Treaty of Washington as regards the fisheries.‡

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

P.S. I am also to inclose an extract of a previous despatch from Sir E. Thornton, to which he refers in his present one.

\* A similar letter was addressed to the Admiralty.

‡ No. 113.

† No. 111.

No. 115.

*Sir E. Thornton to Earl Granville.—(Received April 19.)*

(Telegraphic.)

*Washington, April 19, 1872.*

WITH reference to my despatch No. 179 of the 25th ultimo, a motion of General Banks again to postpone legislation of Treaty for four weeks was adopted by the House of Representatives on the 17th instant.

No. 116.

*Sir E. Thornton to Earl Granville.—(Received May 4.)*

(No. 245.)

My Lord,

*Washington, April 21, 1872.*

WITH reference to my despatch No. 179 of the 22nd ultimo, I have the honour to inform your Lordship that on the 17th instant General Banks, as Chairman of the Committee of Foreign Relations of the House of Representatives, moved that the consideration of the Bill for carrying out the provisions of the Treaty of Washington with regard to Canada, which had already been postponed for four weeks, ending on that day, should be again postponed for a similar period. The motion was agreed to by the House.

I presume that the reasons for this step were the same as those stated in my despatch above mentioned.

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

No 117.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, May 10, 1872.*

WITH reference to my letter of the 9th ultimo I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton respecting the further postponement, by the House of Representatives at Washington, of the Bill for carrying out the provisions of the Treaty with regard to Canada.

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

No. 118.

*Mr. Holland to Mr. Hammond.—(Received May 18.)*

(Confidential.)

Sir,

*Downing Street, May 18, 1872.*

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing copies of the special instructions issued for the present year to the officers in command of the Government vessels engaged as marine police in protecting the in-shore fisheries of Canada.

I am also to inclose copy of a letter addressed to the Board of Admiralty on the 8th of April, and of a despatch to Lord Lisgar of the same date, respecting the instructions to be issued to the officers in command of Her Majesty's ships on the North American Station.

I am, &c.  
(Signed) H. T. HOLLAND.

## Inclosure 1 in No. 118.

*Lord Lisgar to the Earl of Kimberley.*

(Secret.)

My Lord,

*Government House, Ottawa, April 23, 1872.*

I HAVE the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion, covering the special instructions issued for the present year to the officers in command of the Government vessels engaged as marine police in protecting the in-shore fisheries of Canada.

2. I forward also, for your Lordship's information, a copy of a letter from the Department of Marine and Fisheries, from which you will perceive that these instructions are, *verbatim et literatim*, the same as those issued for the season 1871.

3. In accordance with the previous practice, and in compliance with the request contained in your Lordship's telegram of April 15, I have duly sent copies of these instructions to Admiral Fanshawe. I have also, as in previous years, sent copies to Her Majesty's Minister at Washington, and to the Governors of Newfoundland and Prince Edward Island.

I have, &c.  
(Signed) LISGAR.

## Inclosure 2 in No. 118.

*Mr. Whitcher to Mr. Turville.*

Sir,

*Ottawa, April 23, 1872.*

I HAVE the honour to inclose twelve copies of the special instructions to Canadian cruizers for the season of 1872, and to state that they are, *verbatim et literatim*, the same as those issued for the season of 1871.

I have, &c.  
(Signed) N. T. WHITCHER,  
For the Minister of Marine and Fisheries.

## Inclosure 3 in No. 118.

*Report of a Committee of the Privy Council, approved by the Governor-General in Council, on the 19th April, 1872.*

THE Committee of the Privy Council have had before them a Memorandum, dated 18th April, 1872, from the Honourable the Minister of Marine and Fisheries, submitting, for the approval of your Excellency in Council, the annexed draft of special instructions to the commanders of Canadian cruizers, in reference to the protection of the in-shore fisheries of Canada during the coming season, and they respectfully advise that the same be approved.

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

## Inclosure 4 in No. 118.

*Special Instructions to Fishery Officers, ex officio Magistrates, in command of Government Vessels engaged as Marine Police, in protecting the In-shore Fisheries of Canada.*

(Confidential.)

*Department of Marine and Fisheries, Ottawa,  
April 5, 1872.*

Sir,

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

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

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

*Duties.*—It will be your duty to cruise, at all times, with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to

prevent foreign fishermen and fishing-vessels from intruding on the in-shore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

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

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

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

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

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

With regard to the Magdalen Islands, although the liberty to land, and to dry, and cure fish there, is not expressly given by the terms of the Convention to United States' fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term "unsettled." Places containing a few isolated houses might not, in some instances, be susceptible of being considered as "settled" within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation, and the circumstances of the Settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty's Government that rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

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

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

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

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

Copies of the Fishery laws of Canada accompany the present Instructions.

**POWERS.**—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a Fishery Officer are derived from the following statutes:—

"The Fisheries Act" (31 Vict., cap. 60);

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

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia,” of the Coast and Deep Sea Fisheries :

The Act intituled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vict., cap. 35) ;

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

The Imperial Act 59 Geo. III., cap. 38.

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

In such capacity, your jurisdiction must be strictly confined within the limit of “three marine miles of any of the coasts, bays, creeks, or harbours” of Canada, with respect to any action you may take against American fishing vessels and United States’ citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed six geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than six miles apart, and may exclude foreign fishermen and fishing vessels therefrom, or seize, if found, in violation of these regulations within three marine miles of the coast.

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

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

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

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

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

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

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

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

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

All vessels seized must be disposed of as soon as convenient, in the manner directed by law; and information, with a statement of the facts, and the depositions of your sailing-master, clerk, lieutenant, or mate, and of two, at least, of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place, and the ship, vessel, or boat was seized. Also corroborate the bearings taken by soundings, and by buoying the place (if possible), with a view to actual measurement, and make such incidental reference to conspicuous points and land-marks as shall place beyond doubt the illegal position of the seized ship, vessel, or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the headland lines and into Canadian waters, by violent or contrary winds, by strong tides through misadventure, or any other cause independent of the will of the master and the crew, you will consider these circumstances, and satisfy yourself with regard thereto before detaining any vessel.

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

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

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

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

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

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

It cannot be too strongly impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

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

I have, &c.

(Signed) P. MITCHELL,

*Minister of Marine and Fisheries.*

Countersigned :

(Signed)

W. F. WHITCHER, *Commissioner of Fisheries.*

#### APPENDIX A.

#### *Article I of Convention between His Britannic Majesty and the United States of America.*

*Signed at London, October 20, 1818.*

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

Inclosure 5 in No. 118.

*Mr. Holland to the Secretary to the Admiralty.*

Sir,

*Downing Street, April 8, 1872.*

I AM directed by the Earl of Kimberley to request that you will state to the Lords Commissioners of the Admiralty that the Canadian Government have informed him that they propose to issue the same instructions to the commanders of the Colonial cruizers for the approaching fishery season as were issued last year.

Her Majesty's Government think it advisable in present circumstances that on their part the same course should be pursued as last year, and it is therefore their desire that for the present the officers commanding Her Majesty's ships should be directed, as in 1871, whilst abstaining from taking any active measures to enforce the exclusion of United States' fishermen from the fisheries in question, to assist the local authorities in preserving

order amongst the fishermen, and to protect the Colonial Revenue vessels from being interfered with by any armed force.

A copy of the instructions issued by the Canadian Government was transmitted for the information of the Lords Commissioners in a letter from this Department of the 27th May, 1871.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 6 in No. 118.

*The Earl of Kimberley to Lord Lisgar.*

My Lord,

*Downing Street, April 8, 1872.*

HER Majesty's Government have learnt with satisfaction from your telegram of the 2nd instant that the Canadian Government propose to issue the same instructions to the Commanders of the Colonial cruisers for the approaching fishery season as were issued in 1871.

Her Majesty's Government fully recognize the conciliatory character of those instructions, copy of which was transmitted to me in your despatch of the 4th of May last, and the direction shown in enforcing them, and they rely with confidence on the Canadian Government taking care, that in the approaching season a like judgment and moderation shall be exercised by their officers.

Her Majesty's Government have thought it advisable in present circumstances, that, on their part, the same course should be pursued as last year, and I inclose copy of a letter which I have caused to be written to the Lords Commissioners of the Admiralty, requesting them to issue instructions accordingly to the officers commanding Her Majesty's ships.

I have, &c.  
(Signed) KIMBERLEY.

No. 119.

*Sir E. Thornton to Earl Granville:—(Received June 11.)*

(No. 362.)

My Lord,

*Washington, May 30, 1872.*

I HAVE the honour to inclose an extract from the "National Republican" of this morning, from which it would appear the Association of New England Fish and Salt Dealers held a meeting at Boston yesterday, and on the supposition that the supplementary Article recommended by the Senate would be accepted by Her Majesty's Government, passed a Resolution, requesting Congress to enact the necessary laws for carrying out the fishery Articles of the Treaty.

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

No. 120.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 18, 1872.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, forwarding a copy of a Resolution passed by the fish dealers of Boston in favour of the Bill for carrying out the provisions of the Treaty of Washington in regard to fisheries.\*

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

No. 121.

*Sir E. Thornton to Earl Granville.—(Received June 22.)*

(No. 414.)

My Lord,

Washington, June 10, 1872.

I HAD the honour to receive a few days ago from the Governor-General of Canada a despatch announcing the capture of an American vessel, the "Euola C.," of Gloucester, Massachusetts, which had been found fishing within the three miles limit on the coast of Canada, in Trinity Bay. It would appear that the proofs were as strong as they could be, that the crew of the vessel were actually engaged in fishing close to the shore.

I have now the honour to inclose an extract from one of the New York newspapers, from which it appears that one of the crew had arrived at Gloucester and had made an affidavit, in which he declared that the vessel had not been, and was not, fishing in shore; and further, that the crew were made to believe by the Captain of the capturing cutter that, as the Treaty had been accepted by the Canadian Parliament, the in-shore fisheries were open to American fishermen.

As a great share of the value of the prize is assigned by the laws of Canada to the captors, it is just possible that some of the men belonging to the cutter may have endeavoured to deceive the American fishermen on this point. I have, however, forwarded a copy of the inclosed extract to his Excellency Lord Lisgar.

I have, &amp;c.

(Signed) EDWD. THORNTON.

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 Inclosure in No. 121.
*Extract from "The World" of June 1872.*

THE CAPTURED FISHING-SMACK.—Full details of the seizure of the "Euola"—her captain trapped by a lying Canadian.—*Boston, June 8.*—Samuel Collins, one of the charterers and crew of the fishing schooner "Euola C.," of Gloucester, seized in Trinity Bay by the cutter "Stella Maria" for alleged illegal fishing, arrived at Gloucester yesterday, and has sworn to an affidavit of the particulars of the seizure before Collector Babson, of that port, which has been forwarded to the proper authorities at Washington. The affidavit sets forth the following facts: That the "Euola C." was at anchor, was not fishing, and had not been fishing in shore; that she was boarded by the captain of the cutter "Stella Maria," who engaged in friendly conversation; that Captain Cunningham asked the captain of the cutter in regard to the Treaty, as he would not fish in shore until assured that he had a right to do so; that the captain of the cutter replied that the Treaty had passed Parliament by a large majority, and that in his opinion there would be no trouble in fishing in shore; that the captain of the cutter said his was not a Revenue cutter, but a lighthouse tender, and had nothing to do with the fisheries; that some of the crew boarding the cutter asked what a brass gun was for on board a lighthouse vessel, and were told that it was to be put on Bird Rock as a signal-gun; that acting on these assurances the "Euola C." proceeded to fish, and the next day the captain of the cutter came down stream and laid in ambush, as he afterwards informed them, from noon until six o'clock in the evening waiting for the wind to die away so that the schooner could not escape, when with three Indians and seven white men, all armed, he came alongside and boarded the schooner; that he then read his Commission and took charge of the vessel, ordering one of his men to the wheel; that when charged with his duplicity by Captain Cunningham, he replied that he had no right to give Americans information; that they must look out for themselves. The schooner was taken to Father Point; telegrams were exchanged with the authorities at Ottawa, and the schooner was towed to Quebec by the steamer "Druid."

No. 122.

*Mr. Holland to Mr. Hammond.—(Received June 22.)*

(Confidential.)

Sir,

Downing Street, June 22, 1872.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, the inclosed copies of a correspondence conducted by telegraph, in cypher,

between his Lordship and the Governor of Newfoundland and Lieutenant-Governor of Prince Edward Island respecting the continuance of the admission of American fishermen to the provisional use of the fisheries of those islands, in the event of the postponement of the Washington Treaty Arbitration.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 122.

*The Earl of Kimberley to Governor Hill.\**

(Telegraphic.)  
(Confidential.)

*Downing Street, June 14, 1872.*

WE are asked on Monday in Parliament whether American fishermen will continue to have provisional use of fisheries of Newfoundland in event of postponement of Washington Treaty Arbitration. We propose to answer that permission was given to use fisheries provisionally last season, but no application has been made for such permission during present season, and it has not been renewed. Telegraph whether answer is correct.

Inclosure 2 in No. 122.

*Governor Hill to the Earl of Kimberley.*

(Telegraphic.)

*June 15, 1872.*

Americans now fishing in (Trinity) Bay, south coast of Newfoundland; this Government gave them leave notwithstanding postponement of Treaty. (See) Minute of Council in my (despatch) No. 55 of last year.

Inclosure 3 in No. 122.

*Lieutenant-Governor of Prince Edward Island to the Earl of Kimberley.*

(Telegraphic.)

*June 19, 1872.*

The answer you propose to give in Parliament is quite correct. Broken cable cause of delay in answering.

No. 123.

*Mr. Holland to Mr. Hammond.—(Received June 24.)*

Sir,

*Downing Street, June 22, 1872.*

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada reporting the seizure of the United States' fishing vessel "Euola C.," for an infraction of the fishery laws of the Dominion.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 123.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

*Government House, Ottawa, June 1, 1872.*

I HAVE the honour to inclose, for your Lordship's information, a copy of a telegraphic message which has been received by the Department of the Minister of Marine and Fisheries, reporting the seizure on the 29th May of the United States' fishing vessel

\* A similar telegram was sent to the Lieutenant-Governor of Prince Edward Island.

"Euola C." of Gloucester, Massachusetts, for an infraction of the fishery laws of the Dominion of Canada.

I have, &c.  
(Signed) LISGAR.

Inclosure 2 in No. 123.

*Commander Lachance to Mr. Mitchell.*

(Telegraphic.)

*Ottawa, May 31, 1872.*

ARRIVED here with American fishing schooner "Euola C.," Captain Richard Cunningham, owned by Smith and Gal of Gloucester, Massachusetts; 65 tons register, and 12 men; captured one and three quarter miles from shore at Trinity Bay, north shore, on evening of 29th May, having at time his half-mile long trawls set in Trinity Bay some hundred yards from shore, besides having fished before eight of us, myself included; besides trawls four or five lines close on shore, further line being 300 yards from shore and current fifty. He acknowledges he was wrong; never suspected my schooner to be a cutter, says he has nothing in defence. When vessel captured it was calm. Four men were on shore raising the two above-mentioned lines; both came alongside the vessel having two large live halibut; got the boats on board and took charge.

No. 124.

*Mr. Herbert to Mr. Hammond.—(Received June 25.)*

Sir,

*Downing Street, June 25, 1872.*

I AM directed by the Earl of Kimberley to request that you will lay before Earl Granville the accompanying draft of a letter which, with Lord Granville's concurrence, Lord Kimberley proposes to cause to be addressed to the Lords Commissioners of the Admiralty, with respect to the enforcement, against the American fishermen, of the fishery laws of Prince Edward Island.

If Lord Granville concurs in the term of this draft, Lord Kimberley presumes that his Lordship will communicate the purport of it to the Government of the United States, in such manner and with such explanations as he may deem expedient.

As it is desirable that a communication should be addressed to the Admiralty at the earliest possible moment, I am to request that Lord Granville's views on this subject may be intimated to this Department, if possible, to-day.

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

Inclosure in No. 124.

*Proposed Letter to the Secretary to the Admiralty.*

Sir,

*Downing Street, June , 1872.*

I AM directed by the Earl of Kimberley to acquaint you, for the information of the Lords Commissioners of the Admiralty, that his Lordship has received a telegram from the Governor of Prince Edward Island, on the subject of the enforcement of the fishery laws of that Colony.

The Governor calls attention to the instructions which have been issued to Her Majesty's cruisers for the present season, and states that, while his Ministers desire to act in harmony with the views of Her Majesty's Government, they are of opinion that the privileges of fishing on the coast of Prince Edward Island should not be conceded to the American fishermen until the United States' Government shall have carried into effect the arrangement in pursuance of which the American fishermen were provisionally admitted to the use of the fisheries of Prince Edward Island during the season of 1871, namely, the refund of the duties levied during that season upon fish and fish oil imported from the Colony into the United States.

In the case of the Dominion of Canada the instructions to the commanders of Her Majesty's ships are, as their Lordships will recollect, the same as those issued last year, and direct them to abstain from active measures to enforce the fishery laws, but to assist in preserving order, and to protect the Colonial Revenue cruisers from armed interference.

Such instructions are, however, inapplicable to the case of Prince Edward Island, inasmuch as that Colony does not possess Revenue vessels, and considering all the circumstances, and especially that the Government of Prince Edward Island cannot reasonably be expected to continue to permit the provisional use of their fisheries by the American fishermen, whilst the condition on which this privilege was conceded last year remains unfulfilled, Her Majesty's Government are of opinion that, it will be right that Her Majesty's cruisers should, during the present season, perform the duty of preventing encroachment on the fisheries of Prince Edward Island within the three miles limit.

I am, therefore, to request that instructions may be given to the officers commanding Her Majesty's ships as regards the protection of the Prince Edward Island fisheries, similar to those issued for the protection of the North American fisheries generally by Admiral Wellesley in 1870, as modified by the Memorandum issued by him on the June 25 of that year.

Their Lordships will understand that no alteration is to be made in the instructions which have been given as regards the fisheries of the Dominion of Canada.

I am to add that a telegram has been received from the Governor of Newfoundland, from which it appears that the Americans are fishing on the south coast of that Colony, the Colonial Government having given them leave to do so, although the Treaty of Washington has not yet come into operation.

I am, &c.

No. 125.

*Earl Granville to Sir E. Thornton.*

(No. 282.)

Sir,

*Foreign Office, June 26, 1872.*

WITH reference to my despatch No. 110 of the 26th of March, relative to the refusal of the United States' Government to take steps with a view to the refunding of duties collected on fish oil and fish imported into the United States from Prince Edward Island, I have to acquaint you that I have been informed by the Colonial Office that a telegram has been received from the Governor of Prince Edward Island, stating that his Ministers are of opinion that the privilege of fishing on the coast of Prince Edward Island should not be conceded to the American fishermen until the United States' Government shall have carried into effect the arrangement, in pursuance of which the American fishermen were provisionally admitted to the use of those fisheries during the season of 1871, namely, the refund of the duties levied during that season upon fish and fish oil imported from the Colony into the United States.

Her Majesty's Government cannot contest the justice of the position thus assumed by the Government of Prince Edward Island, and as that Colony does not possess Revenue vessels by which its fishery laws can be enforced, they have thought it right to send instructions to the officers commanding Her Majesty's ships, as regards the protection of the Prince Edward Island fisheries, similar to those issued for the protection of the North American fisheries generally by Admiral Wellesley, in 1870, as modified by the Memorandum issued by him on the 25th of June of that year, of which a copy was forwarded to you in my despatch, No. 18, of the 18th of July, 1870.

I inclose, for your information, a copy of a letter from the Colonial Office to the Admiralty, on the subject, and I have to instruct you to inform the United States' Government of the course which Her Majesty's Government have been forced to adopt in consequence of the non-fulfilment of the condition on which the provisional use of the fisheries was cancelled by the Governor of Prince Edward Island.

No alteration will be made in the instructions which have been given to the commanders of Her Majesty's ships, as regards the fisheries of the Dominion of Canada.

I am, &c.

(Signed) GRANVILLE.

No. 126.

*Mr. Hammond to Mr. Herbert.*

Sir,

*Foreign Office, June 26, 1872.*

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 25th instant, inclosing the draft of a letter which Lord Kimberley proposes to address to

the Lords Commissioners of the Admiralty, with respect to the enforcement, against American fishermen, of the fishery laws of Prince Edward Island; and I am, in reply, to express to you Lord Granville's concurrence in the above-mentioned letter.

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

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No. 127.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, June 26, 1872.*  
WITH reference to your letter of the 22nd instant, I am directed by Earl Granville to transmit to you, to be laid before Lord Kimberley, the accompanying copy of a despatch from Her Majesty's Minister at Washington, upon the subject of the seizure of the fishing schooner "Euola C.," in Trinity Bay.

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

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No. 128.

*Mr. Holland to Mr. Hammond.—(Received July 8.)*

Sir, *Downing Street, July 6, 1872.*  
WITH reference to previous correspondence respecting the seizure of the United States' fishing-vessel "Euola C.," I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, copies of two despatches received from the Governor-General of Canada with regard to this vessel.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure 1 in No. 128.

*Lord Lisgar to the Earl of Kimberley.*

My Lord, *Montreal, June 18, 1872.*  
REFERRING to my despatch of June 1st on the subject of the seizure of the United States' fishing-vessel "Euola C.," I have now the honour to transmit herewith a certified copy of the deposition of the officer of the marine police cruiser "Stella Marie," who made the capture.

A copy of this deposition has been forwarded to Her Majesty's Minister at Washington.

I have, &c.  
(Signed) LISGAR.

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Inclosure 2 in No. 128.

*Deposition of Commander Lachance.*

In the Admiralty Court, Quebec.

THE Honourable Sir John Alexander Macdonald, Knight, Commander of the Most Honourable Order of the Bath, Attorney-General to Our Sovereign Lady the Queen for the Dominion of Canada, for and on behalf of Our said Lady the Queen, against the ship or vessel "Euola C.," whereof one Richard Cunningham was master, her tackle, apparel, and furniture, and also against the fish, fishing-tackle, nets, &c., appeared personally Commander Louis Honorious Lachance, commanding the Dominion armed schooner "Stella Marie," and made oath—

That on the 29th day of May last, while the said schooner "Stella Marie," under the command of this deponent, was cruising for the protection of the fisheries, and at the place called Trinity Bay, on the north shore of the River St. Lawrence, at or about 5 o'clock in afternoon of the said day, this deponent discovered, within a distance of two miles from the shore, the said schooner "Euola C." under sail at or about two miles east-south-east from

the said bay, with eight or nine trawling-lines, "trawlers" set, and several of her crew hauling in the said lines with halibut, and throwing it on the said schooner's deck. This deponent then boarded the said schooner, and asked for the papers belonging to the said vessel. The master and twelve men composed the crew of the said schooner, which was fitted out for fishing and provided with everything necessary.

The master pleaded no excuse, but requested this deponent to let his vessel go for this time.

This deponent then ordered part of the crew of the said "Euola C." on board the Dominion schooner "Stella Maric," and after putting a prize crew on board of the former, set sail for Quebec, where the said vessel was duly handed over to J. U. Gregory, Esquire, the officer designated by the Minister of Marine and Fisheries at this port Agent, of the Minister of Marine and Fisheries, and is now lying at anchor in harbour of Quebec opposite the city of Quebec.

That this deponent took possession of the said schooner, and hereunto annexed is the register or enrolment of the said vessel, issued at the port of Gloucester, in the State of Massachusetts, one of the United States of America, and issued on the 15th day of April, 1872, and bearing the number 77.

And further deponent saith not, and has signed—

(Signed) LOUIS HONORIOUS LACHANCE.

Sworn before me at the City of Québec, this 3rd day of June, 1872.

(Signed) J. DUNBAR, Deputy Registrar.

Inclosure 3 in No. 128.

*Lord Lisgar to the Earl of Kimberley.*

My Lord,

Montreal, June 20, 1872.

WITH reference to my despatches of the 1st and 18th of June, I have the honour to transmit herewith a copy of a Minute of the Privy Council, by which your Lordship will see that the Dominion Government have advised that the United States' fishing-vessel "Euola C." be delivered up to the owner on his giving security in the sum of 2,000 dollars, for penalty and costs incurred since the seizure was made.

A copy of this Minute has been communicated to Sir Edward Thornton at Washington.

I have, &c.

(Signed) LISGAR.

Inclosure 4 in No. 128.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 19th June 1872.*

ON the recommendation, dated 15th June, 1872, from the Honourable the Minister of Marine and Fisheries, the Committee advise that the United States' fishing-schooner "Euola C.," recently seized for illegally fishing in Canadian waters, be delivered up to the owner, on his giving security by bond, with two sureties, in a sum of 2,000 dollars, for penalty and costs and charges incurred since seizure.

Certified,

(Signed) W. H. LEE, Clerk, Privy Council.

No. 129.

*The Secretary to the Admiralty to Mr. Hammond.—(Received July 15.)*

Sir,

Admiralty, July 13, 1872.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State for Foreign Affairs, that Vice-Admiral Fanshawe, the Commander-in-chief on the West Indian station, in a letter

dated the 2nd instant, states that the "Niobe" sailed, on the 22nd June, for Cape Breton, where she will be employed in the protection of the fisheries.

I am, &c.  
(Signed) ROBERT HALL.

No. 130.

*Mr. Holland to Mr. Hammond.—(Received July 15.)*

Sir, *Downing Street, July 13, 1872.*

WITH reference to my letter of the 3rd of October last respecting the seizure of the United States' fishing-schooner "Franklin S. Schenck," I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing a Minute of the Privy Council of the Dominion, notifying the intention of the Canadian Government to restore this vessel to its owners on the payment of a fine of 400 dollars, in addition to all costs and charges.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 130.

*Sir H. Doyle to the Earl of Kimberley.*

My Lord, *Canada, Quebec, June 24, 1872.*

WITH reference to Lord Lisgar's despatch, dated September 13, 1871, and to your Lordship's reply, dated October 3, 1871, I have the honour to inclose, for your information, a copy of an Order of the Privy Council, by which you will see that the Government of the Dominion has decided to release the United States' fishing-vessel "Franklin S. Schenck" to the owners, on the payment of a fine of 400 dollars, in addition to all costs and charges.

I have, &c.  
(Signed) HASTINGS DOYLE.

A copy of the inclosed Order in Council has been communicated to Her Majesty's Minister at Washington.

H, D.

Inclosure 2 in No. 130.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 11th of June, 1872.*

THE Committee of Council have had under consideration the annexed Memorandum, dated 8th June, 1872, from the Honourable the Minister of Marine and Fisheries, on an application from the owners of the United States' fishing-vessel "Franklin S. Schenck," of Rockport, Massachusetts, condemned by the Admiralty Court at Quebec, for illegally fishing in Canadian waters, and about to be sold on the 11th June instant; and for the reasons given in the said Memorandum, they respectfully advise that, under existing circumstances, and inasmuch as the Petitioners admit the offence, and appeal to the leniency of the Government, the said vessel be released to the owners on payment of a fine of 400 dollars, in addition to all costs and charges.

Certified,  
(Signed) WM. H. LEE, *Clerk, Privy Council.*

Inclosure 3 in No. 130.

*Report by Mr. Mitchell.*

*Ottawa, June 8, 1872.*

THE Undersigned has the honour to report, for the information of the Governor-General in Council, that the United States' fishing vessel "Franklin S. Schenck," of Rock-

port, Massachusetts, condemned by the Admiralty Court at Quebec for illegally fishing in Canadian waters, is about to be sold on the 11th instant.

A petition in arrest of sale has been addressed to the Government by Mr. J. W. Bradley, for self and other owners of the vessel, praying also that, for reasons advanced, the forfeited property be restored to them. These reasons are :—

1. That the master and crew having no other interest in the vessel than their hire, in ignorance of the law, and contrary to the express instructions of the owners, attempted to procure bait inshore at Paspébiac roadstead, by lending their nets to Canadian fishermen to fish, on condition of selling the catch to said foreigners.

2. That such fishing was done by and with consent of residents ashore.

3. That other vessels condemned “under similar circumstances” have been since released.

4. That the libel was not contested, and while advancing excuses as aforesaid, the release is asked “not by any colour of right, but simply as an act of mercy.”

Having carefully examined the record in this case, the Undersigned finds :—

1. It is clearly established in evidence that the vessel was seized while in the act of illegally fishing.

2. That the nets (in which were found mackerel and herrings) were actually set and tended by the vessel’s crew alone, and in their own boats.

3. And that the plea of any Canadians having suggested or assisted, or had any interest in the illegal act, is entirely unfounded in fact.

4. When Mr. Aldin B. Gennes, the master, made such excuse on the spot to the seizing officer, he was several times desired and offered assistance while ashore to identify the alleged “native of Paspébiac” to whom the nets were lent, but did not even attempt to do so.

5. The claimants were represented by counsel throughout the trial, although their defence that the fishing was done through resident Canadians was ultimately withdrawn.

6. No vessel captured and condemned “under similar circumstances” has been released.

The instance of the “Samuel Gilbert” is not a precedent, it being in every respect dissimilar to the present.

There are, therefore, no extenuating circumstances whatever, and the owners’ application for lenity should be dealt with solely as an appeal *ad misericordiam*.

It is of some importance to distinctly negative the unsupported statements made by the parties interested in recovering this vessel when disposing of their appeal in official form, as otherwise it might be inferred that the aid or connivance of “British fishermen” in violating the fishing laws is regarded as (in some sense) a condonation of the offence, and may be erroneously understood or afterwards represented as the chief cause of relinquishing the vessel.

The Undersigned respectfully submits, for the consideration of the Governor-General in Council, that under existing circumstances, and inasmuch as the Petition admits the offence, and appeals to the lenity of the Canadian Government, the “Franklin G. Schenck” be released to the owners on payment of a fine of 400 dollars, in addition to all costs and charges.

The whole nevertheless respectfully submitted.

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

No. 131.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 17, 1872.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Her Majesty’s Minister at Washington, in regard to the seizure of an American fishing schooner by the Canadian cruiser “Stella Marie.”

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

No. 132.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 25, 1872.*

WITH reference to my letter of the 17th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a further despatch from Her Majesty's Minister at Washington, in regard to the seizure of an American fishing schooner by the Canadian cruizer "Stella Marie."

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

No. 133.

*The Secretary to the Admiralty to Mr. Hammond.—(Received July 27.)*

Sir,

*Admiralty, July 25, 1872.*

I AM commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of Earl Granville, extracts from a letter of Vice-Admiral Fanshawe, dated the 16th July, relative to the distribution of that portion of his squadron which is employed in protecting the North American fisheries.

I am, &c.  
(Signed) ROBERT HALL.

Inclosure in No. 133.

*Vice-Admiral Fanshawe to the Secretary to the Admiralty.*

(Extract.)

*Halifax, July 16, 1872.*

I DIRECTED the "Niobe" by telegraph to be at Charlotte Town, Prince Edward Island, last night, where she will this morning receive the orders I have given.

The "Plover," having sailed from Jamaica on the 28th June, I am hourly expecting. She will, on her arrival, be employed on the Cape Breton fisheries, and the "Niobe" and "Cherub," if it should not be necessary for the latter to return to Halifax, exclusively on the Gulf of St. Lawrence and Prince Edward Island fisheries.

The "Eclipse" arrived at Sydney, Cape Breton, on the 13th for coal, and sails on the 17th, to resume her duties on the Newfoundland and Labrador coast, where the "Lapwing" is also stationed.

No. 134.

*Sir E. Thornton to Earl Granville.—(Received July 28.)*

(No. 466.)

My Lord,

*Washington, July 13, 1872.*

ON the receipt of your Lordship's despatch No. 282 of the 26th ultimo, announcing that United States fishermen will not be allowed to fish in the waters of Prince Edward Island, I addressed a note, dated the 10th instant, to Mr. Hale, Acting Secretary of State, embodying the substance of your Lordship's above-mentioned despatch.

I have not as yet received any answer from Mr. Hale to my note, nor, when I saw him at the State Department on the 11th instant, did he make any remarks upon its contents. I am inclined, however, to think that he is awaiting the arrival of Mr. Fish, who is expected here on the 16th instant.

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

No. 135.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, July 30, 1872.*  
 WITH reference to your letter of the 25th ultimo, I am directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton, reporting that he has informed the Government of the United States that the fishermen of that country will not be allowed to fish in the waters of Prince Edward Island.

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

No. 136.

*Mr. Meade to Mr. Hammond.*

(Confidential.)

Sir, *Downing Street, July 30, 1872.*  
 I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Lieutenant-Governor of Prince Edward Island inclosing a Minute of Council, from which it will be seen that the Local Government are prepared to admit fishermen of the United States to the fisheries of the island, on the request of Her Majesty's Government, provided a sufficient guarantee be given for the refund of the duties paid last year.

Lord Kimberley proposes, if Lord Granville concurs, to express satisfaction at the offer made, but to state that Her Majesty's Government do not think it advisable now to take any steps in the matter, as the fishery of this year will soon come to a close.

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

Inclosure 1 in No. 136.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Confidential.)

My Lord, *Government House, July 10, 1872.*  
 REFERRING to my Confidential despatch of the 29th ultimo, I have the honour to submit a copy of the Minute of Council on which my cypher telegram to your Lordship of the 19th June was based.

2. Thinking it probable that, in view of the ratification of the fishery sections of the Treaty by the several Legislatures concerned, the United States may apply for a renewal of the provisional arrangement of last summer, and feeling sure that in such event your Lordship would be glad to be furnished beforehand with the opinion and wishes of my Government in the matter, I requested Mr. Haythorne, in a letter of which I inclose a copy, to consult his colleagues upon the subject, and now beg leave to forward a Minute of Council, in which it is recommended—

“That the Lieutenant-Governor do, if applied to by the Imperial Government, sanction the renewal of the provisional arrangements by which American fishermen were admitted to the in-shore fisheries of this island during last summer, provided a sufficient guarantee is given for the refund of duties paid last year, and which, under such an arrangement, would become payable this year.”

3. Hoping that I have anticipated your Lordship's wish and instructions.

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

Inclosure 2 in No. 136.

*Minute.**Council Chamber, June 19, 1872.*

AT a Meeting of a Committee of the Executive Council of Prince Edward Island.

Present :

Hon. Jno. Haythorne.  
 Mr. Attorney-General.  
 Mr. Sinclair.  
 Mr. Muirhead.  
 Mr. Robertson.

The following Minute or Address was presented to his Honour the Lieutenant Governor :—

“To his Honour William Cleaver Francis Robinson, Esq., Lieutenant-Governor, &c.

“In view of the present aspect of the Fishery Question, the Committee of the Executive Council consider that, while it would be inexpedient absolutely to withdraw the privileges conceded to United States' fishermen by the Order in Council of July 24, 1871, so far as the right of entry at the Customs, the purchase of supplies, and transhipment of cargoes are concerned, yet, taking into consideration the fact that the duties paid last year in United States' ports on Colonial fish, after the issue of the said Order in Council, have not yet been refunded, according to the engagement entered into by Mr. Fish (see the correspondence, page 10), they cannot recommend that the privilege of fishing within the three miles line be conceded during the present season, unless satisfaction be given relative to the refund of duties paid last year.”

Certified :

(Signed)

WILLIAM C. DES BRISAY,

*Assistant Clerk, Executive Council.*

Inclosure 3 in No. 136.

*Lieutenant-Governor Robinson to Mr. Haythorne.*

My dear Sir,

*Government House, June 26, 1872.*

I HAVE received and will forward by next mail, a copy of your Minute, on which my cypher telegram to the Secretary of State, of the 19th instant, was based.

Agreeing with you, as I do, that the privilege of fishing within the three miles line should not be again conceded to the United States until satisfaction be given relative to the refund of last year's duties, I have much pleasure in informing you that I have this day received a telegram from Lord Kimberley, as under:—

“Admiralty have been requested to send instructions for protection of Prince Edward Island fisheries.”

But it occurs to me to be very probable that, in view of the approaching ratification of the fishery sections of the Treaty by the several Legislatures concerned, the United States will apply for a renewal, during the present season, of the privileges which were granted to them last year; and I am inclined to think that it would be to our advantage to acquiesce in such a proposal, provided it came to us accompanied by some guarantee that the duties referred to will be eventually forthcoming.

I know that Mr. Hall and others interested in the fishery business do not like the prospect of having to pay the duty of 2 dollars per barrel on whatever fish they may send to the United States this year, and that they would be very glad to see the provisional arrangement of last year renewed for the present season.

Should any proposal of the kind be made by the United States, it would have to come to us through the Colonial Office, and I should therefore like to furnish the Secretary of State beforehand with the wishes of my Government in the matter.

Will you kindly consult your colleagues, and let me know whether, should the United States propose a renewal of the provisional arrangement of last summer, accompanied by a guarantee as to the refund of duties, you would be prepared to acquiesce in such proposal.

Believe, &amp;c.

(Signed)

WILLIAM ROBINSON,

## Inclosure 4 in No. 136.

*Extract from an Approved Minute of the Executive Council of Prince Edward Island.*

*Council Chamber, July 10, 1872.*

AT a Meeting of a Committee of the Executive Council,

Present :

Honourable Jno. Haythorne.  
 „ Mr. Attorney-General.  
 „ Mr. Sinclair.  
 „ Mr. MacLean.  
 „ Mr. Muirhead.

Read a letter from the Lieutenant-Governor to the President of the Council. Whereupon the Committee recommend that his Honour the Lieutenant-Governor do, if applied to by the Imperial Government, sanction the renewal of the provisional arrangements, by which American fishermen were admitted to the in-shore fisheries of this island during last summer—provided a sufficient guarantee is given for the refund of duties paid last year, and which, under such an arrangement, would become payable this year.

Certified.

(Signed) WILLIAM C. DES BRISAY,  
*Assistant Clerk, Executive Council.*

No. 137.

*Mr. Herbert to Mr. Hammond.—(Received August 1.)*

Sir,

*Downing Street, July 31, 1872.*

I AM directed by the Earl of Kimberley to request that you will inform Earl Granville, with reference to your letter of the 26th instant, that the Lords Commissioners of the Admiralty have given the necessary instructions for the protection of the fisheries of Prince Edward Island during the present season.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 138.

*Sir E. Thornton to Earl Granville.—(Received August 4.)*

(No. 478.)

My Lord,

*Washington, July 22, 1872.*

WITH reference to your Lordship's despatch No. 282 of the 26th ultimo, I have the honour to inclose copy of a note which, in compliance with the instructions contained in that despatch, I addressed to Mr. Hale, Acting Secretary of State, embodying its contents.

I have now received an answer from Mr. Fish, copy of which is also inclosed. Your Lordship will perceive that Mr. Fish denies that there was any engagement on the part of the United States to refund the duties on fish imported from Prince Edward Island since American fishermen were allowed to fish in the waters of that island, and maintains that the proposal made in his note of May 8, 1871, referred only to the case of United States' citizens being allowed to fish in all the waters of Canada.

I have not thought it expedient to enter into a discussion upon this point without further instructions from your Lordship, but as the tone of Mr. Fish's note seemed rather ungracious, I took the opportunity in my answer, copy of which is also inclosed, of assuring him that Her Majesty's Government had no intention of doing anything which was not in accordance with justice or might cause unnecessary irritation, but of reminding him at the same time that the United States' Government could contribute to the prevention of disagreement by inducing the citizens not to encroach upon waters to which they were not admitted, owing to the failure of Congress to legislate upon the matter.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 1 in No. 138.

*Sir E. Thornton to Mr. Hale.*

Sir,

*Washington, July 10, 1872.*

IN compliance with an instruction which I have received from Earl Granville, I have the honour to state that the Government of the United States, having declined to take steps with a view to the refunding of duties collected on fish oil and fish imported into the United States from Prince Edward Island, his Lordship has been informed by the Colonial Office that a telegram has been received from the Governor of Prince Edward Island, stating his Ministers are of opinion that the privilege of fishing on the coast of Prince Edward Island should not be conceded to the American fishermen until the United States' Government shall have carried into effect the arrangement, in pursuance of which the American fishermen were provisionally admitted to the use of the fisheries during the season of 1871, namely, the refunding of the duties levied during that season upon fish and fish oil imported from the Colony into the United States.

Her Majesty's Government cannot contest the justice of the position thus assumed by the Governor of Prince Edward Island, and as that Colony does not possess revenue vessels by which its fishery laws can be enforced, they have thought it right to send instructions to the officer commanding Her Majesty's ships, as regards the protection of the Prince Edward Island fisheries similar to those issued for the protection of the North American fisheries generally by Admiral Wellesley in 1870, as modified by the Memorandum issued by him on the 25th of June of that year.

Such is the course which I am instructed to inform the Government of the United States, Her Majesty's Government have been forced to adopt in consequence of the non-fulfilment of the condition on which the provisional use of the fisheries was conceded by the Governor of Prince Edward Island.

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

Inclosure 2 in No. 138.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, July 18, 1872.*

I HAVE the honour to acknowledge the receipt of your note of the 10th instant, in which, referring to a supposed arrangement, in pursuance of which American fishermen are provisionally admitted to exercise their employment on the coast of Prince Edward Island, you state that the Government of that Island was of the opinion that that privilege should not be further enjoyed until this Government shall have refunded the duties which have been levied upon fish and fish oil imported from that Colony into the United States.

In reply, I have the honour to state that I am not aware of any such arrangement as that to which you refer. It is true that, in the note of the 8th of May, 1871, addressed to you by this Department, it was suggested that, as the legislation required to carry into effect the Treaty of Washington could not take place until after the fishing season then near at hand, the privileges promised by the Treaty should be at once be granted to United States fishermen upon the condition that the President should recommend to Congress the refunding of any duties upon fish and fish oil of certain British Colonies imported into this country after the 1st day of July then next ensuing.

In the note of the 24th of November last, addressed by this Department to Mr. Pakenham, he was informed that, in regard to this subject, the United States deals with Great Britain, and that the proposition made in May of that year contemplated the united action of all the British Colonies. Why that proposition, even if so far accepted by the Government of Prince Edward Island has to abstain during the last season from molesting fishermen of the United States should still be termed an arrangement, it is difficult to understand.

It further appears from your note that Her Majesty's Government approves of the course in this matter which has been taken by the Governor of Prince Edward Island, and has issued orders for the protection of the fisheries of that island.

The concluding paragraph of your note assigns as a reason for the decision of Her Majesty's Government on the subject, the failure by this Government to fulfil the conditions upon which the provisional use of the fisheries of that island was granted.

I will not repeat that, as there seems to be an unaccountable misconception of the

obligations assumed by this Government, the reason assigned for enforcing what are termed the fishery laws on the coasts of Prince Edward Island, cannot be allowed to have any weight.

It is hoped, however, that in carrying that measure into effect, a spirit of justice and forbearance will be made apparent, so that unnecessary and unprofitable irritation upon the subject may be avoided.

I have, &c.  
(Signed) HAMILTON FISH.

Inclosure 3 in No. 138.

*Sir E. Thornton to Mr. Fish,*

Sir, *Washington, July 19, 1872.*  
I HAVE the honour to acknowledge the receipt of your note of yesterday's date, relative to the fisheries in the waters of Prince Edward Island, and I shall not fail to forward a copy of it to Earl Granville.

In the meantime I beg leave to assure you that the wishes and instructions of Her Majesty's Government are to the effect that due justice and forbearance should be exercised in the protection of the fisheries in those waters, to the use of which foreign fishermen are not admitted, in the pursuit of their calling, and that all unnecessary cause of irritation should be avoided.

I am at the same time confident that the Government of the United States will, on its part, contribute towards preventing all grounds of dispute by doing its utmost to induce its citizens to abstain from fishing in those waters, for their admission to which the necessary legislation has not yet been carried out by the Congress of the United States.

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

No. 139.

*Mr. Hammond to Mr. Herbert,*

Sir, *Foreign Office, August 7, 1872.*  
WITH reference to your letter of the 25th of June, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch for Her Majesty's Minister at Washington, in regard to the non-admission of American fishermen to the fisheries off Prince Edward Island.\*

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

No. 140.

*Earl Granville to Sir E. Thornton.*

(No. 328. Confidential.)

Sir, *Foreign Office, August 8, 1872.*  
I INCLOSE for your information a copy of a letter from the Colonial Office, relative to a proposal made by the Government of Prince Edward Island to admit American fishermen to their fisheries, on a guarantee being given for the refund of the duties.†

I have expressed to Lord Kimberley my concurrence in the answer which he proposed to give to the Governor of Prince Edward Island, to the effect that it is not advisable to take any steps in the matter at this late period of the fishing season.

I am, &c.  
(Signed) GRANVILLE.

No. 141.

*Mr. Hammond to Mr. Meade.*

(Confidential.)

Sir,

*Foreign Office, August 8, 1872.*

I HAVE laid before Earl Granville your letter of the 30th ultimo relative to the proposal made by the Government of Prince Edward Island to admit United States' fishermen to the fisheries of the Island on the request of Her Majesty's Government, provided a sufficient guarantee be given for the refund of the duties paid last year; and I am directed by his Lordship to state to you that he concurs in the answer which the Earl of Kimberley proposes to address to the Governor of Prince Edward Island on the subject, to the effect that it is not advisable to take any steps in the matter as the fishery season will soon close.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 142.

*Mr. Hammond to Mr. Herbert.*

(Immediate.)

Sir,

*Foreign Office, November 27, 1872.*

I AM directed by Earl Granville to transmit to you the accompanying draft of a despatch, which his Lordship proposes to address to Sir E. Thornton, instructing him to call the attention of the Government of the United States to the importance of provision being made during the ensuing Session of Congress for the execution of the several Articles of the Treaty of Washington relating to the fisheries and other matters affecting the British North American Provinces; and I am to request that, in laying the same before the Earl of Kimberley, you will move his Lordship to cause Lord Granville to be informed whether this draft meets with his concurrence.

I am also to request that a copy of the Act of the Legislature of Prince Edward Island, mentioned in it, may be furnished for transmission to Sir E. Thornton, and that directions may be given for the Canadian Act, of which it is believed that there are no spare copies in the possession of Her Majesty's Government, to be forwarded to him from Canada.

↓ I am to add that it is desirable that the despatch to Sir E. Thornton, if concurred in by Lord Kimberley, should be sent to Washington by the mail of the 30th instant.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 143.

*Mr. Herbert to Mr. Hammond.—(Received November 30.)*

Sir,

*Downing Street, November 29, 1872.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 27th instant, inclosing the draft of a despatch which Earl Granville proposes to address to Sir E. Thornton in regard to the mode of procedure with respect to certain Articles of the Treaty of Washington affecting the British North American Provinces.

Lord Kimberley desires me to request that you will inform Earl Granville that his Lordship concurs in this draft, and to state that the Governor-General of Canada will be instructed by telegram to send Sir E. Thornton a copy of the Act passed by the Canadian Legislature during its last Session, relating to the Treaty of Washington.

I am desired to inclose, for transmission to Sir E. Thornton, a transcript of the Act of the Legislature of Prince Edward Island relating to the Treaty.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

*Earl Granville to Sir E. Thornton.*

(No. 412.)

Sir,

*Foreign Office, November 29, 1872.*

AS the Houses of Congress are about to reassemble, I have to instruct you to call Mr. Fish's attention to the importance of provision being made during the ensuing Session for the execution of the several Articles of the Treaty of Washington relating to the fisheries, and other matters affecting the British North American Provinces.

It is stipulated by the XXXIIIrd Article that these Articles are to take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other.

The necessary laws have been passed by the Parliament of Canada, and also by the Legislature of Prince Edward Island, and the Parliament of Great Britain.

Copies of the Prince Edward Island and British Acts are inclosed, and a copy of the Canadian Act will be forwarded to you from Canada.

You will see that the British Act is to come into operation as soon as the necessary laws have been passed by Congress.

It now rests with Congress to pass those laws; and, when this has been done, it will for the two Governments to consider the appointment of Commissioners, under the XXIIrd Article of the Treaty, to determine the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the fishery privileges accorded to the citizens of the United States, under the XVIIIth Article.

The XXIIIrd Article provides that these Commissioners "shall be appointed in the following manner, that is to say: one Commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary."

The date when this Article will take effect will be the date of the coming into operation of the last of the enactments required, and will practically depend upon the action of Congress.

As soon as the time arrives, Her Majesty's Government will be prepared to recommend to Her Majesty a fitting person to be named as Commissioner on her part; and they do not doubt that the Government of the United States will have also selected some one to act as their Commissioner. Until then, no official communication can take place as to the appointment of the third Commissioner, but Her Majesty's Government think that it would be well that you should, in the meanwhile, confer with Mr. Fish, informally, on the matter.

Her Majesty's Government consider it requisite that the third Commissioner, if not a British subject or United States' citizen, should have a knowledge of the English language, so that the proceedings might be conducted entirely in the English, and that he should be a person whose position and experience in affairs would entitle his decision to respect in the British North American Provinces, and in the United States.

I am, &c.

(Signed) GRANVILLE.

*Mr. Hammond to Mr. Herbert.*

Sir,

*Foreign Office, December 2, 1872.*

WITH reference to my letter of the 27th instant, I am directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship presumes that the case to be presented to the Fishery Commissioners has already been prepared, or is in preparation by the Government of the Dominion of Canada, but as he is anxious to afford any assistance which this Department can supply he would be glad if Lord Kimberley would inquire of the Government of the Dominion whether any papers,

maps, or memoranda relating to the fisheries are required to be furnished from the Foreign Office.

The Government of the Dominion will no doubt communicate direct with Sir E. Thornton respecting any information which they may desire to procure from Her Majesty's Legation at Washington.

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

No. 146.

*Mr. Pennell to Mr. Currie.—(Received December 13.)*

My dear Sir.

*Colonial Office, December 13, 1872.*

HOLLAND has asked me to send you the inclosed copies of the Canadian Act, 35 Vict., cap. 2, "relating to the Treaty of Washington."

We have just received these spare copies from Canada.

I am, &c.  
(Signed) E. B. PENNELL.

Inclosure in No. 146.

*An Act relating to the Treaty of Washington, 1871.*

WHEREAS by Article XXXIII of the Treaty between Her Majesty and the United States of America, signed at the city of Washington on the 8th day of May, 1871, it is provided that Articles XVIII to XXV inclusive, relating to the fisheries, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island, on the one hand, and by the Congress of the United States on the other, and that such assent having been given, the said Articles shall remain in force for the term of years mentioned in the said Article XXXIII; and whereas it is expedient that the laws required to carry the said Treaty into effect as respects Canada, should be passed by the Parliament of the Dominion: therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Act of the Parliament of Canada passed in the thirty-first year of Her Majesty's reign, cap. 61, intituled, "An Act respecting Fishing by Foreign Vessels," and the Act of the said Parliament passed in the thirty-third year of Her Majesty's reign, cap. 15, intituled, "An Act to amend the Act respecting Fishing by Foreign Vessels,"—and the Act of the said Parliament passed in the thirty-fourth year of Her Majesty's reign, cap. 23, intituled, "An Act further to amend the Act respecting Fishing by Foreign Vessels,"—and the 94th chapter of the Revised Statutes of Nova Scotia (third series), intituled "Of Coast and Deep-Sea Fisheries,"—and the Act of the Legislature of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, cap. 35, amending the same,—and the Act of the Legislature of New Brunswick, passed in the sixteenth year of Her Majesty's reign, cap. 69, intituled, "An Act relating to the Coast Fisheries, and for the preventing of Illicit Trade," so far as the said Acts of the Legislatures of Nova Scotia and New Brunswick, respectively, apply to any case to which the said Acts of the Parliament of Canada apply, shall be and are hereby suspended as respects vessels and inhabitants of the United States of America engaged in taking fish of every or any kind except shell-fish, on the sea coasts and shores, and in the bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, as shall also all Acts, laws or regulations (if any) over which the Parliament of Canada has control, which would in any wise prevent or impede the full effect of the said Article XVIII.

2. Fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the United States, shall be admitted into Canada free of duty.

3. Goods, wares, and merchandize arriving at any of the ports of Canada, and destined for the United States of America, may be entered at the proper Custom-house, and conveyed in transit, without the payment of duties, through Canada, under such rules, regulations, and conditions for the protection of the Revenue, as the Governor in Council may from time to time prescribe, and under like rules, regulations, and conditions, goods, wares, and merchandize may be conveyed in transit, without payment of duties from the

United States through Canada, to other places in the United States, or for export from ports in Canada.

4. Citizens of the United States may carry in United States' vessels, without payment of duty, goods, wares, and merchandize from one port or place in Canada to another port or place in Canada, provided that a portion of such transportation is made through the territory of the United States by land carriage, and in bond, under such rules and regulations as may be agreed upon between the Government of Her Majesty, and the Government of the United States.

5. The foregoing sections of this Act shall come into force upon, from, and after a day to be appointed for that purpose by a Proclamation based upon an order of the Governor in Council, and shall remain in force during the term of years mentioned in Article XXXIII of the said Treaty.

No. 147.

*Mr. Holland to Mr. Hammond.—(Received February 3.)*

Sir,

*Downing Street, February 1, 1873.*

WITH reference to your letter of the 2nd of December, I am directed by the Earl of Kimberley, to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing a Report of a Committee of the Privy Council, expressing the wish of the Canadian Government to be furnished with any documents or information in the possession of Her Majesty's Government bearing on the questions to be submitted to the Commissioners appointed under the XXIIInd Article of the Treaty of Washington.

Any papers in the possession of this office, which may be of use to the Canadian Government, and can properly be furnished to them, will be duly supplied.

I am, &c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 147.

*Governor-General the Earl of Dufferin to the Earl of Kimberley.*

My Lord,

*Montreal, January 13, 1873.*

I HAVE the honour to inclose a copy of an approved Report of a Committee of the Privy Council, requesting me to apply to your Lordship for any maps, memoranda, correspondence, or other information that may be in the possession of Her Majesty's Government bearing on the questions relating to the fisheries to be submitted to the Commissioners to be appointed under the XXIIInd Article of the Treaty of Washington.

I have, &c.

(Signed) DUFFERIN.

Inclosure 2 in No. 147.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 10th January, 1873.*

ON the despatches from Earl Granville and the Earl of Kimberley, dated 2nd and 5th ultimo, offering to furnish the Canadian Government with any maps or memoranda relating to the fisheries in connection with the question to be submitted to the Commission to be appointed under the XXIIInd Article of the Treaty of Washington.

The Honourable the Minister of Marine and Fisheries, to whom said despatches have been referred, recommends in his Report of 4th of January, 1873, that application be made through your Excellency for any maps, memoranda, documents, correspondence, or other information, or such portions of them relating to the British American Fisheries, and bearing on the question to be determined by the Commission, which are in the possession of Her Majesty's Government.

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

(Signed)

W. A. HEINSWORTH, *Clerk Privy Council, Canada.*

No. 148.

*Mr. Holland to Mr. Hammond.—(Received February 12.)*

Sir,

*Downing Street, February 11, 1873.*

WITH reference to my letters of the 6th of July and 30th of August, 1872, respecting the cases of the United States' fishing vessels "Euola C." and "James Bliss," I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing an approved Minute of the Privy Council which directs that the sureties given on the release of these vessels be discharged.

I am, &c.

(Signed)

H. T. HOLLAND.

Inclosure 1 in No. 148.

*The Earl of Dufferin to the Earl of Kimberley.*

My Lord,

*Montreal, January 20, 1873.*

WITH reference to the despatches, noted in the margin,\* informing your Lordship that the United States' fishing vessels "Euola C." and "James Bliss," seized for trespassing on the in-shore fisheries of the Dominion, had been liberated under bonds, I have now the honour to inclose, for your information, a copy of an approved Minute of the Privy Council of the Dominion, which directs that the sureties given on the release of these vessels, be discharged.

A copy of this Minute has been communicated to Her Majesty's Minister at Washington.

I have, &c.

(Signed)

DUFFERIN.

Inclosure 2 in No. 148.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 13th January, 1873.*

ON a Memorandum dated 8th January, 1873, from the Honourable the Minister of Marine and Fisheries, recommending to the favourable consideration of Council that the sureties given on the release of the American fishing schooner "James Bliss," and "Euola C.," condemned for trespassing on the in-shore fisheries of Canada, be discharged, all costs incurred having been paid—

The Committee submit the above recommendation for your Excellency's approval.

Certified,

(Signed)

W. A. HEINSWORTH,

*Clerk, Privy Council.*

No. 149.

*Sir E. Thornton to Earl Granville.—(Received February 20.)*

(No. 48.)

My Lord,

*Washington, February 3, 1873.*

I HAVE the honour to inform your Lordship that on the 1st instant General Banks, Chairman of the Committee on Foreign Relations, gave notice in the House of Representatives that on Thursday next, the 6th instant, he would ask the House to consider the Bill

\* Lord Lisgar, June 28; Lord Dufferin, August 16, 1872.

to carry into effect the provisions of the Treaty between the United States and Great Britain signed at Washington on May 8, 1871, relating to the fisheries.

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

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No. 150.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, February 21, 1873.*  
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Her Majesty's Minister at Washington upon the subject of the Fishery clauses of the Treaty of Washington.\*

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

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No. 151.

*Mr. Holland to Mr. Hammond.—(Received February 22.)*

Sir, *Downing Street, February 21, 1873.*  
WITH reference to your letter of the 2nd December, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch which his Lordship has addressed to the Governor-General of Canada, instructing him to send home, for consideration, the case to be prepared by the Canadian Government for presentation to the Commissioners to be appointed under the XXIIInd Article of the Treaty of Washington.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure in No. 151.

*The Earl of Kimberley to the Earl of Dufferin.*

My Lord, *Downing Street, February 20, 1873.*  
WITH reference to my despatch of the 5th of December last, inclosing a copy of a letter from the Foreign Office, respecting the preparation of the case to be presented to the Commissioners to be appointed under the XXIIInd Article of the Treaty of Washington, I have to request that the case, when prepared, may be sent home for the consideration and concurrence of Her Majesty's Government.

I have, &c.  
(Signed) KIMBERLEY.

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No. 152.

*Sir E. Thornton to Earl Granville.—(Received February 27.)*

(Telegraphic.) *Washington, February 27, 1873.*  
CANADIAN Fisheries' Bill has been passed by Congress, but with condition not to come into force till 1st of July next.

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No. 153.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, February 27, 1873.*  
I HAVE laid before Earl Granville your letter of the 1st instant, relative to the wish of the Canadian Government to be furnished with any maps, memoranda, correspondence,

\* No. 149.

or other information, in the possession of Her Majesty's Government, bearing on the questions to be submitted to the Commissioners appointed under the XXIIInd Article of the Treaty of Washington; and I am directed by his Lordship to state to you, in reply, for the information of the Earl of Kimberley, that a careful search has been made; but that without being more explicitly informed of the particular maps or papers to which the Canadian Government may desire to refer, this Department is unable to furnish any information which will assist the Commissioners in the object for which they are to be appointed, viz., determining the amount of any compensation, which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty, in return for the privileges accorded to the citizens of the United States.

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

No. 154.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, February 28, 1873.*  
I AM directed by Lord Granville to state to you, for the information of Lord Kimberley, that a telegram has been received from Sir E. Thornton, reporting that the Canadian Fisheries Bill has been passed by Congress, but with the condition that it shall not come into force until the 1st of July next.

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

No. 155.

*Sir E. Thornton to Earl Granville.—(Received March 2.)*

(No. 74.)

My Lord,

*Washington, February 17, 1873.*  
I HAVE the honour to inform your Lordship that on the 6th instant General Banks, as Chairman of the Committee on Foreign Relations, brought to the attention of the House of Representatives the Bill for carrying into effect the Articles of the Treaty of 8th May, 1871, relative to Canada, for the discussion of which a special order had been given; but he at the same time expressed his readiness, if the House wished it, to yield his right, in order that it might go into Committee of the whole, for the purpose of considering the Post Office Appropriation Bill. The House decided to take advantage of General Banks's offer; but it was understood that a special order for the Fisheries Bill remained in force till it should be disposed of.

General Banks has not, however, taken any further step since then, and there seems to exist some indifference upon the subject, which is also conveyed by the Article from the Washington "Morning Chronicle," of which I inclose three copies.

In compliance with the instructions contained in your Lordship's despatch No 412 of the 29th of November last, I have more than once called Mr. Fish's attention to the importance of provision being made by Congress for the execution of the above-mentioned Articles of the Treaty, and he has assured me that he has not lost sight of the matter. He states, and repeated to me on the 13th instant, that General Banks has the Bill in hand and under his control, and has assured him that there is no doubt of its being passed during the present Session. I have no doubt that General Banks has it in his power at any moment to procure the passage of the Bill by the House, and that in that case there would be no difficulty in the Senate; but there certainly seems to be a want of good will on his part which, if it exists, may no doubt be attributed to his having taken up the cause of a party at present in opposition to the Administration.

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

## Inclosure in No. 155.

*Extract from the "Washington Chronicle" of February 13, 1873.*

THE UNSETTLED CLAIMS IN THE WASHINGTON TREATY.—The Bill carrying out the Fishery clause under the Washington Treaty carries with it little or no anxiety among the majority of Congress. In fact, General Banks fails to get the floor to bring the Bill up, solely on account of what appears to be indifference on the part of members to the subject. General Butler's opposition to the Bill carries some weight in staying off immediate action. His constituents and himself think the Bill does not provide for equal privileges in granting rights. General Butler thinks, and his constituents bear him out in it, it is said, that the Bill does not give our fishermen equal rights in proportion to the privileges the Canadians would enjoy to fish in our waters. It is the only clause under the Washington Treaty now unsettled, and for the sake of undisturbed relations between Great Britain and the United States, and to put an end to correspondence between the two Governments on the question which has been in conflict for a long time, Congress will probably wake up before the Session is over to a realizing sense of the necessity for immediate action and pass the Bill at once.

## No. 156.

*Mr. Holland to Mr. Hammond.—(Received March 4.)*

(Secret.)  
Sir,

*Downing Street, March 4, 1873.*

WITH reference to your letter of the 28th of February, stating that a telegram had been received from Sir Edward Thornton reporting that the Canadian Fisheries Bill had been passed by Congress, but with the condition that it should not come into force until the 1st of July next, I am directed by the Earl of Kimberley to transmit to you, to be laid Earl Granville, a copy of a telegram (in cypher) which his Lordship addressed to the Governor-General of Canada, inquiring what course the Canadian Government proposed to take as to fisheries during the coming season until that date, together with the decypher of the reply received from Lord Dufferin this day.

I am, &c.  
(Signed) H. T. HOLLAND.

## Inclosure 1 in No. 156.

*The Earl of Kimberley to Lord Dufferin.*

(Telegraphic.)

*Downing Street, March 1, 1873, 6 P.M.*

AS Congress has fixed 1st of July for coming into force of Fisheries Bill, which course does Dominion Government propose to take as to fisheries during coming season until that date?

## Inclosure 2 in No. 156.

*Lord Dufferin to the Earl of Kimberley.*

(Telegraphic.)

*Montreal, March 4, 1873, 5.10 P.M.*

MY Government do not propose to hinder Americans from fishing in Canadian waters in the interim.

## No. 157.

*Sir E. Thornton to Earl Granville.*

(Telegraphic.)

*Washington, March 6, 1873.*

MR. FISH thinks that the three months for naming the third Commissioner must count from the 1st of July; but he hopes that the two Governments may agree at once upon

him so that the Commission may be installed as soon as possible after the 1st of July. He says that the only person who has occurred to him as yet for third Commissioner is Judge Nelson, one of the signers of the Treaty ; but he has not asked his consent.

No. 158.

*Sir E. Thornton to Earl Granville.—(Received March 10.)*

(No. 88.)

My Lord,

*Washington, February 24, 1873.*

WITH reference to my despatch No. 74 of the 17th instant I understand that both the President and Mr. Fish, being rather anxious on account of the delay which has taken place in submitting to Congress the Bill for carrying out the Articles of the Treaty of May 8th, 1871, relating to Canada, proceeded to the capital on the 19th instant, and summoned to their presence General Banks, the Chairman of the Committee on Foreign Relations. In reply the President's inquiries why the Bill had not been advanced, General Banks is said to have stated that several members of Congress belonging to the party which supports the Administration were opposing the progress of the Bill, and amongst others he cited General Butler. It is supposed, however, that General Banks greatly exaggerates the opposition to the Bill. The President insisted upon its being pressed, and is said by the newspapers to have stated that unless the Bill were passed during this Session, Her Majesty's Government might refuse to pay the amount awarded by the Tribunal of Arbitration at Geneva.

On the following day General Banks again called up the Bill for consideration ; but on General Butler moving that the House should go into Committee of the whole on the Sundry Civil Appropriation Bill, the Fisheries Bill was laid aside and General Butler's motion was carried.

In the Senate on the same day (the 20th instant) a counterpart of the House Bill was introduced by Mr. Cameron, Chairman of the Committee on Foreign Relations ; the Bill was read and passed to a second reading. I have the honour to inclose three printed copies of it. Your Lordship will perceive that besides the House Bill, it contains an additional section, providing that fish, &c. imported into the United States prior to the date of the President's Proclamation, or which may be in bond at that date, shall not be exempt from duties. This is no doubt intended to prevent the refunding of the duties paid upon fish imported from Prince Edward Island during the summer of 1871, when American fishermen were allowed to fish in the in-shore waters of that island.

In an article which appeared in the "Morning Chronicle" of the 22nd instant, and of which I inclose three copies, General Banks is stated to have made some remarks during the Session of the previous evening relative to the Geneva Award, and to the Fisheries Bill. In the "Daily Globe," which is the only newspaper to be trusted with reference to the Debates in Congress, it is stated that General Banks' remarks were reserved for revision. This is a favourite practice when the Speaker thinks it expedient to correct some of his verbal statements, and it is then customary to publish the speech in a later number. But as yet General Banks' speech on the occasion in question has not been published, and it is possible that, as in a few other exceptional cases, it may be suppressed altogether.

This morning the President sent to Congress a Message of which I have the honour to inclose three printed copies, and in which he urges the importance of an early consideration of the necessary legislation of carrying out the Articles of the Treaty in question. He observes that as the United States are enjoying the advantages arising from the other parts of the Treaty, they are bound in good faith to take action, so that the remainder of it may be carried out.

The Bill was subsequently brought up for consideration in this morning's Session of the House of Representatives. Its discussion was continued in this evening's Session, and it was finally passed by the large majority of 145 to 30. I regret to say, however, that an addition was made to the Bill, to the effect that it should not take effect until the 1st of July next, and should not apply to any Article of merchandise therein mentioned, which should be held in bond on that day by the Custom's officers of the United States.

I have the honour to inclose three printed copies of the Bill as it was passed by the House of Representatives. It will be transmitted without delay to the Senate, of which body it will no doubt receive the sanction, unless the great pressure of business should unfortunately prevent its consideration altogether. It is, however, evident that both the President and Mr. Fish are doing their best to secure its passage.

I have, &c.

(Signed) EDWD. THORNTON.

## Inclosure 1 in No. 158.

42nd Session, 3rd Congress.—S. 1622.

In the Senate of the United States, February 20, 1873.

Mr. Cameron, from the Committee on Foreign Relations, reported the following Bill ;  
which was read and passed to a second reading.

*A Bill to carry into effect the Provisions of the Treaty between the United States and Great Britain, signed in the City of Washington the 8th day of May, 1871, relating to the Fisheries.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward's Island have passed laws on their part to give full effect to the provisions of the Treaty between the United States and Great Britain, signed at the city of Washington on the eighth day of May, eighteen hundred and seventy-one, as contained in Articles eighteen to twenty-five, inclusive, and Article thirty of said Treaty, he is hereby authorized to issue his Proclamation declaring that he has such evidence, and thereupon, from the date of such Proclamation, and so long as the said Articles eighteen to twenty-five, inclusive, article thirty of said Treaty shall remain in force, according to the terms and conditions of Article thirty-three of said Treaty, all fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the Dominion of Canada or of Prince Edward's Island, shall be admitted into the United States free of duty.

Sec. 2. That whenever the Colony of Newfoundland shall give its consent to the application of the stipulations and provisions of the said Articles eighteen to twenty-five of said Treaty, inclusive, to that Colony and the Legislature thereof, and the Imperial Parliament shall pass the necessary laws for that purpose, the above-enumerated Articles, being the produce of the fisheries of the Colony of Newfoundland, shall be admitted into the United States free of duty, from and after the date of a Proclamation by the President of the United States, declaring he has satisfactory evidence that the said Colony of Newfoundland has consented, in a due and proper manner, to have the provisions of the said eighteen to twenty-five, inclusive, of the said Treaty extended to it, and to allow the United States the full benefits of all the stipulations therein contained, and shall be so admitted free of duty, so long as the said Articles eighteen to twenty-five, inclusive, and Article thirty of said Treaty, shall remain in force, according to the terms and conditions of Article thirty-three of said Treaty.

Sec. 3. That from the date of the President's Proclamation authorized by the first section of this Act, and so long as the Articles eighteen to twenty-five, inclusive, and Article thirty of the said Treaty shall remain in force, according to the terms and conditions of Article thirty-three of said Treaty, all goods, wares, or merchandize arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been, or may, from time to time, be specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper Custom-house and conveyed in transit, without the payment of duties, through the territory of the United States under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions, through the territory of the United States, for export from the said ports of the United States.

Sec. 4. That from the date of the President's Proclamation, authorized by the first section of this Act, and so long as Articles eighteen to twenty-five, inclusive, and Article thirty, of said Treaty, shall remain in force according to the terms and conditions of Article thirty-three of said Treaty, all subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the great lakes and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land-carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of

the United States : And provided further, that the President of the United States may, by Proclamation, suspend the right of carrying, provided for by this section, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article twenty-seven of said Treaty : And provided further, that in case any export or other duty continues to be levied after the sixteenth day of June, eighteen hundred and seventy-two, on lumber or timber of any kind cut on that portion of the American territory in the State of Maine, watered by the River St. John and its tributaries and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick, that then, and in that case, the President of the United States may, by Proclamation, suspend all rights of carrying provided for by this section for such period as such export or other duty may be levied.

Sec. 5. That the exemption from duties provided for in the first section of this Act shall not extend to or be applied to any of the Articles therein specified, which may have been imported into the United States prior to the date of the said Proclamation, or which may be in bond on that date.

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Inclosure 2 in No. 158.

*Extract from the "Daily Globe" of February 25, 1873.*

WASHINGTON TREATY.—*The Speaker.* The Chair lays before the House the following Message from the President of the United States.

The Clerk read as follows :—

“To the Senate and House of Representatives :

“In my annual Message to Congress at the opening of the second session of the present Congress in 1871, I recommended the legislation necessary on the part of the United States to bring into operation the articles of the Treaty of Washington, of May 8, 1871, relative to the fisheries, and to other matters touching the relations of the United States towards the British North American possessions, to become operative so soon as the proper legislation should be had on the part of Great Britain and its possessions.

“That legislation on the part of Great Britain and its possessions had not then been had.

“Having, prior to the meeting of Congress in December last, received official information of the consideration by Great Britain and its possessions of the legislation necessary on their part to bring those articles into operation, I communicated that fact to Congress in my annual Message at the opening of the present session, and renewed the recommendation for your early adoption of the legislation in the same direction necessary on the part of the Government.

“The near approach of the end of the session induces me again urgently to call your attention to the importance of this legislation on the part of Congress.

“It will be remembered that the Treaty of Washington resulted from an overture on the part of Great Britain to treat with reference to the fisheries on the coasts of Her Majesty's possessions in North America, and other questions between them affecting the relations of the United States towards these possessions.

“To this overture a reply was made on the part of this Government, that whilst appreciating the importance of a friendly and complete understanding between the two Governments with reference to the subjects specially suggested by the British Government, it was thought the removal of the differences growing out of what were generally known as the ‘Alabama claims,’ was essential to the restoration of cordial and amicable relations between the two Governments ; and the assent of this Government to treat on the subject of the fisheries was made dependent on the assent of Great Britain to allow the Joint Commission which it had prepared on the question suggested by that Government to treat also and settle differences growing out of the Alabama claims.

“Great Britain assented to this, and the Treaty of Washington proposed a settlement of both classes of questions. Those relating to the Alabama claims and to the north-western water boundary, commonly known as the ‘San Juan’ question, have been disposed of in pursuance of the terms of the Treaty.

“Those relating to the fisheries were made by the terms of the Treaty to depend upon the legislation which the Constitutions of the respective Governments made necessary to carry those provisions into effect.

"Great Britain and her possessions have on their part enacted the necessary legislations.

"The Government is now enjoying the advantages of those provisions of the Treaty which were the result of the conditions of assent to treat upon the questions which Great Britain had submitted.

"The tribunal at Geneva has made an award in favour of the United States on the Alabama claims, and his Majesty the Emperor of Germany has decided in favour of the contention of the United States on the north-western boundary line.

"I cannot urge too strongly the importance of your early consideration of the legislation that may be necessary on the part of this Government.

"In addition to the claim that Great Britain may have upon the good faith of this Government to consider the legislation necessary in connection with the questions which that Government presented as the subject of a negotiation which have resulted so favourably to this Government upon the other questions in which the United States feels so much interested, it is of importance that the rights of the American fisherman, as provided for under the Treaty, should be determined before the now approaching fishing season opens, and that the serious difficulties to the fishing interests and the grave questions between the two Governments that may arise therefrom be averted.

(Signed) "U. S. GRANT.

"Washington, February 21, 1873."

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Inclosure 3 in No. 158.

*Extract from the "Morning Chronicle" of February 22, 1873.*

*Mr. Sargent*, while he agreed with much the gentleman had said, dissented from what he had said in regard to the foreign policy of the Government. He referred to the Geneva arbitration and the San Juan case as showing that the Government had dealt with firmness and decision, and with such good judgment as to secure favourable results. He did not agree as to the duty of interference by this Government—to be crusading about the world to avenge the wrongs of all. When Sepoys were shot from the mouths of cannon in India, or Communists shot under the walls of Paris, no word was said about interference in the name of humanity.

*Mr. Banks* said that the gentleman had referred to the Treaty of England, and yet had refused, with only four members protesting, to consider a Bill to carry its provisions into effect; and he said if this country and the House persisted in the course pursued yesterday, the money wrung from England by false pretences and fraud would prove a curse and a dishonour to us. He appealed to *Mr. Sargent*, who said he had voted to consider the Bill, to appeal to his colleagues to consider this measure.

*Mr. Sargent* defended the Administration, and censured *Mr. Banks*, Chairman of the Committee on Foreign Affairs, for not bringing the measure forward at an earlier day, and said his own colleague (*Mr. Butler*) had opposed the Bill, and said it ought not to pass.

*Mr. Banks* said his colleague was the organ of the Administration, which cared nothing for what was due to England. He was also the organ of the State Department. They had got the money, and the money was all they wanted.

*Mr. Sargent* denied that *Mr. Butler* was the organ of the Administration, and that there was any fraud or unfair dealing in the Treaty negotiations.

*Mr. Banks* said that, if Congress adjourned without action, the whole subject would be re-opened with, perhaps, more bitter feelings than ever. But the money had been obtained, and gentlemen were satisfied with that.

*Mr. Twitchell* regretted that his colleague had deferred calling the attention of the House to this important subject until it was so late that the pressure of business would prevent action upon it.

*Mr. Banks* explained that he was kept back by his colleagues on the Committee, who desired action deferred till the British Provinces had acted upon it, and that he would not have attempted to call it up yesterday if he had not notified the Secretary of State of his intention, and that if he had any friends in the House they must stand by the measure.

*Mr. Storm* then addressed the House on the subject of a proposed amendment to the constitution respecting the election of President and Vice-President, and at 10:50 o'clock, the House adjourned.

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No. 159.

*The Secretary to the Admiralty to Mr. Hammond.—(Received March 11.)*

Sir, *Admiralty, March 10, 1873.*  
 INFORMATION having been received through the Colonial Office, that the United States' Congress has fixed the 1st July next as the date for the Canadian Fisheries Bill coming into force; I am commanded by my Lords Commissioners of the Admiralty to request you will move the Secretary of State for Foreign Affairs to inform them whether any change is contemplated, in consequence of the proceedings of the United States' Congress, in the instructions to the Captains and Commanding Officers of Her Majesty's ships to be employed in the protection of the fisheries on the coast of Nova Scotia, Newfoundland, &c., as, if such is the case, their Lordships would be glad to be furnished with the particulars before the end of the present month.

I am, &c.  
 (Signed) ROBERT HALL.

No. 160.

*Mr. Holland to Mr. Hammond.—(Received March 17.)*

Sir, *Downing Street, March 17, 1873.*  
 WITH reference to your letter of the 13th instant transmitting a copy of a despatch from Sir E. Thornton and of a Bill passed by the House of Representatives for giving effect to the fisheries Articles in the Treaty of Washington, I am directed by the Earl of Kimberley to suggest, for the consideration of Earl Granville, whether it would not be desirable to refer the Bill to the Law Officers of the Crown, and to request them to report whether, if, as his Lordship presumes, the Bill was not altered in its passage through Congress, it complies with the provisions of the Treaty.

I am, &c.  
 (Signed) H. T. HOLLAND.

No. 161.

*Sir E. Thornton to Earl Granville.—(Received March 19.)*

(No. 97.)  
 My Lord,

*Washington, March 3, 1873.*

WITH reference to my despatch No. 88 of the 24th ultimo, I have the honour to inform your Lordship that the Bill for carrying into effect the Articles of the Treaty of May 8, 1871, relating to Canada, having been passed by the House of Representatives was transmitted to the Senate for its concurrence.

Before it was brought before the Senate I expressed to Mr. Fish my regret that an addition should have been made to the Bill to the effect that its provisions should not take effect till the 1st of July next. Mr. Fish replied that he also regretted this condition, the object of which he did not quite understand. He thought it possible that the Senate might be induced to omit it; but if that were done, the Bill might be again submitted to the House of Representatives, and there would then be great danger that pressure of other business would prevent its being attended to at all, and that it would not be passed during the present Session. Under these circumstances it would be more desirable that the Senate should concur in it as it stood.

The Bill was taken up by the Senate on the 26th ultimo and was passed without any observation and without a division. Mr. Fish informed me that the President approved of it on the 1st instant which is, therefore, the date on which it became law.

On the receipt of your Lordship's telegram of the 1st instant, I saw Mr. Fish and said that I understood that the three months within which the third Commissioner mentioned in the XXIIIrd Article of the Treaty should be named would be counted from the date of the approval of the Act. Mr. Fish, in reply, expressed a doubt whether it should not be taken to begin on the day on which the Act was to come into force, viz., the 1st of July next. He would not, however, have time till Congress closed its session to take that point into consideration.

But he did not see any reason why, in the meantime, and at once, the two Govern-

ments should not endeavour to agree upon some person as third Commissioner. Mr. Fish has not, however, mentioned to me any person whom he would recommend as a suitable person for the position.

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

No. 162.

*Sir E. Thornton to Earl Granville.—(Received March 24.)*

(No. 112.)

My Lord,

*Washington, March 10, 1873.*

I HAVE to inclose three printed copies of the Act for carrying into effect the Articles of the Treaty of May 8, 1871, relating to Canada, in the words in which it was passed by the House of Representatives, and subsequently by the Senate. The Act was approved by the President on the 1st instant.

On the 6th instant I had a conversation with Mr. Fish relative to the day from which the three months allowed by the XXIIIrd Article of the Treaty for the appointment of the third Commissioner should be counted.

He stated that, although the above-mentioned Act had been passed by Congress, it would not be a law to carry into operation the various Articles of which the XXIIIrd was one, until the 1st of July next, and that, therefore, it seemed to him that this must be the date from which the three months should be counted.

In the meantime, however, he considered it most desirable that the two Governments should agree without delay upon the third Commissioner, so that, if possible, the Commission might meet and be installed at Halifax as soon as possible after the 1st of July. As yet he had not spoken to the President upon the subject, nor had he been able to think of any one whom he could positively recommend for that position. The only person who had, passed through his mind was Mr. Justice Nelson who, as one of the American High Commissioners, had signed the Treaty. But he had neither mentioned his name to the President nor had he inquired of Mr. Justice Nelson himself whether he would undertake the task. He believed, however that, if he were to be appointed, his long judicial career would insure his being thoroughly impartial upon any questions which might be submitted to him. He also possessed a qualification which would be very desirable if an American were to be agreed upon for the position, viz., that he was now of an age which placed him beyond all political ambition.

I do not venture to give my own opinion upon such a selection, because your Lordship will be able without difficulty to consult the remaining four of Her Majesty's High Commissioners, who negotiated the Treaty.

With reference to the postponement by the Act of Congress of the above-mentioned Articles of the Treaty, I have the honour to inclose copy of a despatch from the Governor-General of Canada, transmitting copy of a memorandum of the Privy Council of the Dominion, recommending that American fishermen shall not be prevented from fishing in Canadian waters, even before the Act of Congress shall come into operation on the 1st of July next.

I have forwarded a copy of the memorandum to Mr. Fish.

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

Inclosure 1 in No. 162.

42nd Congress, 3rd Session.—H. R. 488.

In the Senate of the United States, February 25, 1873.

Read twice.

*An Act to carry into effect the Provisions of the Treaty between the United States and Great Britain, signed in the City of Washington the 8th day of May, 1871.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament

of Canada, and the Legislature of Prince Edward Island have passed laws on their part to give full effect to the provisions of the Treaty between the United States and Great Britain signed at the city of Washington on the eighth day of May, one thousand eight hundred and seventy-one, as contained in Articles XVIII to XXV, inclusive, and Article XXX of said Treaty, he is hereby authorized to issue his Proclamation declaring that he has such evidence, and thereupon, from the date of such Proclamation, and so long as the said Articles XVIII to XXV, inclusive, and Article XXX of said Treaty, shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada or of Prince Edward Island, shall be admitted into the United States free of duty.

Section II. That whenever the Colony of Newfoundland shall give its consent to the application of the stipulations and provisions of the said Articles XVIII to XXV of said Treaty, inclusive, to that Colony, and the Legislature thereof and the Imperial Parliament shall pass the necessary laws for that purpose, the above-enumerated articles, being the produce of the fisheries of the Colony of Newfoundland, shall be admitted into the United States free of duty, from and after the date of a Proclamation by the President of the United States, declaring that he has satisfactory evidence that the said Colony of Newfoundland has consented, in a due and proper manner, to have the provisions of the said Articles XVIII to XXV, inclusive, of the said Treaty extended to it, and to allow the United States the full benefits of all the stipulations therein contained, and shall be so admitted free of duty, so long as the said Articles XVIII to XXV, inclusive, and Article XXX of said Treaty, shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty.

Section III. That from the date of the President's Proclamation authorized by the 1st section of this Act, and so long as the Articles XVIII to XXV, inclusive, and Article XXX of said Treaty, shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all goods, wares, or merchandize arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been, or may, from time to time, be, specially designated by the President of the United States and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper Custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may, from time to time, prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without the payment of duties, from such possessions, through the territory of the United States, for export from the said ports of the United States.

Section IV. That from the date of the President's Proclamation, authorized by the 1st section of this Act, and so long as Articles XVIII to XXV, inclusive, and Article XXX of said Treaty shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandize from one port or place within the territory of the United States, upon the St. Lawrence, the great lakes, and the rivers connecting the same, to another port or place within the territory of the United States, as aforesaid: Provided, That a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States: And provided further, That the President of the United States may, by proclamation, suspend the right of carrying provided for by this section, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion, on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII of said Treaty: And provided further, That in case any export or other duty continues to be levied after the sixteenth day of June, one thousand eight hundred and seventy-two, on lumber or timber of any kind cut on that portion of the American territory, in the State of Maine, watered by the River Saint John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the Province of New Brunswick, that then, and in that case, the President of the United States may, by proclamation, suspend all rights of carrying provided for by this section, for such period as such export or other duty may be levied.

Section V. That this Act shall not take effect until the first day of July, one thousand eight hundred and seventy-three, and shall not apply to any article of merchandize therein

mentioned which shall be held in bond on that day by the Customs officers of the United States.

Passed the House of Representatives, February 24, 1873.

Attest.

(Signed) EDWARD McPHERSON, *Clerk.*

Inclosure 2 in No. 162.

*Lord Dufferin to Sir E. Thornton.*

Sir,

*Ottawa, March 4, 1873.*

I HAVE the honour to inclose, for your information, copy of a Report of Council recommending that American vessels should not be prevented from fishing within the three miles limit, before the Act of Congress giving effect to the Treaty of Washington comes into effect on the 1st of July next.

I have, &c.

(Signed) DUFFERIN.

Inclosure 3 in No. 162.

*Report.*

THE Committee of the Privy Council beg leave to report to your Excellency that the Act of Congress, giving effect to the Treaty of Washington, does not come into force till 1st July next.

Until that time American fishermen have no legal right to fish in Canadian waters, and their vessels are liable to seizure for doing so.

The Committee are, however, of opinion that no steps should be taken by the Government to prevent American vessels from fishing within the three miles limit, and they should have full permission to fish so far as the Government can grant it.

It is not probable that any seizures will be made before the 1st July at the instance of private parties; but should such a case occur, the Committee will be prepared to advise your Excellency to order the release of the vessel and the remission of any penalties incurred.

All which is respectfully submitted.

(Signed) JOHN O'CONNOR.

*March 3, 1873.*

No. 163.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received March 24.)*

My Lord,

*Temple, March 24, 1873.*

WE are honoured with your Lordship's commands signified in Lord Tenterden's letter of the 19th instant, stating that he was directed by your Lordship to transmit to us a copy of a Bill to carry into effect the provisions of the Treaty of Washington relating to fisheries, which had been passed by the United States' House of Representatives; and that he, Lord Tenterden, was to request us to report to your Lordship our opinion; whether this Bill complies with the provisions of the Treaty.

Lord Tenterden was pleased to annex a copy of the Treaty for convenience of reference.

In obedience to your Lordship's commands we have taken this Bill into consideration, and have the honour to report:—

That the Bill complies, in our opinion, with the provisions of the Treaty.

We are, &c.

(Signed) J. D. COLERIDGE.  
G. JESSEL.  
J. PARKER DEANE.

No. 164.

*Mr. Holland to Mr. Hammond.—(Received March 25.)*

Sir,

*Downing Street, March 24, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor-General of Canada, inclosing a Report of the Canadian Privy Council respecting the admission of American fishermen to the Canadian fisheries before the Act of Congress giving effect to the Treaty of Washington comes into force on the 1st of July next.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 164.

*The Earl of Dufferin to Earl of Kimberley.*

My Lord,

*Ottawa, March 4, 1873.*

I HAVE the honour to inclose, for your information, a copy of a Report of Council recommending that American vessels should not be prevented from fishing within Canadian waters before the Act of Congress giving effect to the Treaty of Washington comes into force on the 1st of July next.

I have forwarded a copy of this Report to Sir Edward Thornton.

I have, &c.  
(Signed) DUFFERIN.

Inclosure 2 in No. 164.

*Report of a Committee of the Privy Council, approved by the Governor-General on the 3rd March, 1873.*

THE Committee of the Privy Council beg leave to report to your Excellency that the Act of Congress giving effect to the Treaty of Washington does not come into force till the 1st of July next.

Until that time American fishermen have no right to fish in Canadian waters, and their vessels are liable to seizure for doing so.

The Committee are, however, of opinion that no steps should be taken by the Government to prevent American vessels from fishing within the three miles limit, and that they should have full permission to fish so far as the Government can grant it.

It is not probable that any seizures will be made before the 1st July at the instance of private parties, but should such a case occur, the Committee will be prepared to advise your Excellency to order the release of the vessel and the remission of any penalties incurred.

(Signed) W. A. HEINSWORTH, *Clerk Privy Council, Canada.*

No. 165.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, March 26, 1873.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Her Majesty's Minister at Washington upon the subject of the fishery clauses of the Treaty of Washington.\*

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

No. 166.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, March 28, 1873.*  
 WITH reference to Lord Tenterden's letter of the 13th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a further despatch from Her Majesty's Minister at Washington upon the subject of the fishery clauses of the Treaty of Washington.\*

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

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No. 167.

*Lord Tenterden to Mr. Holland.*

Sir, *Foreign Office, March 31, 1873.*  
 I AM directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a letter from the Admiralty, inquiring whether any change is contemplated in the instructions to the officers in command of Her Majesty's ships employed in the protection of the North American fisheries, in consequence of the 1st of July having been fixed by the United States' Congress as the date at which the Fisheries Bill will come into operation; and I am to state that, in view of the telegram from the Governor-General of Canada, which was inclosed in your letter of the 4th instant, Lord Granville presumes that no change is required, and that the Admiralty may be so informed.

I am, &c.  
 (Signed) TENTERDEN.

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No. 168.

*Lord Tenterden to Mr. Holland.*

Sir, *Foreign Office, March 31, 1873.*  
 WITH reference to your letter of the 17th instant, I am directed by Lord Granville to state to you, for the information of Lord Kimberley, that the Bill for carrying into effect the provisions of the Treaty of Washington respecting fisheries as passed by the United States' House of Representatives, and inclosed in Sir E. Thornton's despatch No. 88 of the 24th ultimo, has been referred to the Law Officers, and that they have reported that, in their opinion, the Bill implies with the provisions of the Treaty of Washington.

I am, &c.  
 (Signed) TENTERDEN.

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No. 169.

*Sir E. Thornton to Earl Granville.—(Received April 1.)*

(No. 123.)

My Lord, *Washington, March 17, 1873*  
 WITH reference to my despatch No. 112 of the 10th instant, in which I had the honour to inform Lord Granville that I had forwarded to Mr. Fish copy of a Memorandum of the Privy Council of Canada, recommending that American fishermen should be allowed to fish in Canadian waters even before the 1st of July next, I now inclose copy of Mr. Fish's answer, in which he conveys the President's appreciation of the liberal recommendation of the Privy Council, and inquires whether it will be carried into effect.

I have transmitted a copy of this note to the Governor-General of Canada, and have begged his Excellency to enable me to answer Mr. Fish's inquiry.

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

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Inclosure in No. 169.

*Mr. Fish to Sir E. Thornton.*Sir, *Department of State, Washington, March 14, 1873.*

I HAVE the honour to acknowledge the receipt of your note of the 8th instant, inclosing copy of a Report of the Committee of the Privy Council of Canada, made to the Governor-General of that Dominion, recommending that American vessels should not be prevented from fishing within the three miles limit before the Act of Congress giving effect to the Articles of the Treaty of Washington, relating to Canada, comes into effect, on the 1st of July next.

I am instructed by the President to express his appreciation of this liberal recommendation of the Committee of the Privy Council, for removing the last impediment to the friendly relations which he desires to have subsist between two peoples so near neighbours, and so bound to each other by the ties of commercial interest and of personal intercourse.

I shall be obliged if you will inform me whether the recommendation above referred to will be carried into effect, and if this Government will be at liberty to issue the circulars usual in such cases.

I have, &c.  
(Signed) HAMILTON FISH.

No. 170.

*Mr. Herbert to Mr. Hammond.—(Received April 2.)*

(Secret.)

Sir, *Downing Street, March 31, 1873.*

WITH reference to your letter of the 8th instant, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the decypher of a telegram received from the Governor-General of Canada, on the subject of the appointment of a third Commissioner, under the XXIIIrd Article of the Treaty of Washington.

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

Inclosure in No. 170.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

*Ottawa, March 29, 1873.*

MY Ministers say that appointment of American umpire would cause dissatisfaction here in Canadian Dominion.

They think that the (?) choice should be made by Austrian Ambassador under the Treaty. An unsatisfactory nomination would damage Sir J. A. Macdonald, if announced while Parliament is in Session; best defer it till after 15th May.

No. 171.

*Mr. Herbert to Mr. Hammond.—(Received April 2.)*Sir, *Downing Street, April 1, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 26th ultimo, transmitting a copy of a despatch from Sir E. Thornton, in which he states that the Act of Congress for carrying into effect the Articles of the Treaty of Washington relating to Canada, a copy of which he inclosed, had been approved by the President on the 1st March.

Lord Kimberley desires me to suggest, for Earl Granville's consideration, whether it may not be advisable to ascertain from the Law Officers whether the Act of Congress is, in their opinion, a sufficient compliance, on the part of the United States, with those provisions of the Treaty to which it relates. If, as Lord Kimberley anticipates, their answer is in the affirmative, his Lordship would further suggest that Her Majesty's Minister at Washington should be desired, by telegraph, to inquire whether it is intended

that the Proclamation of the President shall be issued on the 1st July next, the date apparently indicated in the Act. It is desirable that information on this point should be obtained without delay, in order that the necessary arrangements may be made with the Governments of Canada and Prince Edward Island for giving effect to the corresponding Acts of the Colonial Parliaments.

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

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No. 172.

*Lord Tenterden to Mr. Herbert.*

Sir, *Foreign Office, April 3, 1873.*  
WITH reference to my letter of the 31st ultimo, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, forwarding the answer of the United States' Government to a communication which had been addressed to them as to the resolution of the Canadian Privy Council that American fishermen should be allowed to fish in Canadian waters before the 1st of July next.\*

I am, &c.  
(Signed) TENTERDEN.

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No. 173.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.) *Foreign Office, April 4, 1873, 4 P.M.*  
ASCERTAIN whether it is intended that the Proclamation of the President respecting Canadian fisheries shall be issued on the 1st July next, as apparently indicated in the Act inclosed in your despatch No. 112 of the 10th ultimo.

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No. 174.

*Sir E. Thornton to Earl Granville.—(Received April 4, night.)*

(Telegraphic.) *Washington, April 4, 1873.*  
WITH reference to your telegram of to-day, I understand from Mr. Fish that the President would issue his Proclamation on the 1st of July next. Both are now at New York.

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No. 175.

*Mr. Holland to Lord Tenterden.—(Received April 5.)*

Sir, *Downing Street, April 4, 1873.*  
I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 31st ultimo, inclosing copy of a letter from the Board of Admiralty inquiring whether any change is contemplated in the instructions to the officers in command of Her Majesty's ships employed in the protection of the North American fisheries in consequence of the 1st of July having been fixed by the United States' Congress as the date at which the Fisheries Bill would come into operation.

Lord Kimberley desires me to transmit to you, in reply, to be laid before Lord Granville, a copy of a letter which was addressed to the Board of Admiralty, by his Lordship's direction, on the 19th of last month, in answer to a similar inquiry addressed to this office on the subject.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure in No. 175.

*Mr. Holland to the Secretary to the Admiralty.*

Sir,

*Downing Street, March 19, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 10th instant, inquiring whether any change is contemplated, in consequence of the action of the American Congress, in the instructions to the Captains and Commanding Officers of Her Majesty's ships to be employed in the protection of the North American fisheries.

Lord Kimberley desires me to inform you that, on the receipt of your letter, an inquiry was addressed to the Lieutenant-Governor of Prince Edward Island, and to the Governor of Newfoundland, as to whether the fisheries of those islands would be opened to Americans during the coming season.

The Lieutenant-Governor of Prince Edward Island has replied to the effect that his Government are prepared to act in accord with Canada in this matter, and the Governor of Newfoundland has informed his Lordship that the fisheries of Newfoundland are now open provisionally to Americans, and that it is probable that the Legislature of that island will soon pass the Act necessary to give effect to the Washington Treaty.

Their Lordships are aware that the Canadian Government, in anticipation of the fishery clauses of the Treaty coming into effect from the 1st of July next, have determined not to exclude Americans from the fisheries of Canada in the interval; and in these circumstances Lord Kimberley is of opinion that the formal instructions to Her Majesty's Naval Officers on the North American Station as regards the fisheries should be suspended.

It will be necessary, however, that Her Majesty's Naval Officers should be directed to give such protection as may be required to the Canadian revenue vessels in preserving order amongst the fishermen who may resort to the Colonial fisheries.

I am, &amp;c.

(Signed) H. T. HOLLAND.

No. 176.

*Sir E. Thornton to Earl Granville.—(Received April 6.)*

(No. 143.)

My Lord,

*Washington, March 25, 1873.*

I HAVE the honour to transmit herewith three printed copies, which have been forwarded to me by Mr. Fish, of the Act of Congress of the 1st instant, for carrying out the provisions of the Treaty of May 8, 1871, relative to the British North American possessions.

I have, &amp;c.

(Signed) EDWD. THORNTON.

Inclosure in No. 176.

*An Act to carry into effect the provisions of the Treaty between the United States and Great Britain, signed in the City of Washington the 8th day of May, 1871, relating to the Fisheries.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island, have passed laws on their part to give full effect to the provisions of the Treaty between the United States and Great Britain, signed at the city of Washington on the 8th day of May, 1871, as contained in Articles XVIII to XXV, inclusive, and Article XXX of said Treaty, he is authorized to issue his proclamation declaring that he has such evidence, and thereupon, from the date of such proclamation, and so long as the said Articles XVIII to XXV inclusive, and Article XXX of said Treaty shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada or of Prince Edward Island, shall be admitted into the United States free of duty.

Section 2. That whenever the Colony of Newfoundland shall give its consent to the application of the stipulations and provisions of the said Articles XVIII to XXV of said Treaty, inclusive, to that Colony, and the Legislature thereof, and the Imperial Parliament shall pass the necessary laws for that purpose, the above-enumerated Articles being the produce of the fisheries of the Colony of Newfoundland, shall be admitted into the United States free of duty, from and after the date of a Proclamation by the President of the United States, declaring that he has satisfactory evidence that the said Colony of Newfoundland has consented, in a due and proper manner, to have the provisions of the said Articles XVIII to XXV inclusive, of the said Treaty extended to it, and to allow the United States the full benefits of all the stipulations therein contained, and shall be so admitted free of duty, so long as the said Articles XVIII to XXV inclusive, and Article XXX of said Treaty, shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty.

Section 3. That from the date of the President's Proclamation authorized by the first section of this Act, and so long as the Articles XVIII to XXV inclusive, and Article XXX of said Treaty shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all goods, wares, or merchandize arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been, or may from time to time be, specially designated by the President of the United States and destined for Her Britannic Majesty's Possessions in North America, may be entered at the proper Custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Secretary of the Treasury may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without the payments of duties, from such possessions, through the territory of the United States, for export from the said ports of the United States.

Section 4. That from the date of the President's Proclamation, authorized by the first section of this Act, and so long as Articles XVIII to XXV inclusive, and Article XXX of said Treaty shall remain in force, according to the terms and conditions of Article XXXIII of said Treaty, all subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandize from one port or place within the territory of the United States, upon the St. Lawrence, the great lakes, and rivers connecting the same, to another port or place within the territory of the United States, as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land-carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States: And provided further, that the President of the United States may, by Proclamation, suspend the right of carrying provided for by this section, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII of said Treaty: And provided further, that in case any export or other duty continues to be levied after the 16th day of June, 1872, on lumber or timber of any kind cut on that portion of the American territory, in the State of Maine, watered by the River St. John and its tributories, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick, that then, and in that case, the President of the United States may, by proclamation, suspend all rights of carrying provided for by this section for such period as such export or other duty may be levied.

Section 5. That this Act shall not take effect until the 1st day of July, 1873, and shall not apply to any article of merchandize therein mentioned which shall be held in bond on that day by the Customs officers of the United States.

Approved, March 1, 1873.

No. 177.

*Viscount Enfield to Mr. Herbert.*

Sir,

*Foreign Office, April 7, 1873.*

ON the receipt of your letter of the 1st instant, Earl Granville instructed Her Majesty's Minister at Washington, by telegraph, to ascertain whether it is intended that the Proclamation of the President in regard to the Canadian fisheries shall be issued on the 1st of July next; and I am directed by his Lordship to acquaint you, in reply, for the

information of the Earl of Kimberley, that he has received a telegram from Sir Edward Thornton, stating that he had understood from Mr. Fish that the President's Proclamation would be issued on the above-mentioned date.

I am, &c.  
(Signed) ENFIELD.

No. 178.

*Sir E. Thornton to Earl Granville.—(Received April 13.)*

(No. 160.)

My Lord,

*Washington, April 1, 1873.*

WITH reference to my despatch No. 123 of the 17th ultimo, I have the honour to inclose copy of a despatch which I have received from the Governor-General of Canada, informing me that the recommendation of the Privy Council of the Dominion to allow American fishermen to fish in Canadian waters before the 1st of July having been approved by his Excellency, it would be carried into execution.

I have communicated the contents of his Excellency's despatch to Mr. Fish, a copy of whose reply I have the honour to inclose. I have also forwarded a copy of Mr. Fish's note to the Earl of Dufferin.

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

Inclosure 1 in No. 178.

*Lord Dufferin to Sir E. Thornton.*

Sir,

*Government House, Ottawa, March 19, 1873.*

WITH reference to your despatch of the 15th instant, transmitting a copy of a letter from Mr. Fish, acknowledging the receipt of a copy of the Order in Council inclosed in my despatch of the 4th instant, I have the honour to inform you that that the Minute referred to having received my approval, has become the Act of the Executive Government, and that consequently its recommendations will be carried into effect.

The United States' Government will therefore be at liberty to issue the circulars usual in such cases.

I have, &c.  
(Signed) DUFFERIN.

Inclosure 2 in No. 178.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, March 26, 1873.*

I HAVE the honour to acknowledge the receipt of your note of the 24th instant, informing me that the recommendation of the Privy Council of Canada, with regard to the fisheries, have received the approval of his Excellency the Governor-General of that Dominion, it has become the Act of the Executive Government, and that consequently its recommendation will be carried into effect.

I beg to express the satisfaction with which this Government has learned of the approval by the Governor-General of the liberal and friendly proposal of the Committee of the Privy Council.

I have, &c.  
(Signed) HAMILTON FISH.

No. 179.

*Mr. Holland to Viscount Enfield.—(Received April 14.)*

My Lord,

*Downing Street, April 12, 1873.*

IN reply to your letter of the 7th instant, in which it is stated that Earl Granville has received a telegram from Sir E. Thornton, stating that he had understood from Mr. Fish

that the President's Proclamation would be issued on the 1st of July next, I am directed by the Earl of Kimberley to transmit the copy of a despatch, which, with the concurrence of Earl Granville, his Lordship proposes to send to the Governors of Canada and Prince Edward Island.

With a view, however, to prevent any misapprehension upon the subject, Lord Kimberley would suggest that, before the despatch is sent to those colonies, a copy of it should be transmitted to Sir E. Thornton, and that he should be desired to bring it under the notice of Mr. Fish, and to request to be informed whether it meets the views of the Government of the United States.

It might be pointed out to Mr. Fish that Her Majesty's Government have taken this step as they entertain the opinion, in which the Government of the United States will doubtless concur, that it is very desirable that simultaneous operation should be given to the different Acts which give effect to the Treaty of Washington, and that, as the Imperial Act 35 and 36 Vict., cap. 45, takes effect without any order or proclamation, as soon as the law passed by the Congress of the United States comes into force, it is only necessary to deal with the Colonial Acts.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 179.

*The Earl of Kimberley to the Earl of Dufferin.\**

My Lord,

*Downing Street, April 1873.*

HER Majesty's Government have had under their consideration the question as to what day should be appointed by Proclamation for bringing into operation the Acts passed by the Parliament of Canada relating to the Treaty of Washington, 1871.

As you are aware, the Act passed by the Congress of the United States provides that, whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament, the Parliament of Canada, and the Legislature of Prince Edward Island have passed Laws to give full effect to Articles XVIII to XXV inclusive and Article XXX of the Treaty of Washington, he is authorized to issue his Proclamation that he has such evidence, and thereupon the said Articles will have full effect, but by the last section of the Law it is provided that the Act shall not take effect until the 1st of July, 1873.

Her Majesty's Government understand that the President of the United States intends to issue his Proclamation on the last-mentioned date, and they are of opinion that it will be desirable that simultaneous operation should be given to the Colonial Acts.

Her Majesty's Government entertain no doubt that your Ministers will concur in this opinion, and they would suggest that, at an early opportunity after the receipt of this despatch, a Proclamation should be issued in accordance with the provisions of the Colonial Act, fixing the 1st day of July next as the date on which that Act is to come into force in the Dominion of Canada.

I am, &c.  
(Signed) KIMBERLEY.

No. 180.

*Mr. Hammond to Mr. Herbert.*

Sir,

*Foreign Office, April 16, 1873.*

WITH reference to Lord Tenterden's letter of the 3rd instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Her Majesty's Minister at Washington, upon the subject of the fishery clauses of the Treaty of Washington.†

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

\* A similar despatch was addressed to Lieutenant-Governor Robinson.

† No. 178.

No. 181.

*Mr. Holland to Mr. Hammond.—(Received April 19.)*Sir, *Downing Street, April 18, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 10th instant, inclosing a printed copy, received from Sir E. Thornton, of part of the Act of the United States' Congress, of the 1st of March, for carrying out the provisions of the Treaty of May 8, 1871, relating to the British North American Possessions.

The inclosure to your letter being an incomplete copy of the Act, Lord Kimberley desires me to request that he may be furnished with a complete copy when received at the Foreign Office.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 182.

*Sir E. Thornton to Earl Granville.—(Received April 21.)*

(No. 172.)

My Lord, *Washington, April 7, 1873.*

WITH reference to your Lordship's telegram, of the 4th instant, I have the honour to state that, during the conversation with Mr. Fish reported in my despatch No. 112 of the 10th ultimo, he informed me that the President would be prepared to issue a Proclamation on the 1st of July next, for carrying into effect the Act of Congress relating to the Articles of the Treaty of May 8, 1871, with respect to the Canadian fisheries and other matters connected with Canada.

With reference to my despatch No. 160 of the 1st instant, it would appear from the inclosed extract from a Washington newspaper, that a Circular has already been issued by the Secretary of the Treasury relative to the fisheries in Canadian waters. When I spoke, however, to Mr. Bancroft Davis on the subject on the 3rd instant, he said that he was not aware that it had been issued, but promised that, if it were so, he would send me copies of the Circular as soon as he might be able to obtain them.

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

No. 183.

*Mr Hammond to Mr. Holland.*Sir, *Foreign Office, April 23, 1873.*

I HAVE laid before Lord Granville your letter of the 12th instant, inclosing a copy of a proposed instruction to the Governors of Canada and Prince Edward Island, as to the date at which the Acts passed in those Colonies for giving effect to the provisions of the Washington Treaty in regard to fisheries are to be brought into operation; and I am directed by his Lordship to request that you will inform Lord Kimberley that he concurs in the terms of this instruction, and that he will instruct Sir E. Thornton to communicate it to Mr. Fish, and to report by telegraph whether it meets his views.

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

No. 184.

*Memorandum by Lord Tenterden.*

## FISHERY COMMISSION.

MR. McDOUGALL, the gentleman named by the Canadian Government to come and gather information here and at the Colonial Office, called to-day, having been sent to me by Mr. Holland.

We had a long talk together about the Fishery Question. I told him that he must

consider anything I said as entirely unofficial, but that I knew that it was the earnest desire of the Government to give every assistance, and that the Foreign Office would be ready and willing to co-operate, as far as possible, in the preparation of the Canadian case. He talked rather big about the sacrifice of Canadian interests at Washington, &c., but we soon got over that and came to business. I asked him if the Canadian case was ready. He thought not, on which I remarked that it ought to have been ready long ago. He then said it seemed to him to divide itself into two branches; (1) the money value of the fisheries; (2) the extent of the fisheries for which that money value was to be claimed. The Canadians must put their case as strong as possible. The Americans liked to "bounce," and Canada must "bounce" too. I observed that it was possible to over-bounce and overbalance; without knowing what was the particular point in which information was wanted, it would be useless for him to be let loose in our library. He said that practically it came to the question of "headlands." That, I replied, was a very serious one. Was it the intention of the Canadian Government to raise it *in limine*? if so, they would invite a discussion on it by the Commissioners, which scarcely seemed to me a politic proceeding. I again asked whether the Canadian case was drafted, as he seemed to shun the line intended to be taken. He said, No, he believed not; the Canadians expected this international part of it to be done in England. I said that was not what I understood. I thought the whole case was to be prepared in Canada, and then sent home for revision and concurrence; that time was running on, and this should be cleared up.

If the Canadian Government expected so important a point as the fishery boundaries to be dealt with here, we ought to know it, and deal with it in a business-like way, for which purpose a competent draftsman should be appointed, who could go over all the correspondence and put it into shape.

I then suggested that we should go together and talk to Holland. We did so, and the result was that Mr. McDougall was convinced that the best course would be for him to propose to the Canadian Government that Dr. Deane, assisted by himself or some other Canadian lawyer, should prepare a Memorandum for confidential use, showing the state of the boundary controversy, with such arguments in support of the Canadian views as the correspondence might support, to be kept in reserve as an answer to any attack on the boundaries of the fishery in the American case, but not to be put forward *in limine* on the Canadian side. Both Holland and I repudiated giving any official advice, but concurred personally in this, and he is to show us to-morrow his letter to the Canadian Government proposing it. I think that, as we cannot refuse to give the information asked for, this is the best course to pursue. At all events, it will give the Home Government some practical control over the line of argument from which (as it will be put forward in the name of Great Britain) Her Majesty's Government cannot shirk from being responsible.

Sooner or later, if Mr. Mitchell persists in thrusting the Headlands Question to the front, there will be a difference between the views of the Canadian and Home Governments, as shown in the correspondence, in which the Cabinet will have to decide, and then the Confidential Memorandum will be of essential service; at all events, it will be something to avoid a dead-lock at the outset.

April 22, 1873.

(Signed) TENTERDEN.

No. 185.

*Memorandum by Lord Tenterden.*

I SAW Holland this morning, and suggested to him that the proper person to come and work with Dr. Deane at the Fishery Boundaries Memorandum was the Agent to be appointed to attend the Commission under Article XXIII of the Treaty.

Mr. McDougall subsequently saw Holland, who, having in the meanwhile consulted Lord Kimberley, told him of this, and they have agreed upon a telegram to Canada accordingly. It appeared that no Agent had yet been selected. I impressed strongly on both Mr. McDougall and Holland that they must get a good man. Mr. McDougall is to see Lord Kimberley this evening, to settle the telegram definitively, and what is to be written to Canada by to-morrow's mail.

I have therefore left it in the hands of the Colonial Office, after doing my best to put that Department in the right track.

I shall be away to-morrow but back on Thursday.

(Signed) TENTERDEN.

April 22, 1873.

No. 186.

*Earl Granville to Sir E. Thornton.*

(No. 136.)

Sir,

*Foreign Office, April 24, 1873.*

I COMMUNICATED to Her Majesty's Secretary of State for the Colonies your telegram of the 4th instant, in which you stated you had understood from Mr. Fish that the President's Proclamation giving effect to the Act of Congress for carrying out the provisions of the Treaty of Washington in regard to fisheries would be issued on the 1st of July; and I now inclose a draft instruction which Lord Kimberley purposes to address to the Governors of Canada and Prince Edward Island as to the day which should be appointed for bringing into operation the Acts passed in those Colonies for the same purpose.\*

Lord Kimberley wishes to ascertain, before sending this despatch, whether it meets the views of the United States' Government, and I have accordingly to instruct you to communicate it to Mr. Fish and to state to him that Her Majesty's Government entertain the opinion, in which they have no doubt that the United States' Government will concur, that it is very desirable that simultaneous operation should be given to the different Acts which give effect to the Treaty of Washington, and that, as the Imperial Act 35 and 36 Vict., cap. 45, takes effect without any order or proclamation, as soon as the laws passed by the Congress of the United States come into force, it is only necessary to deal with the Colonial Acts.

You will inform me by telegraph whether Mr. Fish concurs in the terms of the proposed instruction.

I am, &amp;c.

(Signed) GRANVILLE.

No. 187.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, April 25, 1873.*

I AM directed by Earl Granville to request that you will inform the Earl of Kimberley that the American Minister called upon him to-day and placed in his hands the inclosed copy of the Act which has been proposed by the United States' Congress in order to make the necessary arrangements for carrying out the provisions contained in Article XVIII to XXV inclusive and Article XXX of the Treaty of Washington, and which is to take effect on the 1st of July next.

The Parliaments of Great Britain and of the Dominion of Canada and the Legislature of Prince Edward Island having also passed the necessary Acts, the American Minister suggested, for Lord Granville's consideration, that it might be desirable that he should be authorized by Mr. Fish to sign a Protocol reciting these several Acts, with a declaration that the Articles are to take effect on the 1st of July.

I am to request that you will inform Lord Kimberley that, if he concurs, Lord Granville is disposed to give his assent to this proposal.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 188.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, April 25, 1873.*

I AM directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton,† forwarding an extract from a Washington newspaper giving a circular stated to have been issued by the United States' Government on the subject of the Canadian fisheries.

I am, &amp;c.

(Signed) E. HAMMOND.

\* Inclosure in No. 179.

† No. 182.

No. 189.

*Mr. Holland to Mr. Hammond.—(Received April 26.)*Sir, *Downing Street, April 25, 1873.*

WITH reference to my letter of the 4th instant, communicating to you a copy of a letter addressed to the Board of Admiralty on the 19th of March, giving the substance of telegrams received from the Governor of Newfoundland and Lieutenant-Governor of Prince Edward Island relating to the admission of United States' fishermen to the waters of those islands during the coming season, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl of Granville, a copy of a despatch received from the Governor of Newfoundland on the 21st instant on said subject.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 189.

*Governor Hill to the Earl of Kimberley.*My Lord, *Government House, Newfoundland, March 31, 1873.*

WITH reference to your Lordship's despatch of the 7th March, I have the honour to state that the Government of Newfoundland do not propose to exclude American fishermen from the territorial waters of this Colony during the coming season.

I have, &c.  
(Signed) STEPHEN J. HILL.

No. 190.

*Mr. Hammond to Mr. Holland.*Sir, *Foreign Office, April 29, 1873.*

I AM directed by Earl Granville to acknowledge the receipt of your letter of this day's date, and in reply I am to acquaint you that his Lordship concurs in the telegram which the Earl of Kimberley proposes to address to the Governor-General of Canada and Lieutenant-Governor of Prince Edward Island, with reference to the proposal of the United States' Government as to certain articles of the Treaty of Washington taking effect from the 1st of July next.

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

No. 191.

*Mr. Holland to Mr. Hammond.—(Received April 29.)*Sir, *Downing Street, April 29, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 25th instant, respecting a proposal made by the American Minister that a protocol should be signed reciting the several Acts passed to give effect to certain Articles of the Treaty of Washington, and declaring that these Articles were to take effect on the 1st of July, and I am to state that his Lordship proposes, with Earl Granville's concurrence, to telegraph to the Governor-General of Canada and to the Lieutenant-Governor of Prince Edward Island in the following terms:—

“American Government propose Protocol reciting Acts passed, and declaring that Articles of Treaty shall take effect on 1st of July. Will you issue Proclamation fixing July 1st, on learning from me that Protocol has been signed?”

I am, &c.  
(Signed) H. T. HOLLAND.

No. 192.

*Earl Granville to Sir E. Thornton.*

(No. 145.)

Sir,

*Foreign Office, May 3, 1873.*

I INCLOSE, for your information, copies of correspondence which has passed between this Office and the Colonial Office on the subject of a proposal which General Schenck was instructed to make to me for the signature of a Protocol as to the time of bringing into operation the provisions contained in Articles XVIII to XXV and Article XXX of the Treaty of Washington.\*

You will inform Mr. Fish that Her Majesty's Government agree to this proposal, and I shall be prepared to sign a Protocol, in the sense he suggests, with General Schenck.

I am, &amp;c.

(Signed) GRANVILLE.

No. 193.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, May 3, 1873.*

WITH reference to your letter of the 29th ultimo, I am directed by Lord Granville to request that you will state to Lord Kimberley that he has told General Schenck that Sir Edward Thornton would be instructed to inform Mr. Fish that Her Majesty's Government agree to his proposal that a Protocol should be signed in London as to the time of bringing into operation certain Articles of the Treaty of Washington.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 194.

*Mr. Holland to Mr. Hammond.*

Sir,

*Downing Street, May 3, 1873.*

With reference to your letter of the 29th ultimo, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, copies of the replies received by telegraph from the Governor-General of Canada and the Lieutenant-Governor of Prince Edward Island to the telegrams recently addressed to them respecting the issue of the Proclamation giving effect from the 1st of July next to the local Acts relating to the Treaty of Washington.

As the two Colonial Governments are prepared to issue such Proclamations on learning that the proposed Protocol has been signed, Lord Kimberley sees no objection to the course suggested by the United States' Minister, as explained in your letter of the 25th of April.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 194.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

I WILL issue Proclamation when Protocol has been signed.

*May 2, 1873.*

Inclosure 2 in No. 194.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Telegraphic.)

I WILL issue Proclamation, fixing July 1st, on learning that Protocol has been signed.

*April 30, 1873.*

No. 195.

*Mr. Holland to Mr. Hammond.—(Received May 6.)*

(Secret.)

Sir,

*Downing Street, May 5, 1873.*

THE Canadian Government, as Earl Granville is aware, are preparing a case to be laid before the Commissioners to be appointed under the XXIIInd Article of the Treaty of Washington, and Mr. William McDougall has been lately deputed by that Government to obtain any information from the Foreign Office and this Department which may be of use in the preparation of the case.

2. In conversation with Mr. McDougall, it has become evident that the information which will be required to be supplied here is chiefly such as bears upon the interpretation of the Fishery Article of the Convention of 1818, especially in regard to what is known as the Headland Question.

3. It is not at present requisite to determine how far this question must necessarily be raised in the Canadian case or reply, or whether it will have to be argued before the Commissioners, but it is clear that the Canadian Government should be prepared with the fullest information upon the subject.

4. Lord Kimberley thinks that it would be desirable, in the first place, that a confidential Memorandum should be prepared upon the question, and as for this purpose reference must be made to many papers of a secret and confidential nature, he considers that it should be drawn up under instructions from Her Majesty's Government.

5. His Lordship has accordingly suggested to the Canadian Government that this duty should be intrusted to Dr. Deane, and the Canadian Government have assented to this arrangement.

6. As it is important that no time should be lost in preparing this Memorandum, I am to suggest that Dr. Deane should be at once communicated with, and requested to proceed in the matter at his earliest convenience.

7. The Canadian Government wish Her Majesty's Government to select an Agent under the XXIIIrd Article of the Treaty to assist in the preparation of the Memorandum, and to attend the Commission at Halifax, and Lord Kimberley would be glad to know his Lordship's views as to a proper person to perform the duties of this office, which will require the exercise of tact and judgment.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 196.

*Mr. Holland to Mr. Hammond.—(Received May 8.)*

(Secret.)

Sir,

*Downing Street, May 5, 1873.*

WITH reference to my letter of this day's date, respecting the preparation of a Memorandum on the Headland Question by Dr. Deane, and the appointment of an Agent to attend the Commission at Halifax under the XXIIIrd Article of the Treaty of Washington, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a telegram which was sent in cypher to the Governor-General of Canada on the 22nd ultimo, together with a decypher of his reply.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 196.

*The Earl of Kimberley to Lord Dufferin.*

(Confidential.)

(Telegraphic.)

*Downing Street, April 22, 1873, 4.15 P.M.*

MEMORANDUM on the headland question will be prepared here. Shall Dr. Deane, usually employed by Foreign Office in such matters, be instructed? Agent under Article XXIII of Treaty should be at once appointed to assist here in preparing Memorandum and to attend Commission. Shall we select, or will your Government?

Macdougall has seen this, and concurs.

Inclosure 2 in No. 196.

*Lord Dufferin to the Earl of Kimberley.*

(Telegraphic.)

Dr. DEANE approved of.  
Please select Agent.

April 30, 1873.

No. 197.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, May 8, 1873.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, for his concurrence, with reference to your letter of yesterday, the draft of a letter which he proposes to address to Dr. Deane, requesting him to prepare a Memorandum on the Headland Question, for use in any argument which may be raised on the point at the Commission to be appointed under the XXII<sup>nd</sup> Article of the Washington Treaty.

Lord Granville will forthwith appoint an Agent under the XXIII<sup>rd</sup> Article, who will assist Dr. Deane in preparing his Memorandum; but he would be glad to be made acquainted, as soon as possible, with Lord Kimberley's opinion as to the amount of remuneration to be paid to such Agent, and the source, whether Imperial or Colonial, from which it is to be drawn.

I am to add, that Lord Granville presumes that the Librarian of the Colonial Office will be instructed to supply Dr. Deane with any information on this point with which he will have to deal, that the archives of the Colonial Office can supply.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 198.

*Mr. Holland to Mr. Hammond.—(Received May 10.)*

(Secret.)

Sir,

*Downing Street, May 9, 1873.*

WITH reference to my secret letter of the 5th instant, inclosing cypher telegrams which had passed between the Earl of Kimberley and the Governor-General of Canada on matters connected with the Treaty of Washington, I am directed by his Lordship to transmit to you, to be laid before Lord Granville, copy of a telegram sent in cypher on the 5th instant to the Governor of Newfoundland and to the Lieutenant-Governor of Prince Edward Island, together with a copy of the reply from Lieutenant-Governor Robinson.

Lord Kimberley sees no objection to the Government of Prince Edward Island sending a person to confer with the Agent who is to be selected under the Treaty; and his Lordship proposes, with Lord Granville's concurrence, so to inform the Lieutenant-Governor.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 198.

*The Earl of Kimberley to the Earl of Dufferin and Lieutenant-Governor Robinson.*

(Telegraphic.)

*May 5, 1873,*

CANADA is preparing case under Article XXII of Treaty, as to value of Dominion fisheries, and Memorandum on legal questions will be prepared here by Dr. Deane. You should prepare case as to value of your fisheries. Canada wishes us to select Agent under Article XXIII. Shall same Agent act for you?

## Inclosure 2 in No. 198.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Telegraphic.)

*Prince Edward Island, May 6, 1873, 9 P.M.*

CASE will be prepared forthwith. Shall be glad if the Agent selected will act for us also, but, in addition, we hope to be allowed to send somebody locally conversant with the question, to confer with him, as requested in my despatch No. 59 of 1871.

No. 199.

*Mr. Herbert to Mr. Hammond.—(Received May 12.)*

Sir,

*Downing Street, May 12, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 8th instant, inclosing the draft of a letter to Dr. Deane relating to the "Headland Question," and requesting Lord Kimberley's opinion as to the remuneration to be paid to the Agent who is to be appointed under the XXIIIrd Article of the Treaty of Washington.

2. Lord Kimberley desires me to state that he concurs in the proposed communication to Dr. Deane.

3. With regard to the remuneration to be paid to the Agent, and to other expenses to be incurred in connection with the mission at Halifax, his Lordship desires me to suggest, for Earl Granville's consideration, whether the following would not be an equitable arrangement:—

4. As the settlement of the question of the fisheries is to be made under a Treaty concluded by the Imperial Government, and involves considerations not merely of Colonial interest, it would appear that the Imperial Treasury may fairly be called upon to defray some part of the expense.

5. His Lordship would therefore propose—

1st. That the Colonies concerned should pay all the expenses incurred in those Colonies in preparing the necessary cases and evidence as to the value of the fisheries conceded to the United States.

2ndly. That the Imperial Treasury should pay all the expenses incurred here in preparing the memorandum and case with reference to the Headland, or any other legal question arising upon the construction of the Treaty of 1818.

3rdly. That the Colonies should pay half of the expenses incurred in the proceedings at Halifax before the Commissioners, and that the Imperial Treasury should pay the other half.

6. His Lordship thinks that the Lord Chancellor might be asked to state what, in his opinion, would be a reasonable payment to the Agent, both in respect to the work which will have to be done by him here and that to be undertaken by him at Halifax.

7. If Lord Granville should, after communication with the Lords Commissioners of the Treasury, concur in this arrangement, Lord Kimberley will make the necessary communication to the Governors of Canada, Newfoundland, and Prince Edward Island.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

No. 200.

*Mr. Hammond to Mr. Holland.*

(Immediate.)

Sir,

*Foreign Office, May 12, 1873.*

WITH reference to your letter of the 3rd instant, I am directed by Lord Granville to transmit to you, for the concurrence of the Earl of Kimberley, a draft of Protocol fixing the 1st of July as the day on which Articles XVIII to XXV, and Article XXX, of the Treaty of Washington, shall come into operation.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 201.

*Mr. Holland to Mr. Hammond.—(Received May 14.)*Sir, *Downing Street, May 14, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 12th instant, and to state, for Earl Granville's information, that, with the alteration suggested in red ink in the margin of the draft herewith returned, his Lordship concurs in the proposed draft Protocol fixing the 1st of July as the day on which Articles XVIII to XXV and Article XXX of the Treaty of Washington shall come into operation.

The alteration suggested in red ink is based on the telegram from the Lieutenant-Governor of Prince Edward Island, dated 30th June, 1872, a copy of which was communicated to the Foreign Office in the letter from this Department of the 4th of July, 1872.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 202.

*Sir E. Thornton to Earl Granville.—(Received May 15.)*(Telegraphic.) *Washington, May 15, 1873, 1.45 P.M.*

AMERICAN Minister at London has written to Mr. Fish that you would instruct me to sign the Protocol referred to in your despatch No. 145 of the 3rd instant, which course was in accordance with his suggestion. Your despatch proposes that it should be signed in London. Mr. Fish asks which you prefer. He thinks that the former would save time.

No. 203.

*Mr. Holland to Mr. Hammond.—(Received May 17.)*Sir, *Downing Street, May 16, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, an extract from the "Ottawa Times," received from the Governor-General of Canada, containing a Report of a debate in the Canadian House of Commons on the clauses in the Washington Treaty bearing on the subject of the fisheries.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure in No. 203.

*Extract from the "Ottawa Times."*

*Washington Treaty.*—Mr. Mills, in moving for Committee of Whole to consider certain resolutions for an Address to Her Majesty, praying that steps may be taken to remove all doubts as to her exclusive sovereignty over all bays, harbours, and inlets upon our coasts, to the same extent that similar waters are claimed by every civilized nation having a frontier on the sea, said it was well-known that the English Government had, long before the independency of the United States, refused to recognize the right of American fishermen to fish in Canadian waters; the United States' Government had claimed a right to participate in these waters; and that certain concessions had been made which had lasted several years. He then went into a long account of the several arrangements and negotiations that had subsequently been entered into in relation to this matter, maintaining that when the Treaty of 1854 was terminated this matter was left the same as was provided by the conditions of the Treaty of 1818; maintaining also that the conditions of the Treaty of 1854 were only in addition to the conditions of the Treaty of 1818. He contended that the rights of Canada would be jeopardized if the Commission at Halifax decided what compensation Canada should have for the superiority of her fisheries if this question of right of Americans to fish in certain waters was not settled beforehand.

*Right Hon. Sir John A. MacDonal*d said the hon. gentleman had called the attention

of the House to the arbitration which was to take place he hoped shortly after the 1st July. He thought, however, that care should be taken by the hon. gentlemen in his desire to protect and vindicate the interest of the country that his resolutions did not have an opposite effect. The consequence of the hon. gentlemen's resolution being carried would be to put a stop to the Treaty which was to be in existence for twelve years so far as the rights of mutual fishing and so far as the fishery articles were concerned. The only result of the resolutions being carried would be that for the next twelve years we would get no compensation whatever for the excess of value of our fisheries over the Americans. There was no means of compelling the United States' Government to enter into the consideration of this matter, and the hon. gentleman by looking at the Protocol would find that the American Government was unwilling to discuss or enter into the question of right on headlands or any other of the disputed questions with regard to the fisheries which existed between the two nations. It was pressed very strongly that when there were other points of difference which threatened to disturb the amicable relations between the two nations it was all important that this additional cause should not be stirred at that time, and it would be indefinitely better to continue the existing arrangement, and to postpone the question of right as much as possible. He believed the sentiment of the country was in favour of that determination. Suppose the question of headlands had been settled either for or against us, the value of our fisheries to the American fishermen, the temptation to enter into our waters would be still the same, and the danger of collision would still exist, and would continue to exist so long as these rights were enforced. It was true that we were bound to insist upon our rights, no matter if they were denied or resisted, and Her Majesty's Government had admitted the liability of England to defend our ascertained rights, no matter what they might be.

*Mr. Mills.*—In what way could the settlement of this question of right interfere with the powers of the English Commissioners to concede the liberty.

*Right Hon. Sir John A. Macdonald.*—The honourable gentleman would see that the two Governments were anxious to avoid entering into discussion of the fisheries at all. The Canadian Government pressed for the settlement of the headlands question fully and systematically, and got from Her Majesty's Government an undertaking that our rights would be asserted, and that an attempt would be made to have a Commission appointed for the purpose of settling it. The American Government objected to approaching that subject at all, and made a proposition that some arrangement should be made similar in spirit, if not in detail, to the arrangements under the Treaty of 1854, by which these questions of right would be given the go-by during the twelve years for which the arrangement had been made, and that there should be reciprocity in fishing for twelve years, so that the probabilities might be diminished, that the Senate of the United States would not agree to the Treaty. The consequence was, that Her Majesty's Government agreed to the clauses in the Act, by which for ten years and two years' notice there should be reciprocity in fishing within certain limits, free trade in fish and fish-oil during that time, and a Commission appointed for the purpose of settling by what sum, if any, the advantages we gave were greater than those we received.

*Mr. Mills.*—How is a Commission to determine the value of our fisheries, unless it is determined what our fisheries are?

*Right Hon. Sir John A. Macdonald* said, he was coming to that question. They could not ascertain the actual value of our fisheries unless all disputed questions were first settled, and consequently the idea was, that the Commissioners should disregard all such questions as that, should view the question as a whole, as a matter of pounds, shillings, and pence, and should give a gross sum in favour of Canada. He had no doubt that the American agents would press the matter strongly, and would attempt to restrict our limits, while our agents would attempt to enlarge them; and the Commissioners would have to come to the best view they could as to the sum to be awarded as compensation. The hon. gentleman would, however, see that neither under the Treaty, nor by any Commission given under the Articles of the Treaty, would the Commissioners have any right to decide the question of territorial possession or sovereignty. It occurred to him that the result of the adoption of the Resolution of the hon. gentleman would simply be to deprive us of all the compensation.

*Hon. Mr. Mackenzie.*—No, no.

*Right Hon. Sir J. A. Macdonald.*—At all events it would be better to postpone all compensation until the headland question was settled, and the Americans would refuse to settle it for twelve years. At this moment there were communications going on between Her Majesty's Government and the Canadian Government as to these headland rights; and Her Majesty's Government were taking every possible step to have those rights recognized. They were to be asserted by Her Majesty's Government in the strongest possible way.

known among nations. He thought the hon. gentleman would see that, in this motion, he was simply the pecuniary game of the United States to deprive us of this compensation for twelve years, or at least until the American Government thought proper to agree to a settlement of the headland question. The fishery question would be left to men of commercial and financial ability, while Her Majesty's Government would press for the reference of the headland question to jurists of high standing, and versed in international law. He thought the object of the hon. gentleman would be obtained by bringing the question under the notice of the House, and he hoped he would be satisfied with that without pressing his motion.

*Mr. Blake* could not agree with the views of the Minister of Justice. He then quoted from the instructions to the Commissioner and the protocol, showing that when the Commissioners first met Her Majesty's Commissioners had stated that they were prepared to discuss the question of the fisheries; and that they offered to the Americans to take one of two courses, to discuss them in detail or generally, whichever the United States might prefer. The United States' Commissioners of course chose the latter alternative, and the whole negotiation was proceeded with upon the latter. He would not do the hon. gentleman's acuteness so much wrong as to suppose that when it was proposed to the American Commissioners to give that alternative he did not know beforehand that it was the second they would adopt. They would at once say that they did not want to enter into the question of right. They knew that there was not a tenable argument which they could advance on their side; and therefore in every way possible they had put off the settlement of a question which must go one way if ever we got a fair decision upon it. Now, he maintained that it was utterly impossible that an award should take place upon intelligible grounds, unless there were some determination as to what our fishery rights were. Was this question of the headlands of importance or not? Was it a delusion and a false pretence that the Canadian Government had been for so many years putting forward, as to the extreme value of our fisheries beyond the three miles limit? No Government could for a moment contend that rights beyond the three miles limit were not of extreme value. Were, then, those rights of such great value to be abandoned in the settlement of the value of our fisheries? Were we for twelve years to give up this question of headlands? It had either got to be given up or to be settled. How were the Commissioners to know the value of the rights which we had ceded unless they knew the territorial limits of the right? They must say that they considered that Canada had no right, or they must say that it has. The result of what the Premier had said was, that this right was to be temporarily abandoned. That it was not to be intrusted to the Commissioners. That they were merely a body of mercantile men who were to consider a question of dollars and cents; and that they were not even to determine upon it for the purpose of fixing upon a basis on which they were to determine the question of dollars and cents. But how were these individuals to discharge their functions, how was this question of dollars and cents to be arrived at if they had not a basis of rights to go upon? This was a question which the right hon. gentleman had not answered, which he could not answer, except by saying, as he did say obscurely, that the question was not to be raised at all. The position that the right hon. gentleman now took was, that we were to have some misty words, some strong despatches written from one country to the other asserting those rights, but in the meantime all real practical benefits that we might have from the assertion of these rights was to be lost. And what would follow? The American Government would say these rights are not to be considered now. When the twelve years have elapsed it will be time to approach this subject. He believed this would be the result, and that unless the Canadian Parliament chose to act, to say that the proper time to settle this question was the present, and that it should be referred to an international Commission, in which the interests of Canada should be represented in some other way than on the last Commission, these rights would remain in abeyance for the next twelve years, and would then be in a worse position than now. The hon. gentleman had said that if we proceeded now we should lose our compensation if this Address were carried. They must all know, however, that no Resolution that they could pass could stay the march of the Treaty. They knew that the Commission must go on, and that no Address which could be passed by this House could stay the course of the Commission. What was proposed was not that this transaction should be interfered with, but that the settlement of the territorial basis should be expedited in order that the amount might be awarded on a proper basis, the basis of right.

*Hon. Dr. Tupper* had been much surprised at the tone of the hon. gentleman who had just taken his seat. The House was very well aware that this question was one of the most difficult that this Parliament had ever had to deal with. The House would be perfectly well aware of the manner in which he was met by hon. gentlemen opposite when he

proposed that we should take the moderate measure of protecting our fisheries; that, in fact, we should take the position that we are entitled to, of preventing our fisheries everywhere being encroached upon and enjoyed by the United States, and that some regard should be had for the provisions of the Treaty of 1818. Then it was said that the greatest possible danger was to be apprehended from this, that the Government were starting upon a perilous course. It was known that all the advantages in consideration of which we had surrendered our fisheries had been withdrawn by the United States, while at the same time the fishermen of the United States enjoyed the privilege of fishing in our waters in common with our own fishermen, and that we received no compensation for this whatever. Under these circumstances he had held that we should claim the fisheries of Canada. The House would remember how he had been met on that occasion. The Government, it was contended, were adopting a perilous course.

*Mr. Blake* said the hon. member for Sherbrooke was the only member who had spoken in this sense.

*Hon. Dr. Tupper* would tell the hon. gentleman that the hon. member for Shefford was the first person who had spoken in this manner, and the hon. member must remember that this was the sentiment expressed generally by the House. He would except, however, the hon. member for Lambton. It was said that the course which the Government were pursuing was fraught with danger; it was going to produce an irritation in the minds of our American neighbours. We were told that we were but four millions of people lying alongside of forty millions; and that we were going to excite the passions of that country in the moderate attempt to protect our own rights. Now, as regarded the settlement of the Headland Question, he would tell the hon. gentlemen that at every step in their arguments they had ignored historical facts in connection with this country. On this question it had always been held that we had a right to the headland limit. This position had always been held by British jurists, and had always been maintained by the Imperial Government, but while it was known that this was the case, it was also known that the Imperial Government were not prepared, under existing circumstances, to provoke a collision with the United States of America by asserting this right. It was perfectly well known that while they were prepared to protect us in the three miles limit, and while they maintained their undoubted right to enforce the headland limit, they would not make this a cause of collision between us and the United States. The main question in controversy between us and the United States at that time was not the headland limit. The hon. gentlemen knew that it was not. They knew that in the Address delivered by the President of the United States, and in which the Treaty of Washington was alluded to, it was not the Headland Question that was alluded to, but it was the question of the severity of the mode which we had adopted for the exclusion of American fishermen from the three miles limit. He then quoted from the President's Message to show that this was the case. Thus the irritation which hon. gentlemen had predicted as the result of the Government policy had been incurred, and it was under these circumstances, and with a view to bring about a settlement upon a friendly basis, that the effort was made to bring about the negotiations which led to the Washington Treaty. His hon. friend, the member for South Bruce, had said that the British Commissioners approached the question with a view to a settlement upon a general basis. It could not have been settled if a question had been raised which for thirty years had been in dispute between the two countries, and which, after thirty years of controversy, had occasioned no modification of the views on either side. Thus the only way to have settled the question would have been to have referred it to a body of independent jurists. This being the case, he would ask if the Commissioners had not pursued the most desirable course. This was the history of the case, which the hon. gentlemen opposite had been forced to ignore in order to obtain the slightest foundation for the Resolutions now before the House.

It being six o'clock, the House rose.

No. 204.

*Earl Granville to Mr. Thornton.*

(No. 157.)

Sir,

*Foreign Office, May 17, 1873.*

AS it appears from your telegram of the 15th instant, that Mr. Fish would prefer that the Protocol fixing the 1st of July as the day on which Articles XVIII to XXV of the Treaty of Washington of the 8th of May, 1871, shall come into operation, should be signed at Washington, I transmit to you herewith a draft of Protocol which, if Mr. Fish concurs in it, you are authorized to sign.



person being sent from that Colony to confer with the Agent who is to be selected under the 23rd Article of the Treaty of Washington to attend the Commission.

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

No. 206.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, May 17, 1873.*  
WITH reference to your letter of the 14th instant, I am directed by Lord Granville to request that you will inform the Earl of Kimberley that the alteration suggested by his Lordship in the Draft Protocol fixing the 1st of July as the day on which Articles XVIII to XXV and Article XXX of the Treaty of Washington shall come into operation will be adopted, and that the United States' Government having expressed a wish that the Protocol should be signed in Washington, it will be forwarded by this evening's mail to Sir E. Thornton, with instructions to sign it with Mr. Fish.

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

No. 207.

*Sir E Thornton to Earl Granville.—(Received May 19.)*

(Telegraphic.) *Washington, May 19, 1873, 12:30 P.M.*  
WITH reference to your despatch No. 136 of the 24th ultimo, Mr. Fish thinks that it would be better to delay sending the Instructions until the Protocol alluded to in my telegram of the 15th instant is agreed upon.

No. 208.

*Mr. Hammond to Dr. Deane.*

Sir, *Foreign Office, May 20, 1873.*  
I AM directed by Earl Granville to refer you to the XXII<sup>nd</sup> Article of the Treaty of Washington of May 8, 1871, which provides for the appointment of a Mixed Commission "to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty, in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty."

It is possible that, in the discussions which may take place between the Commissioners, the question may be raised as to the right of reservation for British subjects of exclusive fishery in the bays which are found on various parts of the British American coast, and in dealing with this question the extent of the territorial rights of Great Britain within such bays may come under consideration.

This point, which you will recognize under the description of the Headland Question, has been frequently under discussion, and besides any information in regard to it which may be obtained from general sources with which you are acquainted, the archives of the Foreign Office, it is believed, can supply much information.

The Librarian of this Department has consequently been instructed to examine the archives for that purpose, but Her Majesty's Government consider it desirable that without loss of a time a Confidential Memorandum should be prepared for use in any argument, supposing the point referred to should be raised before the Commission.

Earl Granville requests, therefore, that you should, at your earliest convenience, prepare such a Memorandum, and, besides the assistance which the Librarian of the Office may be able to render to you by providing you with materials, his Lordship

proposes that you should have the assistance of the gentleman who will shortly be appointed to attend the Mixed Commission under the XXIIIrd Article of the Treaty as Agent on behalf of Her Majesty's Government.

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

No. 209.

*The Secretary to the Admiralty to Mr. Hammond.—(Received May 22.)*

Sir, *Admiralty, May 21, 1873.*  
WITH reference to your letter of the 19th instant, relative to certain information required by Dr. Deane, who is preparing the British case for the approaching Arbitration on the Delagoa Bay Question, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that if Dr. Deane will call upon the Hydrographer of the Navy, at this office, all possible assistance will be afforded to him.

I am, &c.  
(Signed) ROBERT HALL.

No. 210.

*Mr. Hammond to Dr. Deane.*

Sir, *Foreign Office, May 23, 1873.*  
WITH reference to my letter of the 20th instant, I am directed by Lord Granville to acquaint you that he has been informed by the Lords Commissioners of the Admiralty, that if you will call upon the Hydrographer of the Navy, at the Admiralty Office, he will give you any information bearing on the Fishery case which you may require from that Department.

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

No. 211.

*Sir E. Thornton to Earl Granville.—(Received May 25.)*

(No. 219.)

My Lord, *Washington, May 12, 1873.*  
ON the receipt of your Lordship's despatch No. 136 of the 24th ultimo, I addressed to Mr. Bancroft Davis, then Acting-Secretary of State, a note in the terms of that despatch. A copy of this note I have the honour to inclose.

In a conversation which I had this afternoon with Mr. Fish, he said that he would forward me an answer to my note as soon as he could speak to the President on the subject.

He at the same time expressed his earnest hope that the two Governments might agree, as soon as possible, upon the third Commissioner to be appointed in accordance with the provision of the XXIIIth Article of the Treaty of May 8, 1871, in order that the Commission might meet at Halifax on, or as soon as might be after, the 1st of July next.

Mr. Fish also suggested the expediency of drawing up a Protocol, to be signed by him and myself, before the 1st of July next, to the effect that the laws required to carry out Articles XVIII to XXV inclusive, and Article XXX of the above-mentioned Treaty, had been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward's Island on the one hand, and by the Congress of the United States on the other, and that a copy of these laws should be incorporated in, or annexed to, the Protocol.

I replied that I saw no objection to the steps which he proposed.

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

## Inclosure in No. 211.

*Sir E. Thornton to Mr. Davis.*

Sir,

*Washington, May 9, 1873.*

I HAVE the honour to inform you that, from conversation which I have recently had with Mr. Fish, I understood that the President's Proclamation giving effect to the Act of Congress for carrying out the provisions of the Treaty of Washington, in regard to the Fisheries would be issued on the 1st of July, and I communicated this impression to Lord Granville.

In the prospect of this step being taken, Her Majesty's Secretary of State for the Colonies proposes to address to the Governors of Canada and Prince Edward Island instructions as to the day which should be appointed for bringing into operation the Acts passed in those Colonies for the same purpose.

Lord Kimberley wishes to ascertain, however, before sending the despatch, whether it meets the views of the Government of the United States, and I have, therefore, the honour, in compliance with Lord Granville's instruction, to transmit a copy of it herewith, and to state that Her Majesty's Government entertains the opinion, in which it has no doubt that the Government of the United States will concur, that it is very desirable that simultaneous operation should be given to the different Acts which give effect to the Treaty of Washington, and that as the Imperial Act 35 and 36 Vict., cap. 45, takes effect, without any Order or Proclamation, as soon as the law passed by the Congress of the United States comes into force, it is only necessary to deal with the Colonial Acts.

I venture to hope that you will be able to inform me, as early as it may be in your power, that the Government of the United States concurs in the terms of the proposed instruction.

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

## No. 212.

*Mr. Hammond to Mr. Holland.*

(Immediate.)

Sir,

*Foreign Office, May 26, 1873.*

WITH reference to your letter of the 12th ultimo, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, reporting a conversation with Mr. Fish, in regard to the appointment of a third Commissioner under the XXIIIrd Article of the Treaty of Washington, and the signature of a Protocol fixing the day on which the provisions of Articles XVIII to XXV and Article XXX of the Treaty should come into operation.

I am to add that the Draft Protocol was sent to Sir E. Thornton on the 17th instant.

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

## No. 213.

*Mr. Holland to Mr. Hammond.—(Received May 26.)*

Sir,

*Downing Street, May 23, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor of Newfoundland, inclosing an Act passed by the Legislature of that island, entitled "An Act relating to the Treaty of Washington, 1871."

Having respect to the terms of the proviso at the end of the first section, Lord Granville will, no doubt, think it desirable to learn from the Law Officers of the Crown, whether the Act sufficiently complies with the terms of the Treaty, and should they be of opinion that the Act is sufficient, Lord Kimberley would suggest that this despatch and inclosures should be communicated to Sir E. Thornton, and that he should be informed that the Law Officers have reported that the Act sufficiently complies with the terms of the Treaty, and that Her Majesty's assent will be given to it, and that

he should further be instructed to bring the Act under the consideration of Mr. Fish, and inquire from him whether the President of the United States will be prepared, on the 1st of July, to issue a Proclamation in accordance with the 2nd section of the recent Act of Congress relating to the Treaty of Washington. Mr. Fish might be informed that, if the President is prepared to take this course, the Governor of Newfoundland will be instructed to issue a Proclamation in accordance with the 2nd section of "The Treaty of Washington Act, 1872," fixing the 1st of July next as the day on which that Act and the Articles of the Treaty applicable to Newfoundland shall take effect in the Colony.

Lord Granville will consider whether an Article with respect to Newfoundland should be added to the Protocol, which it is proposed to sign in reference to the date for bringing into operation the Fishery Clauses of the Treaty.

I am to request that, when the Act has been submitted to the Law Officers, a copy of their opinion may be forwarded to Lord Kimberley, so that he may communicate with the Governor upon the subject.

I have, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 213.

*Governor Hill to the Earl of Kimberley.*

My Lord,

*Government House, Newfoundland, May 6, 1873.*

I HAVE the honour to transmit herewith to your Lordship, copies of an Act passed during the recent session of this Legislature, entitled "An Act relating to the Treaty of Washington, 1871." I also transmit the Colonial Crown Law Officer's Report upon this Bill.

2. I have to invite your Lordship's attention to the proviso contained in the first section of the Act, respecting the time for the prosecution of the herring fishery on the western coast of the island, to which the Attorney-General in his Report refers.

3. The other sections of the measure accept, on the part of this Colony, such provisions of the Treaty of Washington as relate to Newfoundland.

I have, &c.  
(Signed) STEPHEN J. HILL.

Inclosure 2 in No. 213.

*The Attorney-General to Captain Shea.*

Sir,

*St. John's, May 5, 1873.*

I HAVE the honour to report, for the information of his Excellency the Governor, that the Legislature of this Colony, during the last session, passed an Act, entitled "An Act relating to the Treaty of Washington, 1871."

This Act was adopted to give effect to the provisions of the Treaty of Washington, 1871, so far as they apply to this Colony.

The proviso contained in the first section has reference to the time for the prosecution of the herring fishery on the western coast of the island, and is merely intended to place American citizens on the same footing with our own people in that particular.

I have, &c.  
(Signed) JAS. T. LITTLE, *Attorney-General.*

Inclosure 3 in No. 213.

Passed the House of Assembly, March 31, 1873.

Passed the Legislative Council, April 28, 1873.

Received Governor's Assent, May 5, 1873.

(Signed) J. L. NORMAN, *Colonial Secretary.*

*A Bill relating to the Treaty of Washington, 1871.*

WHEREAS a Treaty between Her Majesty and the United States of America was signed at Washington on the eighth day of May, one thousand eight hundred and seventy-

one, and was duly ratified on the seventeenth day of June in that year, which, amongst other things contained the following Article:—

“It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this Treaty inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect; but the omission to make provision by law to give it effect, by either of the Legislative Bodies aforesaid, shall not in any way impair any other Articles of this Treaty.”

And whereas it is expedient to provide for giving effect as regards the Island of Newfoundland and its Dependencies, to said Articles XVIII to XXV of said Treaty inclusive, so far as they are applicable to this Colony:

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

1. As soon as the law required to carry into operation, on the part of the United States of America, the Articles set out in the Schedule to this Act has been passed by the Congress of the United States, and come into force, all laws of this Colony which operate to prevent the said Articles from taking full effect, shall, so far as they so operate, be suspended and have no effect during the period mentioned in the Article numbered XXXIII in the Schedule to this Act: provided that such laws, rules and regulations relating to the time and manner of prosecuting the fisheries on the coasts of this island, shall not be in any way affected by suspension.

2. The Governor in Council, by any order or orders to be made for that purpose, may do anything further in accordance with the spirit and intention of the Treaty, which shall be found necessary to be done on the part of this island, to give full effect to the Treaty, and any such order shall have the same effect as if the object thereof was expressly provided for by this Act.

3. This Act shall not come in force until Her Majesty's assent thereto shall have been given, and until the issuing of a Proclamation under provisions of Section 2 of the Act of the Imperial Parliament, entitled “The Treaty of Washington Act, one thousand eight hundred and seventy-two,” and shall remain in force during the term of years mentioned in Article XXXIII in the Schedule to this Act.

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#### Schedule.

*Articles of the Treaty of Washington, of May 8, 1871, which are referred to in the foregoing Act.*

#### ARTICLE XVIII.

IT is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States' fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coast in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

#### ARTICLE XIX.

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the terms of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of

north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers are hereby reserved exclusively for fishermen of the United States.

#### ARTICLE XX.

It is agreed that the places designated by the Commissioners appointed under the 1st Article of the Treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's dominions and the United States, as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding Articles. In case any question should arise between the Governments of Her Britannic Majesty and the United States as to the common right of fishing in places not thus designed as reserved, it is agreed that a Committee shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the Commission appointed under the said 1st Article of the Treaty of the 5th of June, 1854.

#### ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada, or of Prince Edward Island, or of the United States, shall be admitted into each country, respectively, free of duty.

#### ARTICLE XXII.

Inasmuch as it is asserted by the Government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this Treaty, are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States; it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty; and that any sum of money which the said Commissioners may so award shall be paid by the United States' Government in a gross sum, within twelve months after such award shall have been given.

#### ARTICLE XXIII.

The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say:—One Commissioner shall be named by Her Britannic Majesty, one by the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this Article shall take effect, then the third Commissioner shall be named by the Representative at London of his Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet in the City of Halifax, in the Province of Nova Scotia at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best

of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the High Contracting Parties shall also name one person to attend the Commission as its Agent, to represent it generally in all matters connected with the Commission.

#### ARTICLE XXIV.

The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either Party shall offer oral testimony, the other Party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

If, in the case submitted to the Commissioners, either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissions may require.

The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty.

#### ARTICLE XXV.

The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a Secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the High Contracting Parties shall pay its own Commissioner and Agent or Counsel; and all other expenses shall be defrayed by the two Governments in equal moieties.

#### ARTICLE XXXIII.

The foregoing Articles XVIII to XXV inclusive, and Article XXX of this Treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said Articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterwards.

No. 214.

*Mr. Hammond to the Law Officers of the Crown.*

Gentlemen,-

*Foreign Office, May 26, 1873.*

I AM directed by Lord Granville to transmit to you a letter from the Colonial Office, forwarding a copy of an Act which has been passed by the Legislature of Newfoundland for carrying out the provisions of the Treaty of Washington in regard to fisheries; and I am to request that you will take this document into your consideration and report to Lord Granville, at your earliest convenience, your opinion whether it sufficiently complies with the terms of the Treaty of Washington, especially with reference to the proviso at the end of the first section of the Act.

A copy of the Treaty of Washington is annexed for convenience of reference, and I am also to inclose a despatch to Sir E. Thornton, forwarding a draft of Protocol, fixing the 1st of July as the date at which the provisions of Article XVIII to XXV and Article XXX of the Treaty shall come into operation, which he has been authorized to sign if the United States' Government concur in it.

I am, &c.

(Signed) E. HAMMOND.

No. 215.

*Mr. Holland to Mr. Hammond.—(Received May 28.)*

Sir,

*Downing Street, May 27, 1873.*

WITH reference to your letters of the 31st of August and 14th of October, 1871, relating to a proposal made by the Government of Newfoundland, that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, and making outfit in the ports of that island, on the condition of the admission of the produce of the Newfoundland seal fishery into the United States free of duty, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor of Newfoundland, asking that it may be ascertained whether the United States' Government have obtained the approval of Congress to the proposed arrangement.

Lord Kimberley desires me to request to be informed whether any further communication has been received from the Government of the United States on this subject since the date of Mr. Davis's note to Mr. Pakenham of the 23rd of September, 1871; and if none has been received, his Lordship would suggest that Sir E. Thornton should be instructed to ascertain the present views of the United States' Government in the matter.

I am, &amp;c.

(Signed)

H. T. HOLLAND.

Inclosure in No. 215.

*Governor Hill to the Earl of Kimberley.*

My Lord,

*Government House, Newfoundland, May 3, 1873.*

I HAD the honour, in my despatch of the 17th July, 1871, to invite your Lordship's attention to the omission of seal-oil, under the head of "Fish-oil," as an article to be admitted free of duty under the Treaty of Washington, from the ports of the British North American possessions into the markets of the United States; and your Lordship was pleased to reply, in despatch of the 24th October, 1871, "that the matter has been brought to the notice of the United States' Government, and will receive their consideration, but that the proposal is one which needs Congressional approval before it can be definitely accepted by the Department of State."

3. As no further answer to this point has yet been received by this Government, and as the Colony has accepted the provisions of the Treaty of Washington, as far as they relate to Newfoundland, I have been requested to re-open the question respecting the free admission of seal-oil into the United States, and to respectfully invite your Lordship to be pleased to ascertain if the Government of the United States has obtained the approval of Congress to admit the produce of the seals of Newfoundland into their ports duty free, in exchange for the right of taking seals in Newfoundland waters, and of making outfits in the ports of the island.

I have, &amp;c.

(Signed)

STEPHEN J. HILL.

No. 216.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received May 29.)*

My Lord,

*Temple, May 29, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 26th instant, stating that he was directed by your Lordship to transmit to us a letter from the Colonial Office, forwarding a copy of an Act which had been passed by the Legislature of Newfoundland for carrying out the provisions of the Treaty of Washington in regard to fisheries, and he was to request us to take the documents into consideration and report to your Lordship, at our earliest convenience, our opinion whether it sufficiently complied with the terms of the Treaty of Washington, especially with reference to the proviso at the end of the first section of the Act.

That a copy of the Treaty of Washington was annexed, and that he, Mr. Hammond, was to inclose a despatch to Sir E. Thornton, forwarding a draft Protocol, fixing the 1st of July as the date at which the provisions of Article XVIII to XXV, and Article XXX of

the Treaty should come into operation, which he, Sir E. Thornton, had been authorized to sign if the United States' Government concurred in it.

In obedience to your Lordship's commands, we have the honour to report—

That, in our opinion, the Protocol which recites the Acts of the Imperial Parliament of the Dominion of Canada, and of the Legislature of Prince Edward Island should also recite the Act passed by the Legislature of Newfoundland, particularly with reference to Article XXXII of the Treaty of Washington, 1871.

In reference to the proviso at the end of the first section of the Act of Newfoundland we are of opinion that the clause should be so framed as expressly to cover the close time for the herring fishing, and the observation by American fishermen of the rules and regulations imposed upon the fishermen of Newfoundland in that particular.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSELL.  
J. PARKER DEANE.

No. 217.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, May 30, 1873.*

WITH reference to your letter of the 23rd instant, I am directed by Lord Granville to transmit to you a copy of the Report of the Law Officers as to the Act passed by the Newfoundland Legislature for carrying out the provisions of the Treaty of Washington in regard to fisheries;\* and I am to state that, in consequence of their suggestion, that an amendment should be introduced into the jurisdiction of the Act, Lord Granville defers instructing Sir E. Thornton in regard to it until he hears further from Lord Kimberley.

I am to add that, the Protocol having been sent to Washington on the 17th instant, it is doubtful whether there will be time to add a passage respecting Newfoundland, but if, after considering the Law Officers' opinion, Lord Kimberley will supply the terms in which he considers that such an addition should be made, they shall at once be telegraphed to Sir E. Thornton.

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

No. 218.

*Sir E. Thornton to Earl Granville.—(Received May 31.)*

(No. 229.)

My Lord.

*Washington, May 19, 1873.*

WITH reference to my despatch No. 219 of the 12th instant, I have the honour to inform your Lordship that when Mr. Fish suggested to me on that day the expediency of a Protocol being signed as to the coming into effect of certain Articles of the Treaty of May 8, 1871, relating to Canada, I was not aware that he had already written to General Schenck upon the subject, but supposed that he was about to do so.

On the receipt of your Lordship's despatch No. 145 of the 3rd instant, I called upon Mr. Fish on the 15th instant, and, in compliance with the instructions contained therein, I informed him that Her Majesty's Government agreed to his proposal, and that you would be prepared to sign a Protocol in the sense he suggested with General Schenck.

Mr. Fish replied that he had not instructed General Schenck to propose that the Protocol should be signed in London, but had desired him to ask that instructions should be sent to me to sign it with him at Washington. This he had done, not because there was any objection whatever to its being signed in London, but because he thought that time would be saved by the other course.

Mr. Fish then sent for General Schenck's last despatches, and read to me parts of two of them, in which the General stated that he had conferred with your Lordship upon the subject; that you had promised to speak with your colleagues; and that, after having done so, you had subsequently informed him that instructions would be sent to me with regard to the Protocol. Mr. Fish had received despatches of a later date, but General Schenck had made no mention of any change with regard to the matter.

Mr. Fish, therefore, begged that I would inquire of your Lordship at which of the two

places you would prefer that the Protocol should be signed. He himself inclined to Washington for the sake of saving time.

I thought it best to telegraph to your Lordship with regard to this inquiry, and had the honour of doing so on the 15th instant.

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

No. 219.

*Sir E. Thornton to Earl Granville.—(Received May 31.)*

(No. 231.)

My Lord,

*Washington, May 19, 1873.*

WITH reference to your Lordship's despatch No. 136 of the 24th ultimo, I have already had the honour, in my despatch No. 219 of the 12th instant, to transmit a copy of the note which I addressed to Mr. Bancroft Davis, in accordance with your Lordship's instructions.

As soon as Mr. Fish returned to Washington, I called his attention to the note, informing him that I had been desired to report by telegraph his views with regard to the instructions to be sent to the Governors of Canada and Prince Edward Island. Mr. Fish replied that, although he personally saw no objection whatever to the tenor of the instructions, he would be obliged to take the pleasure of the President before he could give me a definite answer.

As the President returned on Saturday, the 17th instant, I called upon Mr. Fish this morning at the State Department. I found, however, that he had not yet spoken to the President upon the matter; he excused himself by saying that, upon reflection, he had thought it better that the instructions, of which I had sent Mr. Bancroft Davis a copy, should not be transmitted until an agreement was come to as to the Protocol which he had suggested, and with regard to which General Schenck had informed him that your Lordship would send me instructions. I therefore forwarded to you the telegram which is recorded in my despatch No. 228 of to-day's date.

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

No. 220.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 3, 1873.*

WITH reference to my letter of the 26th ultimo, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, copies of despatches, as marked in the margin,\* upon the subject of the Fishery Articles of the Treaty of Washington.

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

No. 221.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 4, 1873.*

WITH reference to your letter of the 27th ultimo, forwarding a despatch from the Governor of Newfoundland, relative to the question of the importation of seal-oil into the United States, I am directed by his Lordship to request that you will state to the Earl of Kimberley, that no information on the subject has been received from Sir E. Thornton, but that he will be instructed to ascertain what steps have been taken with regard to it.

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

No. 222.

*Earl Granville to Sir E. Thornton.*

(No. 173.)

Sir,

*Foreign Office, June 4, 1873.*

WITH reference to Mr. Pakenham's despatch No. 60 of September 26, 1871, I inclose for your information, a copy of a letter from the Colonial Office, inquiring what steps have been taken in regard to the importation of seal-oil from Newfoundland into the United States;\* and I have to instruct you to report to me whether anything has been done by the United States' Government with a view of carrying out the reciprocal arrangements on the subject proposed by the Newfoundland Government in 1871.

I am, &c.  
(Signed) GRANVILLE.

No. 223.

*Mr. Herbert to Mr. Hammond.—(Received June 4.)*

Sir,

*Downing Street, June 3, 1873.*

I AM directed by the Earl of Kimberley to acknowledge your letter of the 30th ultimo, transmitting a Report of the Law Officers upon the Act recently framed by the Legislature of Newfoundland for giving effect to the Fishery Articles in the Treaty of Washington.

His Lordship does not clearly understand whether the Law Officers are of opinion that the Newfoundland Act does sufficiently comply with the terms of the Treaty of Washington, or whether their observations as to the proviso are intended to mean that the amendments which they suggest must be made before the Treaty can be brought into operation.

If, as his Lordship rather infers, their meaning is not that the Act does not sufficiently comply with the Treaty in the sense that objection would be made to it by the United States' Government, but that they consider an amendment desirable for the purpose of more clearly expressing the object aimed at the proviso, that object being, in their opinion, a legitimate one and consistent with the Treaty, namely, to put American fishermen on the same footing as Newfoundland fishermen, Lord Kimberley would suggest that copies of the Act and of the correspondence should be transmitted to Sir E. Thornton, and that he should be instructed to ask Mr. Fish whether he is prepared to sign a Protocol, in respect of Newfoundland, similar to that which is to be signed respecting Canada and Prince Edward Island. Mr. Fish should be distinctly informed by Sir E. Thornton, in order to prevent misunderstanding hereafter, that the laws, rules, and regulations referred to in the proviso in the Newfoundland Act include the close time for the herring fishery, and the observation by American fishermen of the rules and regulations imposed upon the Newfoundland fishermen in that particular. As the Newfoundland House of Assembly has been prorogued, and will probably not meet again this year, Lord Kimberley is of opinion that it would be inexpedient, unless it is absolutely necessary, to summon the House together again for the sole purpose of making the suggested amendment, and that it would moreover be difficult to press it upon them unless it could be shown that, in the absence of such amendment, the United States' Government consider that the Act does not sufficiently comply with the Treaty.

If the United States' Government should not raise any objection to the Newfoundland Act there would appear to be no reason why the Act should not be proclaimed with those of the other Colonies on the 1st of July.

Lord Kimberley would further suggest, if Lord Granville is disposed to concur in the course now proposed, that the papers should be referred again to the Law Officers, and that they should be asked whether they see any objection to so proceeding:

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

No. 224.

*Mr. Hammond to the Law Officers of the Crown.*

Gentlemen,

*Foreign Office, June 5, 1873.*

WITH reference to your Report of the 29th ultimo, I am directed by Her Majesty's Secretary of State to transmit to you a letter from the Colonial Office in regard to the Act recently framed by the Legislature of Newfoundland for giving effect to the Fishery Articles in the Treaty of Washington;\* and I am to request that you will take this letter into your consideration, and favour Lord Granville with your opinion as to whether the Act in question does sufficiently comply with the terms of that Treaty, and as to the steps that should be taken for giving effect to it.

The previous papers are returned herewith for convenience of reference.

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

No. 225.

*Mr. Herbert to Mr. Hammond.—(Received June 5.)*

Sir.

*Downing Street, June 4, 1873.*

WITH reference to my letter of the 9th ultimo, inclosing copy of a communication from the Lieutenant-Governor of Prince Edward Island in reply to an inquiry addressed to him by telegraph respecting the preparation of a case to be laid before the Commissioners who are to meet at Halifax under the XXXIIIrd Article of the Treaty of Washington, and the appointment of a person to confer with the agent who is to represent Her Majesty's Government, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch received on the same subjects from the Governor of Newfoundland.

I am desired to request that his Lordship will cause a copy of the Governor's despatch and inclosure to be communicated to the agent who may be selected on the part of Her Majesty's Government, with instructions to attend to the interests of that Island before the Commission.

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

Inclosure 1 in No. 225.

*Governor Hill to the Earl of Kimberley.*

(Confidential.)

My Lord,

*Government House, Newfoundland, May 21, 1873.*

THE inclosed document, purporting to set forth the claims of the Newfoundland Government for compensation under the Washington Treaty, has been handed to me by Mr. Bennett (the Receiver), since the closing of the mail for England, for transmission to your Lordship.

With respect to the appointment of your Agent, as referred to in your Lordship's cypher telegram of the 5th instant, I am requested by advisers to state that they leave such appointment entirely in your Lordship's hands.

I have, &c.  
(Signed) STEPHEN J. HILL.

Inclosure 2 in No. 225.

*Memorandum respecting the Claims of Newfoundland for Compensation under the Washington Treaty.*

THE annual exports value of our fisheries (exclusive of the seal fishery) is estimated at 4,750,000 dollars.

In addition to which American fishermen, prosecuting the Grand Bank or other

fisheries, will be enabled to avail of the right of supplying themselves from the abundant and varied quantities of bait around our shores as fully and freely as our own fishermen at present enjoy this great boon in the prosecution of our fisheries. Whereas the American Shore fisheries have never been of any value to Newfoundlanders, nor, under any circumstances, used by them.

The distance from the Grand Bank to St. John's is so comparatively short, that such facilities for a supply of bait is obviously great.

No. 226.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 7.)*

My Lord,

Temple, June 7, 1873.

WE are honoured with your Lordship's commands, signified in Mr. Hammond's letter of the 5th instant, stating that, with reference to our Report of the 29th ultimo, he was directed by your Lordship to transmit to us a letter from the Colonial Office in regard to the Act recently framed by the Legislature of Newfoundland, for giving effects to the Fishery Articles in the Treaty of Washington, and he was to request us to take the letter into our consideration, and favour your Lordship with our opinion as to whether the Act in question did sufficiently comply with the terms of that Treaty, and as to the steps that should be taken for giving effect to it.

In obedience to your Lordship's commands, we have to report—

That, in our opinion, the Act does sufficiently comply with the terms of the Treaty.

The suggestion made by Lord Kimberley that Mr. Fish be asked to sign a Protocol in respect of Newfoundland, similar to that which has been signed respecting Canada and Prince Edward Island, may be properly adopted.

But that Protocol should contain a clause, following, as nearly as possible, the words of the Proviso at the end of the 1st Article of the Newfoundland Act.

We have, &c.

(Signed)

J. D. COLERIDGE.

G. JESSEL.

J. PARKER DEANE.

No. 227.

*Earl Granville to Sir E. Thornton.*

(No. 176.)

Sir,

Foreign Office, June 7, 1873.

WITH reference to my despatch No. 187 of the 23rd of May, inclosing the draft of a Protocol to be submitted to Mr. Fish, which, if accepted and signed, will fix the 1st of July as the day on which Articles from XVIII to XXV of the Washington Treaty, respecting fisheries, shall come into operation, I transmit to you herewith copies of a correspondence with the Colonial Office respecting the application of those Articles to the Island of Newfoundland.\*

In conformity with the opinion of the Law Officers of the Crown, I have to state to you that Her Majesty's Government consider the Newfoundland Act to comply sufficiently with the terms of the Treaty, and Her Majesty's assent will accordingly be given to it; and I have to instruct you to bring the Act under the consideration of Mr. Fish, and inquire whether the President of the United States will be prepared on the 1st of July next to issue a Proclamation with reference to Newfoundland in accordance with the 2nd section of the recent Act of Congress relating to the Treaty of Washington.

You will say that, in that case, the Governor of Newfoundland will be instructed, on his part, to issue a similar Proclamation, fixing the 1st of July next as the day on which the Act and the Articles of the Treaty applicable to Newfoundland shall take effect in that Colony.

As the Protocol, of which a draft was sent to you on the 17th of May, will have probably been signed before this despatch reaches you, I have to instruct you to propose to Mr. Fish to sign a similar Protocol respecting Newfoundland, with the addition of a clause following as nearly as possible the proviso at the end of the 1st Article of the Newfoundland Act, namely, that the laws, rules, and regulations of the Colony relating to the

time and manner of prosecuting the fisheries on the coasts of the Island shall not in any way be affected by the suspension of the laws of the Colony which operate to prevent the Articles XVIII to XXV of the Treaty of Washington from taking full effect during the period mentioned in the XXXIIIrd Article of that Treaty.

You will report the results of your communication with Mr. Fish and the signature of the Protocol, if signed, by telegraph to this office and to the Governor of Newfoundland, sending to both as soon as possible copies of the Protocol so signed.

I am, &c.  
(Signed) GRANVILLE.

No. 228.

*Sir E. Thornton to Earl Granville.*

(Telegraphic.)

*Washington, June 7, 1873.*

MR. FISH and I signed to-day the Protocol [giving effect to "Fisheries" Articles of Treaty on July 1] transmitted in your despatch No. 157 of the 17th ultimo, with slight, unimportant alterations.

No. 229.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 9, 1873.*

WITH reference to your letter of the 3rd instant, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch which his Lordship has addressed to Her Majesty's Minister at Washington, instructing him to propose to the United States' Government to sign a Protocol respecting the Newfoundland fisheries similar to the one inclosed in my letter of the 12th ultimo.\*

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

No. 230.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 9, 1873.*

WITH reference to my letter of the 17th ultimo, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that a telegram has been received from Her Majesty's Minister at Washington stating that he and Mr. Fish had signed, on the 7th instant, the Protocol respecting the Fishery Articles of the Treaty of Washington, with some slight and unimportant alterations.

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

No. 231.

*Dr. Deane to Earl Granville.—(Received June 10.)*

My Lord,

*Temple, June , 1863.*

I AM honoured with your Lordship's commands signified in Mr. Hammond's letter of the 20th ultimo, stating that he was directed to refer me to the XXIIInd Article of the Treaty of Washington of May 8, 1871, which provides for the appointment of a Mixed Commission "to determine having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty."

That it is possible that in the discussions which may take place between the Commissioners, the question may be raised as to the right of reservation for British subjects of

exclusive fishery in the bays which are found on various parts of the British American coast, and in dealing with this question the extent of the territorial rights of Great Britain within such bays may come under consideration.

That this point which I should recognize under the description of the "Headland" question, had been frequently under discussion, and besides any information in regard to it, which might be obtained from general sources with which I am acquainted the archives of the Foreign Office, it is believed could supply such information.

Mr. Hammond further states that the Librarian at the Foreign Office had consequently been instructed to examine the archives for that purpose; but that Her Majesty's Government considered it desirable that without loss of time a confidential Memorandum should be prepared for use in any argument, supposing the point referred to should be raised before the Commission.

That your Lordship requested, therefore, that I would, at my earliest convenience, prepare such a Memorandum, and, besides the assistance which the Librarian of the Office might be able to render me by providing me with materials, your Lordship proposed that I should have the assistance of the gentleman who would shortly be appointed to attend the Mixed Commission under the XXIIIrd Article of the Treaty as Agent on behalf of Her Majesty Government.

In obedience to your Lordship's commands I have the honour to report—

That I have prepared a Memorandum for use in argument, supposing the point referred to in Mr. Hammond's letter should be raised before the Commission.

I shall be glad to avail myself of your Lordship's proposal that before finally completing the Draft I should receive the assistance of the gentleman who may be appointed to attend the Mixed Commission under the XXIIIrd Article of the Treaty as Agent on behalf of Her Majesty's Government.

I have, &c.  
(Signed) J. PARKER DEANE.

No. 232.

*Mr. Holland to Mr. Hammond.—(Received June 11.)*

Sir,

*Downing Street, June 11, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 9th instant, inclosing copy of a despatch addressed to Her Majesty's minister at Washington respecting the signing of a proposed Protocol fixing the date at which the Fishery Articles of the Treaty of Washington shall be made applicable to Newfoundland.

Since the date of my letter of the 3rd of June, Lord Kimberley's attention has been called to the wording of the Imperial Act, cap. 45, 35 and 36 Vict., taken in connexion with the recent Act of the United States Congress relating to the Treaty.

Section 2 of the Imperial Act makes it lawful for the officer administering the Government of Newfoundland at any time during the suspension in pursuance of the Act of certain Acts of Parliament and Laws by his proclamation to declare that after a time fixed in such Proclamation for that purpose the Act and the Articles in the Schedule to the Act shall extend to Newfoundland so far as they are applicable thereto. But by reference to the first Section of the Imperial Act it will be seen that the suspension of the Acts of Parliament and laws referred to above will not take effect until the Act of the United States' Congress shall "come into force," and as this will not be the case until the 1st of July next, Lord Kimberley apprehends that the Proclamation of the Governor of Newfoundland cannot be issued to that date.

If Lord Granville takes the same view, his Lordship would suggest whether it would not be desirable to telegraph to Sir E. Thornton, and inform him that the Protocol as regards Newfoundland should fix the 2nd or 3rd of July as the day for bringing the Articles of the Treaty into effect in that island.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 233.

*Mr. Holland to Mr. Hammond.—(Received June 12.)*

Sir,

*Downing Street, June 11, 1873.*

WITH reference to your letter of the 9th instant stating that a telegram had been received from Mr. Fish, reporting the signing of the Protocol respecting the Fishery Articles of the Treaty of Washington, I am directed by the Earl of Kimberley to request that you will move Earl Granville to inform him whether he is of opinion that the Governor-General of Canada and the Lieutenant-Governor of Prince Edward Island may now be instructed to issue their Proclamations under the respective Acts of the local Legislatures, copies of which have already been communicated to you, for bringing into force in those Colonies certain Articles of the Treaty of Washington.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 234.

*Mr. Hammond to the Law Officers of the Crown.*

Gentlemen,

*Foreign Office, June 12, 1873.*

WITH reference to your Report of the 24th of March last, I am directed by Lord Granville to transmit to you the accompanying correspondence relative to the date at which Articles XVIII to XXV and Article XXX of the Treaty of Washington are to come into operation ;\* and I am to request that you will take these papers into your consideration, and report to Lord Granville your opinion whether the Protocol fixing the 1st of July having been signed by Mr. Fish and Sir E. Thornton, Lord Kimberley should be informed that the Governor-General of Canada and the Lieutenant-Governor of Prince Edward Island may be instructed to issue their Proclamations for bringing the Articles into force in those Colonies.

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

No. 235.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, June 13, 1873.*

WITH reference to my despatch No. 176 of the 7th instant, I am informed by Colonial Office that under Imperial Act of last session relative to Fishery Articles of Treaty, Governor of Newfoundland can only issue Proclamation extending these Articles to Newfoundland during the suspension of certain Acts of Parliament, which Acts will only be suspended when the United States' Act shall have come into force. As this will not take place until after the 1st of July, it appears that the Governor's Proclamation cannot be issued before that date, and the Protocol should therefore fix the 2nd or 3rd of July as the day for bringing the Articles of the Treaty into effect in Newfoundland.

No. 236.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 13, 1873.*

WITH reference to your letter of the 11th instant, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch that his Lordship has addressed to Her Majesty's Minister at Washington, suggesting that the 2nd or 3rd of July should be fixed as the day for bringing into effect in Newfoundland the Fishery Articles of the Treaty of Washington.†

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

\* Nos. 141, 162, 163, 167, 170, 173, 174, 177, 179, 183, 186, 187, 190, 191, 193, 194, 200, 201, 202, 204, 205, 206, 207, 228, and 232.

† No. 235.

No. 237.

*Sir E. Thornton to Earl Granville.*

(Telegraphic.)

*Washington, June 13, 1873, 5.20 P.M.*

WITH reference to your telegram of to-day, Protocol was signed on the 7th instant, and has been sent home. But I have no information that Newfoundland has yet passed the necessary law to empower the Governor to issue a Proclamation.

No. 238.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, June 14, 1873, 2 P.M.*

INSTRUCTIONS referred to in my telegram of yesterday, were sent from London by mail of 7th instant.

No. 239.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 16, 1873.*

IN reply to your letter of the 11th instant, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship has been advised by the proper Law Officers of the Crown, to whom your letter was referred, that the Governor-General of Canada and Lieutenant-Governor of Prince Edward Island, may be instructed to issue their Proclamations for bringing the Fishery Articles of the Treaty of Washington into force in those Colonies.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 240.

*Sir E. Thornton to Earl Granville.—(Received June 22.)*

(No. 247.)

My Lord,

*Washington, June 9, 1873.*

WITH reference to your Lordship's despatch No. 157 of the 17th ultimo, I have the honour to inform you that on the 31st ultimo I put into Mr. Fish's hands a copy of the draft of a Protocol transmitted in that despatch fixing the 1st of July next as the day on which Articles XVIII to XXV of the Treaty of Washington should come into operation, and told him that if he concurred in it I was authorized by your Lordship to sign it.

Mr. Fish said that he would look it over, and would let me know as soon as he had done so. I received, however, no notice from him, and on the 5th instant I called at the State Department and asked him whether he was prepared to sign the Protocol.

Mr. Fish then produced the copy which I had left with him, in the margin of which he had noted a few alterations, which, upon examination, did not seem to me objectionable. Indeed, they are of so little importance that I need hardly trouble your Lordship with any comments upon them. I may, however, observe that Mr. Fish thought it incorrect to say that he and I had found that "the stipulations of Article XXXIII of the Treaty signed at Washington on the 8th day of May, 1871, had been fully carried out," because that might imply that Articles XVIII to XXV and Article XXX had actually taken effect, whereas it was in consequence of the necessary laws having been passed that those Articles would take effect. Mr. Fish also preferred that at the end of the clause the words "will take effect" should be substituted for "shall come into operation," because it was not in virtue of the Protocol that the Articles would come into operation, but the Protocol merely testified that the laws had been passed, in consequence of which the Articles would take effect on the 1st of July next.

I have the honour to inclose the Protocol which Mr. Fish and I signed on the 7th instant.

On the same day I forwarded a copy of it to his Excellency the Governor-General of Canada.

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

No. 241.

*Sir E. Thornton to Earl Granville.—(Received June 22.)*

(No. 250. Confidential.)

My Lord,

*Washington, June 9, 1873.*

WITH reference to my despatch No. 247 of this day's date, I have the honour to inform your Lordship that when I gave Mr. Fish on the 31st ultimo the draft of the Protocol with respect to the Articles of the Treaty, he inquired very earnestly whether Her Majesty's Government had yet thought of any one whom it could propose as third Commissioner on the Commission which is to sit at Halifax relative to the fisheries. I replied that I had received no communication upon the subject from your Lordship, and that it was probable that it would be as difficult to find a suitable person in England for the purpose as in the United States. I had no doubt, however, that the matter was under consideration.

When I saw Mr. Fish on the 5th instant and inquired whether he was prepared to sign the Protocol, he again alluded to the subject of the third Commissioner. He said that as he had already confidentially proposed Judge Nelson, who had not been considered acceptable, it was but fair that Her Majesty's Government should mention some other person whom it might consider more suitable. He added that the Articles of the Treaty could hardly be said to take effect unless the Commission were installed at Halifax at the same time.

As Mr. Fish's tone and manner, more than his language, led me to suspect that he wished to force the installation of the Commission by delaying the signature of the Protocol and perhaps even the President's Proclamation, I replied with some warmth, that the Commission had nothing to do with the operation of the Articles in question, that it would have merely to decide what money was to be paid by the United States on account of the fisheries, and that this was a question which had no connection with, and could have no influence upon, the carrying out of the other stipulations of the Articles relating to Canada. I also reminded him that he himself had declared that the term of three months allowed by the XXIIIrd Article to the two Governments to agree upon the third Commissioner would not begin till the 1st of July next. Mr. Fish made no reply, but produced the draft of the Protocol.

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

No. 242.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 23, 1873.*

WITH reference to my letter of the 9th instant, I am directed by Her Majesty's Secretary of State to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, inclosing the Protocol, as signed by himself and Mr. Fish, giving effect to the fishery Articles of the Treaty of Washington.\*

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

No. 243.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, June 23, 1873.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch from Her Majesty's Minister at Wash-

ington, reporting a conversation between himself and Mr. Fish in regard to the nomination of a third Commissioner on the Fishery Commission which is to sit at Halifax.\*

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

No. 244.

*Mr. Holland to Mr. Hammond.—(Received June 25.)*

Sir, *Downing Street, June 25, 1873.*  
WITH reference to your letter of the 16th instant, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, copies of telegrams received from the Governor-General of Canada, and Lieutenant-Governor of Prince Edward Island, reporting the issue of Proclamations for bringing into effect in those Colonies, on the 1st of July next, certain Articles of the Treaty of Washington.

I am desired to take this opportunity of forwarding to you copy of a paper just presented to Parliament, containing correspondence relating to the Treaty.

I am, &c.  
(Signed) H. T. HOLLAND.

Inclosure 1 in No. 244.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

*June 23, 1873.*

Proclamation bringing Treaty into effect on 1st of July, bearing date the 20th June, appeared in "Canada Gazette" of 21st.

Inclosure 2 in No. 244.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

(Telegraphic.)

*June 20, 1873.*

I have issued Proclamation fixing July 1st for Treaty Act to go into operation.

Inclosure 3 in No. 244.

*Further Correspondence with the Governments of Canada, Prince Edward Island, and Newfoundland, respecting the Treaty of Washington. Presented to Parliament June, 1873. [C.—774.]*

No. 245.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, June 25, 1873, 6:35 P.M.*

TELL Mr. Fish confidentially, that we find some difficulty in naming a third Fishery Commissioner, whose nomination would be acceptable to the Canadians, and to whom some objection might not be made by the American Government. We therefore suggest that the British and American Ministers at The Hague should be authorized to confer together and see if they can agree upon some Dutchman who would be acceptable to both Governments.

No. 246.

*Sir E. Thornton to Earl Granville.—(Received June 27.)*

(Telegraphic.)

Washington, June 26, 1873.

MR. FISH informs me officially, that owing to the provision in the first section of the Newfoundland Act, which imposes restrictions, although there are no such restrictions in the Treaty, the Act of Newfoundland does not appear such a consent to the application of the Treaty Articles as contemplated in the Act of Congress in accordance with which the President of the United States is to issue a Proclamation.

I am sending a similar telegram to the above to the Governor of Newfoundland.

(Confidential.)

Mr. Fish states confidentially that he presumes that in the waters of each country the fishermen of the other would have to comply with reasonable police regulations, but that his Government could not accept restrictions inserted in the Newfoundland Act with reference to the Treaty.

No. 247.

*Mr. Hammond to Mr. Holland.*

Sir,

Foreign Office, June 27, 1873.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a telegraphic despatch from Her Majesty's Minister at Washington, upon the subject of certain restrictions contained in the Newfoundland Fisheries Act.\*

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

No. 248.

*Mr. Holland to Mr. Hammond.—(Received June 27.)*

(Confidential.)

Sir,

Downing Street, June 27, 1873.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of this day's date, inclosing a telegram received from Her Majesty's Minister at Washington, reporting Mr. Fish's objection to certain restrictions contained in the recent Act of the Legislature of Newfoundland "relating to the Treaty of Washington."

Lord Kimberley desires me to request that you will acquaint Earl Granville that, as it appeared from the inclosure to your letter of the 9th instant that the Law Officers were of opinion that the Newfoundland Act sufficiently complied with the Treaty, Her Majesty was advised to confirm it. Such confirmation was accordingly given yesterday by Her Majesty by Order in Council, and a telegram was sent to the Governor of Newfoundland this morning in the following words:—

"Her Majesty yesterday gave assent to Act relating to Treaty of Washington. Will let you know on what day to proclaim; probably on second or third of July."

In consequence of the receipt of your present letter, Lord Kimberley has now telegraphed to the Governor in cipher:—

"Since my telegram this morning I have learnt that United States object to Newfoundland Act. Suspend proclamation till you hear from me again."

I am, &c.  
(Signed) H. T. HOLLAND.

No. 249.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

Foreign Office, June 28, 1873, 2.55 P.M.

IN consequence of your telegram of 26th instant, the Governor of Newfoundland has been instructed to suspend Proclamation till he hears further.

No. 250.

*Sir E. Thornton to Earl Granville.*

(Telegraphic.)

Washington, July 1, 1873.

PRESIDENT'S Proclamation with regard to Dominion of Canada and Prince Edward Island has been issued to-day.

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No. 251.

*Mr. Hammond to Mr. Holland.*

Sir,

Foreign Office, July 2, 1873.

I AM directed by Lord Granville to state to you, for the information of Lord Kimberley, that a telegram has been received from Sir E. Thornton, reporting that the President's Proclamation with regard to the Dominion of Canada and Prince Edward Island was issued yesterday.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 252.

*Mr. Holland to Mr. Hammond.—(Received July 3.)*

Sir,

Downing Street, July 2, 1873.

WITH reference to your letter of the 27th ultimo, and to the letter from this Department of the same date, on the subject of the Act of the Legislature of Newfoundland, relating to the Treaty of Washington, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch which was addressed to the Governor of Newfoundland by yesterday's mail.

I am, &amp;c.

(Signed) H. T. HOLLAND.

Inclosure in No. 252.

*The Earl of Kimberley to Governor Hill.*

Sir,

Downing Street, July 1, 1873.

I HAVE the honour to acquaint you that Sir E. Thornton has reported to Lord Granville that he has been officially informed by Mr. Fish that, in consequence of the proviso contained in section 1 of the Act of the Newfoundland Legislature, relating to the Treaty of Washington, by which certain restrictions are imposed, although none such appear in the Treaty itself, the Newfoundland Act does not seem such a consent to the application of the Articles of the Treaty as was contemplated by the United States' Act, under which the President's Proclamation is to be issued.

In these circumstances I would suggest that you should bring the matter under the notice of your Ministers, with a view to their considering whether it would not be advisable to pass an amending Act, omitting the proviso which has been objected to by the United States' Government.

I am, &amp;c.

(Signed) KIMBERLEY.

No. 253.

*Mr. Herbert to Mr. Hammond.—(Received July 4.)*

Sir,

Downing Street, July 4, 1873.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of Earl Granville, a copy of a despatch addressed to the Governor of

Newfoundland, forwarding the Order in Council specially confirming the Newfoundland Act relating to the Treaty of Washington.

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

Inclosure in No. 253.

*The Earl of Kimberley to Governor Hill.*

Sir, *Downing Street, June 1873.*

WITH reference to my despatch of the 27th instant, I have the honour to transmit to you the inclosed Order of Her Majesty in Council specially confirming the Act of the Legislature of Newfoundland, a transcript of which accompanied your despatch of the 6th of May, entitled "An Act relating to the Treaty of Washington, 1871."

You will understand that although Her Majesty's assent has been given to this Act, no Proclamation is to be issued, under the 3rd section, until you receive instructions from Her Majesty's Government to that effect.

I am, &c.  
(Signed) KIMBERLEY.

No. 254.

*Mr. Herbert to Mr. Hammond.—(Received July 5.)*

Sir, *Downing Street, July 5, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a telegram which his Lordship has received from the Governor of Newfoundland.

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

Inclosure in No. 254.

*Governor Hill to the Earl of Kimberley.*

(Telegraphic.)

THE proviso to which American Government object has relation to enactments as to time and mode of taking herring and salmon, shown by experience to be necessary for the preservation of those fisheries, and, consequently, for the common interest of all engaged in them, the Governor will, in his Proclamation, according to the powers vested in him by the 2nd section of our Washington Treaty Act, confirm this, and so express it as to remove any possible objection to the terms of the Act, which was not intended in any way to interfere with the *bona fide* operation of the Treaty; the Governor's powers by the 2nd section are as follows: the Governor in Council, by any order or orders to be made for that purpose, may do anything further in accordance with the spirit and intention of the Treaty which shall be found necessary to be done on the part of this island to give full effect to the Treaty, and any such order shall have the same effect as if the object thereof were expressly provided for by this Act. I shall send a copy of this telegram to Sir Edward Thornton.

No. 255.

*Sir E. Thornton to Earl Granville.—(Received July 6.)*

(No. 273. Confidential.)

My Lord,

*Washington, June 23, 1873.*

WITH reference to your Lordship's despatch No. 173 of the 4th instant, I have the honour to inform you that I have addressed a note to Mr. Fish, inquiring whether any steps had been taken by the Government of the United States to carry out the reciprocal arrangement which had been proposed by the Government of Newfoundland, to the effect

that the American fishermen should be allowed to take seals within the jurisdiction of that Colony, provided that the produce of the Newfoundland seal fishery were admitted into the ports of the United States. To that note I have not yet received an answer.

But, on conversing with Mr. Fish on the subject on the 19th instant, he informed me confidently that soon after the proposal was submitted to him by Mr. Pakenham in 1871, he had spoken upon the subject to some members of Congress, who had strongly recommended that the question should not be mooted at that time, on account of the strong opposition which it was then supposed would be made to the Articles of the Treaty relating to the British North American possessions by General Butler and other members from the New England States. The discussion, which subsequently arose respecting the indirect claims, and which made the fate of the whole Treaty doubtful, rendered it unadvisable to bring forward a new question. Since the Act of Congress was passed for carrying out the above-mentioned Articles, that Body had been, until the close of its last Session, so completely occupied with matters of importance to the country and itself, that it could not have given the necessary time to the consideration of the proposal submitted by the Colony of Newfoundland.

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

No. 256.

*Sir E. Thornton to Earl Granville.—(Received July 6.)*

(No. 274.)  
My Lord,

*Washington, June 23, 1873.*

OF the receipt of your Lordship's despatch No. 176 of the 7th instant, I addressed a note, copy of which I have the honour to inclose, to Mr. Fish, proposing to him to sign a Protocol to extend Articles XVIII to XXV of the Treaty of May 8, 1871, to the Colony of Newfoundland. In the note I forwarded a copy of the Act of the Legislature of that Colony with reference to the Treaty, and I may here observe that no date has been affixed to the copy of the Act which was transmitted to me in your Lordship's despatch above mentioned, so that in the event of Mr. Fish's agreeing to sign a Protocol, I should probably be obliged to telegraph for it so as to be able to insert it in the Protocol.

On the same day I saw Mr. Fish at the State Department, and spoke to him about the Protocol. He replied, that he doubted whether he could agree to sign a Protocol with the proviso contained at the end of the 1st section of the Newfoundland Act. He said that no restrictions with regard to the right of fishing had been inserted in the Treaty, nor in the Protocol which was signed on the 7th instant, and whilst he would certainly be disinclined to sign another Protocol for Newfoundland with the proviso of the Act without known the exact restrictions to which it referred, he should even hesitate to accept the Act in question as a law of the form required by the Treaty to carry into operation Articles XVIII to XXV, inasmuch as it spoke of restrictions to which the Treaty made no allusion.

I replied that I understood that the proviso merely referred to the seasons during which a particular class of fishing would be allowed, and that naturally the same restrictions would be enforced against Newfoundland as against American fishermen. I presumed that the same rule would apply in American waters, where British subjects would be obliged to submit to the regulations already in force, or which might hereafter be established, with regard to the seasons and mode of fishing. I had observed that the Commissioner appointed to inquire into the cause of the decrease of fish on the coast of New England had already recommended some stringent measures with a view to remedy the evil complained of, and I did not doubt that Congress would pass a law adopting the Commissioner's recommendations.

Mr. Fish admitted that in both cases the fishermen of the two countries would have to observe the laws enacted by the country within whose jurisdiction they might be fishing; but that such restrictions had not formed part of the Treaty, or of the laws of the different countries interested in the matter, with the exception of Newfoundland, and that he thought there was no ground for this exception. He would, however, take the matter into consideration, and inform me of the result of his deliberations.

In consequence of this conversation I, on the following day, addressed to Mr. Fish a further note, copy of which is also inclosed, showing the nature of the restrictions alluded to in the proviso of the first section of the Newfoundland Act; but I have not yet received an answer to either of these notes.

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

## Inclosure 1 in No. 256.

*Sir E. Thornton to Mr. Fish.*

Sir,

*Washington, June 19, 1873.*

IN compliance with instructions which I have received from Earl Granville, I have the honour to transmit herewith copy of an Act which has been passed by the Legislature of Newfoundland to carry into effect Articles XVIII to XXV of the Treaty of May 8, 1871. I am, at the same time, instructed to inquire whether the President of the United States will be prepared, on the 1st of July next, to issue a Proclamation with reference to Newfoundland, in accordance with the second section of the recent Act of Congress relating to the Treaty of Washington.

In that case, the Governor of Newfoundland would be instructed to issue a similar Proclamation fixing the day on which the Act and the Articles of the Treaty applicable to Newfoundland shall take effect in that Colony.

I am, therefore, instructed to propose to you to sign a Protocol, with regard to Newfoundland, similar to that which I had the honour to sign with you on the 7th instant, with the addition of a clause following as nearly as possible the proviso at the end of the 1st Article of the Newfoundland Act, namely, that the laws, rules, and regulations of the Colony relating to the time and manner of prosecuting the fisheries on the coast of the island shall not in any way be affected by the suspension of the laws of the Colony, which operate to prevent Articles XVIII to XXV of the Treaty of Washington from taking full effect during the period mentioned in the XXXIIIrd Article of the Treaty.

With respect to the day on which the above-mentioned Articles should take effect in Newfoundland, Lord Granville has been informed by the Colonial Office that, under the Imperial Act of the last session of Parliament relative to the fishery Articles of the Treaty, the Governor of Newfoundland can only issue his Proclamation extending those Articles to Newfoundland during the suspension of certain Acts of Parliament, which Acts will only be suspended when the Act of Congress of the United States shall have come into force. As this will not take place until the 1st of July, it appears that the Governor's Proclamation cannot be issued before that date, and the Protocol should, therefore, fix the 2nd or 3rd of July as the day for bringing the Articles of the Treaty into effect in Newfoundland.

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

## Inclosure 2 in No. 256.

*Sir E. Thornton to Mr. Fish.*

Sir,

*Washington, June 20, 1873.*

WITH reference to my note of yesterday's date, and to our conversation upon the subject of the Act passed by the Legislature of Newfoundland for carrying into effect Articles XVIII to XXV of the Treaty of May 8, 1871, I have the honour to state that, from a Report made by the Attorney-General of Newfoundland to the Governor, it would that the proviso at the end of section 1 of that Act has reference to the time for the prosecution of the herring fishery on the western coast of the island, and was merely intended to place citizens of the United States on the same footing with Her Majesty's subjects in that particular, so that the rules and regulations imposed upon the Newfoundland fishermen with regard to that fishery might also be observed by American fishermen.

The Newfoundland House of Assembly has been prorogued, and will probably not meet again this year.

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

*Mr. Holland to Mr. Hammond.—(Received July 7.)*

Sir,

*Downing Street, July 5, 1873.*

WITH reference to your letter of the 4th of June, respecting the proposed admission of American fishermen to the seal fisheries of Newfoundland, on condition that the produce of those fisheries should be admitted into the United States free of duty, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch from the Governor of Newfoundland, asking Lord Kimberley's opinion as to the expediency of a delegate being sent by the local Government to Washington, to advocate the claims of the Colony with respect to the free admission of seal oil into the United States.

Lord Kimberley sees no objection to the sending of a delegate for this purpose, but he is disposed to think that it would be better to defer taking any steps of this kind until Newfoundland has come under the Treaty of Washington. He would, however, be glad to receive Lord Granville's opinion upon the question raised by the Governor of Newfoundland.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure in No. 257.

*Governor Hill to the Earl of Kimberley.*

My Lord,

*Government House, Newfoundland, June 18, 1873.*

WITH reference to my despatch to your Lordship of the 3rd May, and to previous correspondence, respecting the admission of seal oil, under the head of fish oil, as an article free of duty within the terms of the Treaty of Washington, from the ports of the British North American Possessions into the markets of the United States, I have the honour to inform your Lordship that I have been requested by my Ministers to invite your Lordship's opinion as to the expediency, on the part of this Government, of sending a delegate to Washington, to advocate the claims of the Colony with respect to the free admission of seal oil into the United States.

I have, &c.  
(Signed) STEPHEN J. HILL.

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No. 258.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 7, 1873.*

WITH reference to previous correspondence, I am directed by Earl Granville to request that you will state to the Earl of Kimberley that Mr. H. C. Rothery, Registrar of the High Court of Admiralty, has been selected as the Agent to attend the Commission on the Fisheries about to be appointed to meet at Halifax, under the provisions of the XXII<sup>nd</sup> and XXIII<sup>rd</sup> Articles of the Treaty of Washington.

The draft of the instructions which Lord Granville proposes to give to Mr. Rothery on his appointment will be forwarded for Lord Kimberley's concurrence as soon as it is completed.

Mr. Rothery will also be requested to place himself in communication with the proper Department of the Colonial Office, in order that he may have access to any information and correspondence relating to the objects of the Commission, with which it may be useful for him to be made acquainted.

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

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No. 259.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 7, 1873.*

WITH reference to my letter of this day's date, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, drafts of the instructions which Lord Granville proposes to address to Mr. Rothery, and I am to request that you will move Lord Kimberley to inform Lord Granville, at his earliest convenience, whether he concurs in these despatches.

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

P.S.—I am to request that the drafts may be returned. Copies will be furnished subsequently.

No. 260.

*Mr. Holland to Mr. Hammond.—(Received July 10.)*

Sir,

*Downing Street, July 9, 1873.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 7th instant, reporting the appointment of Mr. Rothery as Her Majesty's Agent, to attend the Commission which is to meet at Halifax, under the XXIIIrd Article of the Treaty of Washington.

Lord Kimberley desires me to state, for the information of Earl Granville, that every facility will be afforded to Mr. Rothery to consult the records of this office.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 261.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 10, 1873.*

WITH reference to my letter of the 4th ultimo, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, upon the subject of the reciprocal arrangement proposed by the Government of Newfoundland with reference to seal fishing within the jurisdiction of that Colony.\*

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

No. 262.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 10, 1873.*

WITH reference to your letter of the 3rd ultimo, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, in regard to the proposed Protocol for extending to the Colony of Newfoundland Articles XVIII to XXV of the Treaty of Washington.†

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

\* No. 255.

† No. 256.

No. 263.

*Mr. Holland to Mr. Hammond.—(Received July 11.)*

Sir,

*Downing Street, July 10, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the inclosed copy received from the Governor-General of Canada, of the Annual Report of the Department of the Marine and Fisheries of the Dominion, for the year ending the 30th of June, 1872, which has been printed by order of the Canadian Parliament.

Lord Kimberley would suggest that this volume should be communicated to Mr. Rothery, who is to represent Her Majesty's Government before the Fishery Commission at Halifax, under the XXIIInd and XXIIIrd Articles of the Treaty of Washington.

I am to state that the Governor-General of Canada has been requested to furnish some further copies of this volume, and when these are received, an additional copy will be supplied for the use of the Foreign Office.

I am, &c.  
(Signed) H. T. HOLLAND.

No. 264.

*Sir E. Thornton to Earl Granville.—(Received July 11.)*

(Telegraphic.)

*Washington, July 11, 1873.*

I HAVE just received a note from the Acting Secretary of State, in which, without recurring to suggestions contained in your telegram of the 25th ultimo, he proposes to Her Majesty's Government to choose third Commissioner from among Mexican, Russian, Brazilian, Spanish, French, and Netherlands Ministers at Washington, in the nomination of any one of whom the President would concur.

No. 265.

*Earl Granville to Mr. H. C. Rothery.*

(No. 1.)

Sir,

*Foreign Office, July 11, 1873.*

THE Queen having been graciously pleased to appoint you to be Her Majesty's Agent to attend the Commission on the Fisheries, about to be appointed to meet at Halifax, Nova Scotia, under the provisions of the XXIIInd and XXIIIrd Articles of the Treaty between Great Britain and the United States of the 8th of May, 1871, I transmit to you herewith Her Majesty's commission to that effect.

I also transmit to you a copy of the Treaty, from which you will see the object of the Commission, and the nature of your duties in attendance upon it.

The date at which the Commission will meet is at present uncertain; but, in order that you may possess a full knowledge of the subject, to which Her Majesty's Government believe that you have already previously directed your attention, it will be desirable that you should at once place yourself in communication with the proper Departments of this Office, who will have directions to afford you access to all the information and correspondence with which it may be useful to you to be made acquainted.

The XXIVth Article of the Treaty states that the proceedings shall be conducted in such order as the Commissioners shall determine, and contemplates that either Government may offer oral or written testimony, and also present a case for the consideration of the Commissioners.

The case on the part of Her Majesty's Government is now being drafted in Canada, and will be forwarded to Her Majesty's Government for approval. When it is finally settled it will be given to you for presentation; and, should the Commission not then have been summoned, it may probably be found advisable that, before entering on your duties at Halifax, you should visit Canada, so as to confer preliminarily with the Government of the Dominion.

Her Majesty's Government, relying upon the judgment and ability which you have shown in the discharge of your functions in the High Court of Admiralty, and on all other occasions when your services have been called for, do not consider it necessary to

give you more specific instructions at present; and have only to add that it is their desire, and they feel confident it will be your wish, that you should co-operate in all matters connected with the Commission in the most cordial manner with the Government of the Dominion and with all the Colonial authorities with whom you may be brought in contact.

I am, &c.  
(Signed) GRANVILLE.

No. 266.

*Mr. Hammond to Dr. Deane.*

Sir, *Foreign Office, July 11, 1873.*  
WITH reference to your letter of the 10th ultimo I am directed by Earl Granville to inform you that Mr. H. C. Rothery, Registrar of the High Court of Admiralty, has been appointed Her Majesty's Agent to the Fisheries Commission.

Mr. Rothery has been informed that you will communicate with him in regard to the Memorandum which you have prepared on the Headland Question.

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

No. 267.

*Mr. Hammond to the Secretary to the Admiralty.*

Sir, *Foreign Office, July 11, 1873.*  
MR. H. C. ROTHERY, Registrar of the High Court of Admiralty, having been appointed to be Her Majesty's Agent to attend the Fishery Commission at Halifax, Nova Scotia, which is about to meet under the provisions of the Treaty with the United States of the 8th of May, 1871, I am directed by Earl Granville to request that you will move the Lords Commissioners of the Admiralty to cause Mr. Rothery to be furnished with any charts and maps in their possession, which may be useful in the discharge of his duties, as well as with any other information which the archives of the Admiralty may afford on the subject.

Mr. Rothery will be requested to place himself in communication with the Hydrographer of the Admiralty, with the view of explaining the precise nature of the information and the particular charts and maps required.

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

No. 268.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.) *Foreign Office, July 12, 1873.*  
WHICH, if any, of the Ministers named by Fish, would you think good? and which knows English well?

No. 269.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 12, 1873.*  
WITH reference to my letter of the 23rd ultimo, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of correspondence, as marked in the margin, in regard to the appointment of a third Commissioner to attend the Fishery Commission at Halifax.\*

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

No. 270.

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(No. 284.)

My Lord,

Washington, June 30, 1873.

WITH reference to my despatch of the 23rd instant I have now the honour to inclose copy of Mr. Fish's answer to my note proposing that a Protocol should be signed for extending Articles XVIII to XXV of the Treaty of May 8, 1871, to the Colony of Newfoundland.

Your Lordship will perceive that Mr. Fish does not consider that the Act of Newfoundland, which reserves a right to restrict the American right of fishing within certain periods of the year, is such consent on the part of that Colony to the application of the stipulations and provisions of Articles XVIII to XXV of the Treaty, as is contemplated by the Act of Congress upon the subject, in accordance with which the Proclamation of the President is to issue.

In consequence of this answer, I thought it right to telegraph its substance to your Lordship on the 26th instant, as well as to his Excellency the Governor of Newfoundland.

I have, &amp;c.

(Signed) EDWD. THORNTON.

Inclosure in No. 270.

*Mr. Fish to Sir E. Thornton.*

Sir,

Department of State, Washington, June 25, 1873.

I HAVE the honour to acknowledge the reception of your note of the 19th instant, transmitting, in compliance with instructions from Earl Granville, a copy of an Act passed by the Legislation of Newfoundland to carry into effect Articles XVIII to XXV of the Treaty of May 8, 1871. In this note you state that you are instructed to inquire whether the President of the United States will be prepared, on the 1st of July next, to issue a Proclamation with reference to Newfoundland, in accordance with the 2nd section of a recent Act of Congress relating to the Treaty of Washington.

An examination of the Act passed by the Legislature of Newfoundland discloses that the suspension by that Legislature of the laws which operate to prevent the Articles referred to of the Treaty from taking full effect, is qualified, and is accompanied by a proviso that certain laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coast of Newfoundland are not to be in any way affected by such suspension.

From your note of the 20th instant, I understand that from a Report made by the Attorney-General of Newfoundland to the Governor, it would appear that the proviso referred to contemplates a restriction, in point of time, of the herring fisheries on the western coast of the island.

The Treaty places no limitation of time, within the period during which the Articles relating to the fisheries are to remain force, either upon the right of taking fish, on the one hand, or of the exemption from duty of fish and fish oil (as mentioned therein).

I regret, therefore, that the Act of the Legislation of Newfoundland, which reserves a right to restrict the American right of fishing within certain periods of the year, does not appear to be such consent on the part of the Colony of Newfoundland to the application of the stipulations and provisions of Articles XVIII to XXV of the Treaty, as is contemplated by the Act of Congress to which you refer, and in accordance with which the Proclamation of the President is to issue.

I have, &amp;c.

(Signed) HAMILTON FISH.

No. 271.

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(No. 285.)

My Lord,

Washington, June 30, 1873.

WITH reference to my despatch No. 273 of the 23rd instant, in which I had the honour to inform your Lordship that I had addressed a note to Mr. Fish, inquiring whether

any steps had been taken with regard to the proposal made in 1871 by the Colony of Newfoundland that American fishermen should be allowed to take seals within the jurisdiction of that Colony, provided the produce of that fishery were admitted duty free into the United States, I now inclose a copy of Mr. Fish's answer, in which he states that the measure involved in the proposal is one which must receive the sanction of Congress, and that it is not considered probable that the assent of that body would be given to it.

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

Inclosure in No. 271.

*Mr. Fish to Sir E. Thornton.*

Sir, *Department of State, Washington, June 25, 1873.*  
I HAVE the honour to acknowledge the receipt of your note of the 19th instant, in which, at the instance of Earl Granville, you inquire whether any steps have been taken by this Department with a view to carry out a proposal made by the Government of Newfoundland that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland, on the condition of the admission of the produce of the Newfoundland seal fishery into the United States free of duty.

In reply, I have to state that the measure involved in the proposal is one which must receive the sanction of Congress, and that it is not considered probable that the assent of that body will be given thereto.

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

No. 272.

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(No. 286. Confidential.)

My Lord,

*Washington, June 30, 1873.*

WITH reference to my despatch No 284 of to-day's date, I have the honour to state that, during a visit which I paid to Mr. Fish at the State Department on the 26th instant, I inquired whether I was to infer from the tenor of his note of the previous day that American fishermen would not consider themselves bound to observe in the waters of Newfoundland the restrictions and regulations of police which might be established by that Colony with regard to the modes and seasons of fishing. I pointed out to him that such regulations, which were laid down with a view to the preservation of the fisheries for the benefit of all parties would be enforced quite as much against British as against American fishermen, and I repeated that such restrictions, if they existed, would doubtless be enforced in American waters against British fishermen. I had observed that the United States' Commissioner recently appointed to examine into the causes of the decrease of fish on the coasts of New England had recommended some stringent regulations with a view to remedying the evil complained of. I did not doubt that Congress would take steps upon the subject, and that whatever laws might be passed would be enforced equally against British and American fishermen.

Mr. Fish replied that he could state confidentially his understanding that the jurisdiction gave the right of laying down reasonable police regulations, and that, as a matter of course, such regulations would be observed by all who fished in the waters in question; but the permission to fish granted by the Treaty was accompanied by no restriction, except so far as to define the localities in which the fishing was to be carried on. The Proclamation, therefore, which would be a consequence of the Treaty, ought not to contain any restrictions which were not indeed comprised in any of the laws upon the subject, except the Act of Newfoundland, nor in the Protocol signed on the 7th instant.

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

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(No. 287. Confidential.)

My Lord,

Washington, June 30, 1873.

ON the morning after the receipt of your Lordship's telegram of the 25th instant, I called upon Mr. Fish at the State Department, and communicated to him, confidentially, the difficulty found in naming a third Commissioner for the Fishery Commission to sit at Halifax, who would be acceptable to the Canadians, and to whom some objections might not be made by the Government of the United States. I also conveyed to him your Lordship's suggestion, that the Ministers of Her Majesty and of the United States at the Hague, should be authorized to confer together, and see whether they could agree upon some Dutchman who would be acceptable to both Governments.

The suggestion did not seem to meet Mr. Fish's views. He at once expressed his regret that Her Majesty's Government had not been able to find some one whom it could propose as third Commissioner, for he thought it very desirable that the Commission should meet as soon as possible. He added, that the suggestion which your Lordship had made, would, if carried out, give rise to considerable delay, which was much to be deprecated, because it could hardly be expected that the third Commissioner would be induced to remain at Halifax during the cold season. Mr. Fish acknowledged that Mr. Gorham, the United States' Minister at the Hague, was not a man of high order, and that as he spoke nothing but his own language, he would not probably be well acquainted with the principal people of the country. I replied, that almost all the better class of Dutchmen spoke English, and that as it would be necessary that the third Commissioner should understand the language, it was more than likely that Mr. Gorham would be acquainted with those amongst whom the choice might be made.

But Mr. Fish seemed disinclined to confide the matter to Mr. Gorham, though he said that he did not wish to be considered as declining to entertain the suggestion. It was a question, however, upon which he must consult the President.

I understand that the President has left Long Branch, and has gone to Covington, in Kentucky, to visit his father, whose serious illness was reported, and whose death is announced in this morning's papers.

It is not, therefore, likely that Mr. Fish will see the President for some days to come.

I have, &c.

(Signed) EDWD. THORNTON.

No. 274.

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(No. 290.)

My Lord,

Washington, July 1, 1873.

I HAVE the honour to inclose three printed copies of a Proclamation which has been issued this day, issued by the President of the United States, showing that Articles XVIII to XXV inclusive, and Article XXXIII of the Treaty of May 8, 1871, take effect and come into operation to-day as regards the United States, the Dominion of Canada, and Prince Edward Island.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure in No. 274.

*Extract from the Washington "Evening Star" of July 1, 1873.*

By the President of the United States of America.

*A Proclamation.*

WHEREAS, by the XXXIIIrd Article of a Treaty concluded at Washington on the 8th day of May, 1871, between the United States and Her Britannic Majesty, it was provided that "Articles XVIII to XXV inclusive, and Article XXX of this Treaty shall

take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other :”

And whereas by the first section of an Act entitled an Act to carry into effect the provisions of the Treaty between the United States and Great Britain, signed in the city of Washington the 8th day of May, 1871, relating to the fisheries, it is provided that whenever the “ President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island have passed laws on their part to give full effect to the provisions of the Treaty between the United States and Great Britain, signed at the city of Washington on the 8th day of May, 1871, as contained in Articles XVIII to XXV inclusive, and Article XXX of said Treaty, he is hereby authorized to issue his Proclamation declaring that he has such evidence :”

And whereas the Secretary of State of the United States and Her Britannic Majesty’s Envoy Extraordinary and Minister Plenipotentiary at Washington, have recorded in a Protocol, a conference held by them at the Department of State in Washington, on the 7th day of June, 1873, in the following language :—

*“ Protocol of a Conference held at Washington, on the seventh day of June, one thousand eight hundred and seventy-three.*

“ Whereas it is provided by Article XXXIII of the Treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, signed at Washington on the 8th day of May, 1871, as follows :

#### “ ARTICLE XXXIII.

“ The foregoing Articles, XVIII to XXV, inclusive, and Article XXX of this Treaty shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said Articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years, or at any time afterward :

“ And whereas, in accordance with the stipulations of the above-recited Article, an Act was passed by the Imperial Parliament of Great Britain in the 35th and 36th years of the reign of Queen Victoria, entitled ‘ An Act to carry into effect a Treaty between Her Majesty and the United States of America :’

“ And whereas an Act was passed by the Senate and House of Commons of Canada in the fifth session of the first Parliament, held in the thirty-fifth year of Her Majesty’s reign, and assented to in Her Majesty’s name, by the Governor-General on the 14th day of June, 1872, entitled ‘ An Act relating to the Treaty of Washington, 1871 :’

“ And whereas an Act was passed by the Legislature of Prince Edward Island, and assented to by the Lieutenant-Governor of that Colony on the 29th day of June, 1872, entitled ‘ An Act relating to the Treaty of Washington, 1871 :’

“ And whereas an Act was passed by the Senate and House of Representatives of the United States in Congress assembled, and approved on the 1st day of March, 1873, by the President of the United States, entitled ‘ An Act to carry into effect the provisions of the Treaty between the United States and Great Britain, signed in the city of Washington, the 8th day of May, 1871, relating to fisheries :’

“ The undersigned Hamilton Fish, Secretary of State of the United States, and the Right Hon. Sir Edward Thornton, one of Her Majesty’s Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, Her Britannic Majesty’s Envoy Extraordinary and Minister Plenipotentiary to the United States of America, duly authorized for this purpose by their respective Governments, having met together at Washington and having found that the laws required to carry the Articles XVIII to XXV, inclusive, and Article XXX of the Treaty aforesaid into operation, have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island, on the one part, and by the Congress of the United States, on the other, hereby declare that Articles XVIII to XXV, inclusive, and Article XXX of the

Treaty between Her Britannic Majesty and the United States of America of the 8th of May, 1871, will take effect on the 1st day of July next.

"In witness whereof the Undersigned have signed this Protocol, and have hereunto affixed their seals.

"Done in duplicate at Washington this 7th day of June, 1873.

(L.S.)

"HAMILTON FISH.

(L.S.)

"EDWD. THORNTON."

Now, therefore, I, Ulysses S. Grant, President of the United States of America, in pursuance of the premises, do hereby declare that I have received satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island, have passed laws on their part to give full effect to the provisions of the said Treaty as contained in Article XVIII to XXV, inclusive, and Article XXX of said Treaty.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this 1st day of July, in the year of our Lord 1873, and of the independence of the United States of America the ninety-seventh.

(L.S.)

U. S. GRANT.

By the President :

HAMILTON FISH, *Secretary of State.*

No. 275.

*Sir E. Thornton to Earl Granville.—(Received July 13.)*

(Telegraphic.)

July 13, 1873.

WITH reference to your telegram of yesterday, I beg to state all the Ministers named know English language fairly well, and the French Minister the best. In other points of view I should consider the Spanish or the Russian Minister to be preferred.

No. 276.

*Mr. Herbert to Mr. Hammond.*

Sir,

*Downing Street, July 14, 1873.*

WITH reference to my letter of the 25th ultimo, I am directed by the Secretary of State for the Colonies to transmit to you, for the information of Earl Granville, a despatch from the Governor of Prince Edward Island, dated June 26, forwarding a Proclamation appointing the 1st of July as the day upon which the Treaty of Washington Act should come into force.

I am, &c.

(Signed)

ROBERT G. W. HERBERT.

Inclosure in No. 276.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

My Lord,

*Government House, June 26, 1873.*

REFERRING to my telegram of the 20th instant, I have now the honour to forward a copy of a Proclamation appointing the 1st July as the day upon which the Act entitled "An Act relating to the Treaty of Washington, 1871," shall come into force.

I have, &c.

(Signed)

WILLIAM ROBINSON.

*A Proclamation.*

By his Honour William Cleaver Francis Robinson, Esq., Lieutenant-Governor and Commander-in-Chief in and over Her Majesty's Island of Prince Edward, and the Territories thereunto belonging, Chancellor, Vice-Admiral and Ordinary of the same, &c., &c., &c.

WILLIAM ROBINSON, *Lieutenant-Governor.*

WHEREAS in an Act of the General Assembly of this island, made and passed in the thirty-fifth and thirty-sixth years of the reign of Her present Majesty, intituled "An Act relating to the Treaty of Washington, 1871," it is recited that by Article XXXIII of the Treaty between Her Majesty and the United States of America, signed at the city of Washington, on the 8th day of May, 1871, it is provided that Articles of the said Treaty XVIII to XXV inclusive, relating to the fisheries, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island, on the one hand, and by the Congress of the United States on the other, and that such assent having been given the said Articles shall remain in force for the term of years mentioned in the said Articles of the said Treaty, XXXIII.

And whereas the laws required to carry into effect Articles XVIII to XXV, inclusive, of the said Treaty of Washington have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward Island, on the one hand, and by the Congress of the United States on the other, I, the said Lieutenant-Governor, do therefore by this Proclamation, based upon an Order in Council made this day, appoint the 1st day of July, which will be in the year of our Lord 1873, as the day upon, from and after which, sections 1 and 2 of the Act of the said General Assembly, made and passed in the thirty-fifth and thirty-sixth years of the reign of Her Majesty Queen Victoria, intituled, "An Act relating to the Treaty of Washington, 1871," shall come into force: and I, the said Lieutenant-Governor, do hereby further declare, that the Act made and passed by the General Assembly of this island in the sixth year of the reign of Her present Majesty, chapter 14, intituled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island," shall be, and that the said Act is hereby suspended as respects vessels and inhabitants of the United States of America engaged in taking fish of every or any kind, except shell-fish on the sea coasts and shores, and in the bays, harbours, and creeks of Prince Edward Island; and are also suspended all Acts, laws, or regulations (if any, over which the Legislature of the said island has control) which would in any wise prevent or impede the full effect of the said Article XVIII. And that fish-oil and fish of all kinds, except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil, being the produce of the fisheries of the United States, shall be admitted into Prince Edward Island free of duty. And I further declare that sections 1 and 2 of the said recited Act of the thirty-fifth and thirty-sixth Victoria shall remain in force upon, from and after the said 1st day of July, 1873, during the term of years mentioned in Article XXXIII of the said Treaty of Washington.

Given under my hand and the Great Seal of this island, at Charlotte Town, this 20th day of June, in the year of our Lord 1873, and the thirty-seventh year of the reign of Her present Majesty.

By command.

(Signed) J. HEATH HAVILAND, *Colonial Secretary.*  
God save the Queen.

No. 277.

*Mr. Holland to Mr. Hammond.—(Received July 15.)*

Sir,

*Downing Street, July 15, 1873.*

I HAVE laid before the Earl of Kimberley your letter of the 12th instant, inclosing copies of correspondence with Sir Edward Thornton, relative to the appointment of a third Commissioner to attend the Fishery Commission at Halifax.

I am to request that you will state to Earl Granville that, if his Lordship has no objection, Lord Kimberley proposes to inform Lord Dufferin, by a cypher telegram, of the

proposal of the United States' Government, and to ask him whether his Ministers have any objection to this course.

I am, &c.  
(Signed) H. T. HOLLAND.

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No. 278.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, July 15, 1873.*

GET Mr. Carlisle to furnish confidentially a Memorandum showing what are the rights of jurisdiction for fishery and other purposes claimed by the maritime states of the United States against each other in bays, and giving references to cases and statutes. It is wanted for our Fishery Commission Agent.

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No. 279.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 15, 1873.*  
WITH reference to my letter of the 13th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of despatches as marked in the margin, in regard to the fishery clauses of the Treaty of Washington.\*

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

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No. 280.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 15, 1873.*  
WITH reference to my letter of the 10th instant, I am directed by Earl Granville, to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington, upon the subject of the Newfoundland seal fisheries.†

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

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No. 281.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 15, 1873.*  
I AM directed by Earl Granville to acquaint you, in reply to your letter of this day's date, that his Lordship concurs in Lord Kimberley's proposal, that a telegram should be addressed to Lord Dufferin, informing him of the suggestions made by the United States' Government in regard to the appointment of a third Commissioner to attend the Fishery Commission appointed to meet at Halifax.

I am also to state to you, for the information of Lord Kimberley, that Lord Granville would suggest that the substance of Sir E. Thornton's telegram of the 15th instant, copy of which is inclosed in my other letter to you of this day's date, should also be communicated to Lord Dufferin by telegraph.

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

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No. 282.

*Mr. Holland to Mr. Hammond.—(Received July 16.)*Sir, *Downing Street, July , 1873.*

I HAVE laid before the Earl of Kimberley your letter of the 10th instant, inclosing a copy of a despatch from Her Majesty's Minister at Washington upon the subject of the reciprocal arrangement proposed by the Government of Newfoundland relative to seal fishing within the jurisdiction of the Colony.

I am directed by his Lordship to refer to the letter from this office of the 5th instant, and to request to be informed whether he is right in assuming that it would, in Lord Granville's opinion, be inexpedient in the circumstances stated by Sir Edward Thornton, for the Colonial Government to send a delegate to Washington, and whether the Governor of Newfoundland should be so informed in reply to his despatch of the 18th of June.

I am, &amp;c.

(Signed) H. T. HOLLAND.

No. 283.

*Mr. Holland to Mr. Hammond.—(Received July 17.)*Sir, *Downing Street, July 16, 1873.*

I HAVE laid before the Earl of Kimberley your letter of the 15th instant, inclosing despatches from Sir Edward Thornton in regard to the fishery clauses of the Treaty of Washington.

I am to state that it appears to Lord Kimberley to be a question whether further papers, showing the difficulty raised by Mr. Fish as to the Newfoundland Act, should not be laid before Parliament at once; and I am to request to be informed whether Lord Granville has any objection to this course being taken.

I am, &amp;c.

(Signed) H. T. HOLLAND.

No. 284.

*Mr. Holland to Mr. Hammond.—(Received July 17.)*Sir, *Downing Street, July 17, 1873.*

WITH reference to your letters of the 10th and 15th instant, I am directed by the Earl of Kimberley to state that, as it appears from the inclosures to Sir E. Thornton's despatches that the President declines to issue a Proclamation with reference to Newfoundland, on the ground that the Act passed by the Legislature of that Colony is not in accordance with the terms of the Treaty of Washington, Lord Kimberley proposes, with the concurrence of Lord Granville, to inform the Governor of Newfoundland that if his Ministers desire to bring the Colony within the Treaty, the Act will have to be amended, and to suggest that the necessary legislation should be effected at the earliest opportunity.

Some delay must, however, necessarily occur as the Colonial Parliament has just been dissolved, and in these circumstances, Lord Kimberley would be glad to be favoured with Lord Granville's opinion as to what will be the position of Newfoundland as regards compensation for the rights of fishing conceded to the United States; if, owing to this delay, the case of the Colony cannot be presented before the Commissioners, under the XXIVth Article of the Washington Treaty:

It will be observed that no time is limited by the XXXIInd Article, within which the Colony of Newfoundland is to come within the Treaty.

The question is one of considerable importance, and probably Lord Granville will think it right to submit it to the Law Officers of the Crown for their Report.

I am, &amp;c.

(Signed) H. T. HOLLAND.

No. 285.

*Mr. Hammond to the Law Officers of the Crown.*

Gentlemen,

*Foreign Office, July 17, 1873.*

I AM directed by Earl Granville to transmit to you, herewith, together with the former papers bearing on the matter, a letter from the Colonial Office, requesting, with reference to the objection taken by the United States' Government to the sufficiency of the Act of the Newfoundland Legislature, Lord Granville's opinion as to what will be the position of that Colony as regards compensation for the rights of fishing conceded to the United States, owing to the delay which must necessarily occur in effecting amendments in the Act;\* and I am to request that you will take this point into your consideration, and favour his Lordship, at your earliest convenience, with your opinion on the subject.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 286.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 18, 1873.*

IN reply to your letters of the 5th and 16th instant, I am directed by Earl Granville to state to you, for the information of the Earl of Kimberley, that he concurs in his Lordship's opinion as to the inexpediency of a delegate being sent by the Local Government of Newfoundland to Washington to advocate the claims of that Colony with respect to the free admission of seal oil into the United States.

I am, at the same time, to request that you will state to Lord Kimberley that Lord Granville is of opinion that, should any delegate be hereafter sent to Washington, he should be only accredited to Sir E. Thornton, as it would be an inconvenient precedent for one of Her Majesty's Colonies to be placed in official relations with the Government of the United States.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 287.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 19, 1873.*

I HAVE laid before Earl Granville your letter of the 16th instant, suggesting that the correspondence relating to the difficulty raised by the United States' Government as to the Act passed by the Government of Newfoundland, for carrying out the fishery clauses of the Treaty of Washington, should be at once laid before Parliament; and I am directed by his Lordship to request that you will state to the Earl of Kimberley that he does not think that any advantage would be gained by making public the difference of opinion between Her Majesty's Government and the United States' Government, as to the sufficiency of the Act in question, especially as the Governor has been directed to amend it.

I am, &amp;c.

(Signed) E. HAMMOND.

No. 288.

*The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July 19.)*

My Lord,

*Temple, July 19, 1873.*

WE are honoured with your Lordship's commands signified in Mr. Hammond's letter of the 17th July instant, stating that he was directed by your Lordship to transmit to us therewith, together with the former papers bearing on the matter, a letter from the Colonial Office, requesting, with reference to the objection taken by the United States'

Government to the sufficiency of the Act of the Newfoundland Legislature, your Lordship's opinion, as to what will be the position of that Colony as regards compensation for the rights of fishing conceded to the United States, owing to the delay which must necessarily occur in effecting amendments in the Act; and Mr. Hammond further stated that he was to request that we would take this point into our consideration, and favour your Lordship with our opinion on the subject.

In obedience to your Lordship's commands, we have the honour to report—

That Article XXXII of the Treaty of Washington, 1871, provides that Articles XVIII to XXV shall extend to the Colony of Newfoundland; but if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect, with a further proviso as to other Articles of the Treaty.

It appears that the Congress of the United States and the Legislature of Newfoundland are not agreed upon the construction to be put upon the Treaty, the result being that the respective laws which were to be executed for carrying the Treaty into effect, do not bring the Colony of Newfoundland within the Treaty, and the American fishermen will require no rights, and the Colony can claim no compensation in reference to Articles XVIII to XXV.

We submit, for your Lordship's consideration, that the words "in common with the subjects of Her Britannic Majesty," which occur in Article XVIII, in fair construction mean, that the American and British fishermen shall be upon an equality, and that if a close time is to apply to British fishermen, and the necessity of the case seems to require that, the same restriction shall apply to American fishermen.

Also that since Mr. Fish admits that the right of lying down reasonable police regulations exists, and would be observed by all who fished in the waters in question. Police regulations, meaning by the context, rules as to close time; the objection raised to the Newfoundland Act is more technical than real, and that the operation of the Treaty as respects Newfoundland, ought not to be delayed or break down altogether on such an objection.

We have, &c.  
(Signed) J. D. COLERIDGE.  
G. JESSELL.  
J. PARKER DEANE.

No. 289.

*Sir E. Thornton to Earl Granville.*—(Received July 20.)

(No. 290.)  
My Lord,

Washington, July 7, 1873.

I HAVE the honour to inclose copy of a telegram which I received on the evening of the 5th instant (Saturday) from his Excellency the Governor of Newfoundland relative to the objection made by the United States' Government to the Act of that Colony for carrying into effect certain articles of the Treaty of May 8, 1871.

After considering the explanations which were given in this telegram, I deemed it expedient to call this morning upon Mr. Bancroft Davis, the Acting Secretary of State, and to deliver to him a copy of the telegram, with a request that he would forward it to Mr. Fish, and would express my hope that the explanations offered would justify him in recommending the President to issue his Proclamation for giving effect, with regard to Newfoundland, to Articles XVIII to XXV and Article XXX of the Treaty, especially as the Newfoundland had offered to embody these explanations in the Proclamation which he might issue.

Mr. Davis promised that he would transmit a copy of Colonel Hill's telegram by this evening's post, but he expressed a doubt whether the wording of the Act of Congress would allow Mr. Fish to admit a law which contained any limitation of the right of fishing. I pointed out to him that the restrictions and regulations now in force had been enacted with a view to the preservation of the fisheries, and were therefore to the advantage of all parties, as their observance would also be obligatory upon all parties. Mr. Davis did not, however, give me any hope that Mr. Fish would be induced to change his view of the matter.

I have the honour to inclose copy of a letter which I have addressed to the Governor of Newfoundland, informing him of the step which I had taken.

There are, of course, several regulations in force on that part of the coast of the

United States to which British fishermen are now to be admitted; they are not, however, derived from Acts of Congress, but depend upon laws of the different States. They undoubtedly contain restrictions, but not precisely of the nature of those alluded to by the Governor of Newfoundland. But it is probable that they will be enforced against British as well as against United States' fishermen, though no mention of them has been made in the President's Proclamation with regard to the Dominion of Canada and Prince Edward Island.

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

Inclosure 1 in No. 289.

*Governor Hill to Sir E. Thornton.*

(Telegraphic.)

*St. John's, Newfoundland, July 5, 1873.*

THE proviso to which American Government object has relation to enactments as to time and mode of taking herring and salmon shown by experience to be necessary for the preservation of those fisheries and consequently for the common interest of all engaged in them. The Governor will, in his Proclamation, according to the powers vested in him by the 2nd section of our Washington Treaty Act, confirm this and so express it as to remove any possible objection to the terms of the Act which were not intended in any way to interfere with the *bond fide* operation of the Treaty. The Governor's powers by the 2nd section are as follows:—The Governor in Council of any order or orders to be made for that purpose may do anything further in accordance with the spirit and intention of the Treaty which shall be found necessary to be done on the part of this island to give full effect to the Treaty, and any such order shall have the same effect as if the object thereof were expressly provided for by this Act. I shall send a copy of this telegram to the Earl of Kimberley.

Inclosure 2 in No. 289.

*Sir E. Thornton to Governor Hill.*

Sir,

*Washington, July 7, 1873.*

I HAD the honour to receive from your Excellency, on the evening of the 5th instant, the telegram, of which a copy is inclosed.

Mr. Fish is not at Washington at present, but I this morning called upon Mr. Bancroft Davis, the Acting Secretary of State, and, giving him a copy of your Excellency's telegram, requested him to transmit it to Mr. Fish, and to inquire whether the explanations transmitted in that telegram would not enable him to recommend the President of the United States to issue a Proclamation for carrying into effect, with regard to Newfoundland, the Articles of the Treaty of May 8, 1871. Mr. B. Davis promised to do so.

At the same time I think it expedient to transmit herewith a copy of the note which I recently received from Mr. Fish upon the subject, and to inform your Excellency that, in the conversation which I have had with him, he has stated his opinion that the proviso at the end of the first section of of the Act of Newfoundland, put it out of the power of the Government of the United States to accept that Act, because the Treaty contained no restrictions to the right of fishing in the localities designated, because none were to be found in the Acts of the Dominion of Canada, of Prince Edward Island, of the Imperial Parliament, or of the Congress of the United States, and because the Act of Newfoundland was not the full consent to the stipulations of the Treaty, which was required by the Act of Congress, and by the terms of which the President is obliged to be guided.

I shall not fail to inform you of the nature of Mr. Fish's answer as soon as I may receive it.

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

No. 290.

*Mr. Meade to Mr. Hammond.—(Received July 21.)*

Sir, *Downing Street, July 19, 1873.*  
 WITH reference to your letter of the 18th of March, 1872, and to previous correspondence respecting the decision of the United States' Government as to the refund of certain duties collected on fish-oil and fish imported from Prince Edward Island, I am directed by the Earl of Kimberley to transmit to you a copy of a despatch from the Lieutenant-Governor of Prince Edward Island, inclosing a joint address to the Queen from the Legislative Council and House of Assembly with a Minute of the Executive Council.

I am also to annex a copy of the answer which Lord Kimberley proposes, with Lord Granville's concurrence, to return to Lieutenant-Governor Robinson's despatch.

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

Inclosure 1 in No. 290.

*Lieutenant-Governor Robinson to the Earl of Kimberley.*

My Lord, *Government House, June 27, 1873.*  
 REFERRING to the correspondence in the inclosure, I have the honour to forward a joint address of the Legislative Council and House of Assembly to Her Majesty the Queen, relative to the refunding by the United States of certain duties collected in the year 1871 on fish-oil and fish imported into the United States from Prince Edward Island, together with a Minute of my Executive Council on the same subject.

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

Inclosure 2 in No. 290.

*Extract from Minutes of the Executive Council of Prince Edward Island.*

*Council Chamber, June 24, 1873.*

AT a meeting of the Executive Council in Committee ;

Present :

The Honourable Messrs.	Pope,	
"	"	Colonial Secretary,
"	"	Attorney-General,
"	"	Macdonald,
"	"	Solicitor-General.

THE Executive Council in Committee having had under consideration the Joint Address of the Legislative Council and House of Assembly to Her Most Gracious Majesty the Queen, relative to the refunding by the United States of certain duties collected in the year 1871, on fish-oil and fish imported into the United States from Prince Edward Island, which was passed in the last Session of the Legislature, beg to submit the following observations thereupon, and respectfully to request that they may be forwarded to Her Majesty's Principal Secretary of State for the Colonial Department.

In the year 1871, the Government of Prince Edward Island promptly and loyally responded to the wish of Her Majesty's Imperial Government, and admitted American fishermen to the liberties which the Treaty of Washington proposed to secure to them.

The wish of Her Majesty's Imperial Government upon the subject was conveyed to the Lieutenant-Governor of this island by Earl Kimberley, in his despatch of 17th June, 1871, with which was inclosed Mr. Hamilton Fish's note to Sir E. Thornton, dated May 8, 1871, which note the Council in Committee believe was accepted by the Government and people of this island as containing a pledge on the part of the American Government that, should the people of the United States be admitted to the immediate and certain right of fishing within the territorial waters of Prince Edward Island, the

President of the United States would recommend and urge upon Congress, at its recent Session, that any duties which might be collected upon fish-oil and fish, the produce of the fisheries of these waters, imported into the United States on and after the 1st day of July, 1871, should be returned and refunded to the parties paying the same, this pledge on the part of the Government of the United States, it is reasonable to assume, induced Her Majesty's Imperial Government to express their desire that the Government of Prince Edward Island would comply with the proposal of the United States' Government, that American fishermen should be admitted within the territorial waters of this island, and that it also induced the Government of the island promptly to comply with this desire of Her Majesty's Government.

In 1871, several merchants of Prince Edward Island engaged largely in the fishing business with the view to exporting their fish to the United States, and the Council in Committee have reason to believe that, before they shipped said fish, they had been made acquainted with the correspondence between Mr. J. C. Hall and Lieutenant-Governor Robinson in September, 1871.

The Council in Committee are of opinion that those merchants of this island who, in 1871, exported fish and fish-oil to the United States under the belief that the duties collected upon these shipments by the United States would be refunded them, were deceived, and that they may reasonably ask that they be indemnified.

It was competent for the Legislature of this island to refuse its sanction to the Treaty of Washington and thereby to exclude American fishermen from its waters, until the President of the United States should fulfil the condition upon which they were, in 1871, admitted to the use of the fisheries in these waters. Such a course on the part of this island would, as stated by Sir Edward Thornton, in his note to Mr. Hamilton Fish, dated 10th July, 1872, have been a just one; but such a course would have been attended with many evils, and would have entailed upon the Imperial Government the necessity of protecting the fisheries of Prince Edward Island by ships of war.

The amount of the duties paid by British subjects, and claimed from the United States does not exceed 4,000*l.* sterling.

The Council in Committee are of opinion that the Imperial Government, in the event of their failing to convince the United States' Government of their obligation to refund the duties collected by them on fish imported into the United States in 1871, should be asked to indemnify the sufferers.

Certified,  
(Signed) WILLIAM C. DES BRISAY,  
*Assistant Clerk in Council.*

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Inclosure 3 in No. 290.

*Proposed Despatch to Lieutenant-Governor Robinson.*

Sir,

*Downing Street, July , 1873.*

I HAVE received and laid before the Queen your despatch No. 42, of the 27th of June, forwarding a joint Address to Her Majesty from the Legislative Council and House of Assembly of Prince Edward Island, on the subject of the refund by the United States of certain duties collected in the year 1871, on fish-oil and fish imported into the United States from Prince Edward Island, with a Minute from the Executive Council on the subject.

Her Majesty's Government much regretted the refusal of the United States' Government to propose to Congress the refund of these duties, and they will consider whether this claim should be again brought under the notice of the United States' Government; but they cannot admit any liability on the part of the Imperial Treasury to indemnify the merchants who exported fish and fish-oil from Prince Edward Island to the United States in 1871,

I have, &c.

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No. 291.

*Mr. Herbert to Mr. Hammond.—(Received July 21.)*

(Secret.)

Sir,

*Downing Street, July 19, 1873.*

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a telegram received from the Governor-General of Canada, on the subject of the Dominion Fisheries.

I am, &amp;c.

(Signed)

ROBERT G. W. HERBERT.

Inclosure in No. 291.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

(Secret.)

*Ottawa, July 19, 1873, 3.10 A.M.*

The printed draft Memorandum on fishery, sent to you on the 8th, contains the complete case as my Government suggests it, should be forwarded to the Commission after it has been revised and modified in form and style by the Foreign Office; the draft in question therefore may now be considered official.

I send a covering despatch and copies by next post.

No. 292.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 22, 1873.*

WITH reference to your letter of the 17th instant, I am directed by Earl Granville to submit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington in regard to the objection made by the United States' Government to the Newfoundland Act for carrying into effect certain Articles of the Treaty of Washington.\*

I am, &amp;c.

(Signed)

E. HAMMOND.

No. 293.

*Mr. Hammond to Mr. Holland.*

Sir,

*Foreign Office, July 23, 1873.*

IN reply to your letter of the 19th instant, I am directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship concurs in the despatch which it is proposed to address to the Governor of Prince Edward Island, in regard to the refund by the United States of certain duties collected on fish-oil and fish imported from that Colony.

I am, &amp;c.

(Signed)

E. HAMMOND.

No. 294.

*Mr. Holland to Mr. Hammond.—(Received July 25.)*

Sir,

*Downing Street, July 24, 1873.*

WITH reference to my letter of the 25th ultimo, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of "The Canada Gazette" of the 21st of June, which has been received from Lord Dufferin, containing the

Proclamation issued by his Lordship for giving effect to the Act of Parliament of Canada relating to the Treaty of Washington, 1871.

I am, &c.  
(Signed) H. T. HOLLAND.

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Inclosure in No. 294.

*Extract from the "Canada Gazette" of June 23, 1873.*

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PROCLAMATION.

(L.S.) DUFFERIN.

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

To all to whom these presents shall come, or whom the same may in anywise concern, greeting.

J. A. MACDONALD, *Attorney-General, Canada.*

WHEREAS, in and by the 5th section of the Act made and passed by the Parliament of Canada, in the thirty-fifth year of Our reign, intituled "An Act relating to the Treaty of Washington, 1871," it is amongst other things in effect enacted.

That the foregoing sections of the said Act shall come into force, upon, from and after a day, to be appointed for that purpose, by a Proclamation, based upon an order of the Governor in Council.

And whereas an order of the Governor in Council has been passed on the day of the date thereof, appointing the 1st day of July now next the day upon, from, and after which the said sections shall come into force.

Now know ye, that We do hereby, under and by virtue of the authority vested in Us by the said Act, and order of the Governor in Council respectively, proclaim and declare the 1st day of July, in the year of our Lord 1873, the day upon, from, and after which the 1st, 2nd, 3rd, and 4th sections of the Act hereinbefore mentioned and intituled "An Act relating to the Treaty of Washington, 1871," shall come into force.

Of all which our loving subjects and all others are required to take notice and to govern themselves accordingly.

In testimony whereof, we have caused these our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. Witness, Our right trusty and well beloved Cousin and Councillor the Right Honourable Sir Frederick Temple, Earl of Dufferin, Viscount and Baron Clandeboye of Clandeboye, in the County of Down, in the Peerage of the United Kingdom, Baron Dufferin and Clandeboye of Ballyleidy and Killeleagh in the county Down, in the Peerage of Ireland, and a Baronet, Knight of Our Most Illustrious Order of St. Patrick, and Knight Commander of Our Most Honourable Order of the Bath, Governor-General of Canada, and Governor and Commander-in-Chief in and over the Island of Prince Edward, and Vice-Admiral of Canada and Prince Edward, &c.

At Our Government House, in Our City of Ottawa, this 20th day of June, in the year of our Lord 1873, and in the thirty-sixth year of Our reign.

By command :  
(Signed) J. C. AIKINS, *Secretary of State.*

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No. 295.

*Mr. Holland to Mr. Hammond.—(Received July 26.)*

Sir,

*Downing Street, July 25, 1873.*

WITH reference to the letter from this Office of the 17th instant, I am directed by the Earl of Kimberley to request to be informed whether Earl Granville concurs in the proposed despatch to the Governor of Newfoundland, suggesting that the Colonial Act should be amended at the earliest opportunity.

I am, &c.  
(Signed) H. T. HOLLAND.

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No. 296.

*Sir E. Thornton to Earl Granville.—(Received July 27.)*

(No. 299.)

My Lord,

*Washington, July 10, 1873.*

WITH reference to my despatch No. 296 of the 7th instant, I have the honour to inclose copy of a letter which I have this day addressed to his Excellency the Governor of Newfoundland, relative to the Articles of the Treaty of May 8, 1871, which affect that Colony.

Your Lordship will perceive that Mr. Fish still maintains his opinion that he cannot recommend the President to issue his Proclamation for carrying into effect those Articles with regard to Newfoundland.

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

Inclosure in No. 296.

*Sir E. Thornton to Governor Hill.*

Sir,

*Washington, July 10, 1873.*

WITH reference to my letter of the 7th instant, I have the honour to inform your Excellency that Mr. Bancroft Davis, the Acting Secretary of State, this morning stated to me, on behalf of Mr. Fish, that the latter regretted that he was still unable, notwithstanding the explanations given in your Excellency's telegram of the 5th instant, to recommend to the President to issue a Proclamation for carrying into effect, with regard to Newfoundland, certain Articles of the Treaty of May 8, 1871, because the Act of Newfoundland was not a full consent to the Articles of the Treaty, nor such a consent as would allow the President, who must be guided by the provisions of the Act of Congress upon the subject, to issue the Proclamation in question.

Mr. Bancroft Davis added, that Mr. Fish admitted, that as the United States' authorities would expect British fishermen, in American waters, to observe the police regulations with regard to the fisheries, so the Government of the United States would make no objection to similar regulations being enforced against American fishermen in British waters; but it could not accept the Act of Newfoundland, which contained restrictions of which no mention had been made in the Treaty.

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

No. 297.

*Sir E. Thornton to Earl Granville.—(Received July 27.)*

(No. 304.)

My Lord,

*Catskill, July 14, 1873.*

I HAVE the honour to inclose copy of a note from Mr. Bancroft Davis, which, though dated the 7th instant, I did not receive at Washington till the 11th instant.

In this note Mr. Davis conveys Mr. Fish's impression, that unless the two Governments soon agree upon the third Commissioner for the Commission which is to meet at Halifax with reference to the fisheries, the arbitration will be carried over to the next season.

In order to prevent this, Mr. Fish proposes that Her Majesty's Government should select one from amongst the Mexican, Russian, Brazilian, Spanish, French, and Netherlands Ministers at Washington, in the nomination of any one of whom the President would concur.

There would be no objection to the Italian Minister; but it is supposed that his present occupation as third Commissioner on the Commission at Newport would prevent his acceptance of the trust in relation to the fisheries. Indeed, it is hardly possible, that he could do so, for it is beginning to be evident that the Mixed Commission will but just finish its labours by the 26th of September next, when it will terminate its labours, in accordance with the provision of the Treaty, and when it would be rather late for the Fisheries Commission to meet at Halifax.

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

Inclosure in No. 297.

*Mr. Davis to Sir E. Thornton.*

Sir,

*Department of State, Washington, July 7, 1873.*

THE necessary legislation to carry into effect the XVIIIth, XIXth, XXth, and XXIst Articles of the Treaty of May 8, 1871, between the United States and Her Britannic Majesty, having been passed, and those Articles having gone into effect on the 1st of the present month, the time for forming the Commission under the XXIIInd, XXIIIrd, XXIVth, and XXVth Articles of that Treaty has now arrived.

To do this it is necessary that the two Governments shall agree upon a third Commissioner, who, under the provisions of the XXIIIrd Article, is to be named by the President of the United States and Her Britannic Majesty conjointly. The Treaty further provides that if, at the expiration of three months from the time when the Articles take effect, the third Commissioner shall not have been agreed upon, he then shall be named by the Representative of His Majesty the Emperor of Austria and King of Hungary, in London.

In several conversations on this subject which have taken place between Mr. Fish and you at various times during several months past, you will doubtless remember how decidedly he expressed the opinion that it will be better for both countries that they should agree upon the third Commissioner if possible, and that in any event no person should be thought of who is not thoroughly familiar with the English language. In these interviews several names were put forward by way of suggestion, but unofficially, and without coming to a conclusion as to any.

Mr. Fish is deeply impressed with the opinion that, unless the two Governments can soon agree upon a third Commissioner, the arbitration will be carried over to another season. In order to avoid that contingency this Government is willing to take the initiative and suggest to Her Majesty's Government the names of a number of persons each one of whom would, in the opinion of the President, be influenced only by a desire to do justice between the parties. The names which are proposed are taken from the Diplomatic Corps at Washington who are now in this country, and it has been the aim to name none but those who have the necessary familiarity with the English language, omitting, however, those who by reason of the peculiar political connection of their Governments with Great Britain, would probably esteem themselves disqualified for the position.

I have the honour, therefore, to suggest for the consideration of the Government of Her Britannic Majesty the names of Señor Don Ignacio Mariscal, Envoy Extraordinary and Minister Plenipotentiary of Mexico at Washington; Le Chevalier Baron Henri d'Offenberg, Envoy Extraordinary and Minister Plenipotentiary of Russia at Washington; Counsellor A. P. de Carvalho Borges, Envoy Extraordinary and Minister Plenipotentiary of Brazil at Washington; Admiral Don José Polo de Bernahé, Envoy Extraordinary and Minister Plenipotentiary of Spain at Washington; the Marquis of Noailles, Envoy Extraordinary and Minister Plenipotentiary of France at Washington; M. Bernhard de Westenberg, Ministerial Resident of the Netherlands at Washington. The President will concur in the nomination of either of the gentlemen as the third Commissioner, should Earl Granville be willing to intimate a preference for any one of them.

It will be observed that I have omitted to name Count Corti, the Envoy Extraordinary and Minister Plenipotentiary of Italy at Washington, who is at present engaged in the execution of a similar trust under the Treaty. It is supposed that this might prevent his acceptance of the trust in relation to the fisheries, but should he be willing to undertake it, and should Earl Granville prefer to name him, the President would concur in that nomination.

I have, &amp;c.

(Signed) J. C. B. DAVIS, *Acting Secretary.*

No. 298.

*Sir E. Thornton to Earl Granville.—(Received July 27.)*

(No. 306. Confidential.)

My Lord,

*Catskill, July 14, 1873.*

WITH reference to your Lordship's telegram of the 12th instant, relative to those of my colleagues from amongst whom Mr. Fish has proposed that Her Majesty's Government

should select a third Commissioner for the Fisheries Commission, I suppose that it is hardly necessary to make any remarks about the Mexican Minister, who I presume that Her Majesty's Government would in no case accept. Nor do I think that M. Mariscal, who is also married to an American lady, is likely, either personally or as the Mexican Representative, to resist the influence which would certainly be brought to bear upon him by a people whom the Mexican nation may not love but certainly dreads.

The Russian Minister, Baron Offenbergh, is a very intelligent and well-informed man, though rather slow and heavy; he is a German by origin, and is well acquainted with the English language. As far as I can judge, he is not at all personally prejudiced against England, and I can hardly think that he would be induced to decide unjustly against us, either for the sake of diminishing the prestige of England or of conciliating the United States.

My Brazilian colleague is not, I think, sufficiently acquainted with the English language to make it desirable that he should be placed in such a position; besides that, he is an indolent man and not likely to make himself acquainted with the subject, which, as your Lordship is aware, is of much detail, and would require a good deal of reading and research.

Admiral Polo, the Spanish Minister, speaks English very fairly, and understands and writes it better. I consider him a completely honest and straightforward man, whom nothing would induce to decide in a way which he did not consider in accordance with justice. He is not perhaps brilliant nor deeply read; but his common sense would make up for such defects. He has certainly no prejudice against England, but on the contrary has a great admiration for her political institutions.

The Marquis de Noailles, who has not been long in this country, may be better known to Her Majesty's Ambassador at Paris than to me. He has certainly a very thorough knowledge of the English language; but he has never been much accustomed to business, particularly of the sort for which he would be now required. I think, too, that he would allow himself to be influenced by the view which his Government might wish him to take of the question at issue. But he is of so reserved a character that it is very difficult to discover his feelings with regard to England.

I am sorry that I cannot strongly recommend my Netherlands colleague for the position in question, though in some points of view his nomination might be very desirable. M. de Westenberg is well acquainted with the English language, is extremely intelligent, and possesses a great fund of general knowledge; he is also very studious and laborious, and would take great pains to make himself thoroughly acquainted with the subject. But, unfortunately, his manner is disagreeable, and he is on that account generally disliked. He is occasionally so eccentric as almost to lead one to believe that his mind is slightly affected; but this may be due to, or have been brought about by, the impossibility, under which he seems to labour, of abstaining from the excessive use of intoxicating liquors.

After careful reflection, I am of opinion that Admiral Polo and Baron Offenbergh are to be preferred to the other persons named by Mr. Fish; and if I slightly lean to the former of the two, it is because he inspires me with greater confidence in his honesty, and with a conviction that he would be determined to be just to the best of his judgment, although this might not be so strong as that of Baron Offenbergh.

I have, &c.

(Signed) EDWD. THORNTON.

No. 299.

*Mr. Holland to Mr. Hammond.—(Received July 29.)*

Sir,

*Downing Street, July 28, 1873.*

WITH reference to the correspondence which has passed respecting the objections of the United States' Government to the proviso contained in the Act of the Newfoundland Legislature relating to the Treaty of Washington by which certain restrictions are imposed, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor of Newfoundland in reply to the despatch of which a copy was inclosed in the letter from this office to the Foreign Office of the 2nd instant.

If the United States' Government persist in their view it appears to Lord Kimberley that nothing further can be done till the Newfoundland Legislature meets.

I am, &c.

(Signed) H. T. HOLLAND.

Inclosure 1 in No. 299.

*Governor Hill to the Earl of Kimberley.*

My Lord.

*Government House, Newfoundland, July 16, 1873.*

IN transmitting to your Lordship copy of a telegram in relation to the Washington Treaty, which on the 5th instant I sent to the Colonial Office, I have the honour to acknowledge the receipt of your Lordship's despatch of the 1st July, intimating that Mr. Secretary Fish had objected to the proviso contained in Section 1 of the Act of the Newfoundland Legislature relating to the Treaty of Washington.

2. With respect to the restrictions pointed at by Mr. Fish as imposed in Section 1 of the Act in question, I beg to inform your Lordship that they refer to the time and mode of taking herring and salmon, and are therefore intended to benefit United States as well as British fishermen. Although no such restriction as the foregoing appear in the Treaty itself, the fishermen of Newfoundland when fishing in the waters of the United States will consider themselves bound to abide by such fair and reasonable Police or Municipal regulations as that State exacts and which cannot be considered as inconsistent with the *bonâ fide* operation of the Treaty.

3. By the second Section of our Washington Treaty Act the Governor in Council may make any order or orders on the part of this island to give full effect to the Treaty, I am therefore prepared at the instance of my advisers to issue a proclamation and so express it as to remove any possible objection to the terms of the Local Act.

4. With reference to that part of your Lordship's despatch which suggests the advisability of passing an Act to amend the proviso which has been objected to, I beg to say that, as the House of Assembly has been recently dissolved, this suggestion cannot be entertained by my ministers until the Legislature meets in February next, I trust, however, that the Cabinet of the United States will re-consider a decision which has been arrived at without due consideration or without the expression of any desire to obtain information as to alleged restrictions upon which Mr. Fish has hastily expressed an opinion, and that the disastrous results to our trade which will arise from the imposition of duties on cargoes transmitted hence to the United States in anticipation of this Colony being permitted to participate in the advantages of the Washington Treaty, will be obviated by the acceptance of our Act 36 Vict. cap. 3, upon which I have invited the Crown Law Officer to report, and now transmit his communication and inclosures.

I have, &amp;c.

(Signed) STEPHEN J. HILL.

Inclosure 2 in No. 299.

*Draft of Telegram.*

THE proviso to which American Government object has relation to enactments as to time and mode of taking herring and salmon, shown by experience to be necessary for the preservation of those fisheries and consequently for the common interest of all engaged in them. The Governor will, in his Proclamation, according to the powers invested in him by the second Section of our Washington Treaty Act, confirm this, and so express it as to remove any possible objection to the terms of the Act which were not intended in any way to interfere with the *bonâ fide* operation of the Treaty.

The Governor's powers by the second section are as follows:—

The Governor in Council by any order or orders to be made for that purpose may do anything further in accordance with the spirit and intention of the Treaty which shall be found necessary to be done on the part of this island to give full effect to the Treaty, and any such order shall have the same effect as if the object thereof were expressly provided for by this Act.

I shall send a copy of this telegram to Sir Edward Thornton.

Inclosure 3 in No. 299.

*Mr. Pinsent to Governor Hill.*

Sir,

*St. John's, Newfoundland, July 14, 1873.*

I HAD the honour, on the 4th instant, to advise your Excellency and to submit draft of a telegram upon the bearing and effect of the proviso to the first section of the local

Statute of last session of the Legislature, entitled "An Act relating to the Treaty of Washington, 1871," which proviso is considered objectionable by the Government of the United States.

I then expressed the opinion that, while the clause was unnecessary, I believed that, if rightly understood by the United States' authorities, it would be considered unobjectionable. I have now, by your Excellency's command, to report more fully upon the matter.

In the first place, it will probably be conceded by the Government of the United States that the exercise of Treaty rights is at all times subject to fair and reasonable police or municipal regulations of the State within which they are to be exercised, as are common to all and not inconsistent with the *bonâ fide* operation of the stipulations of the Treaty.

The proviso would, in this view, be quite unnecessary and, therefore, harmless; but it will also be observed that it is not prospective in its terms, but has reference to the *status quo* of the fisheries to which it applies at the time of the ratification of the Treaty by the High Contracting Parties; it runs thus—

"Provided that 'such laws,' rules, and regulations relating to the time and manner of prosecuting the fisheries on the coast of this island shall not be in any way affected by such suspension."

The laws referred to in this proviso as "such laws," and can, from the language, be none other than the laws mentioned in the former part of the same section, viz., "the laws of this Colony which operate to prevent the said Articles from taking full effect," and which are to be suspended. The whole clause is, with regard to this question, in the present tense.

Copies of those existing laws are annexed to the despatch. They are Acts passed respectively in the years 1860 and 1862, and regulate the contrivances for taking herring and salmon, and the mode and time for using those contrivances.

These provisions are shown by experience to have been necessary for the preservation of those fisheries, and, consequently, for the common interest of all engaged in them; the only regret is that they are not so effective as could be desired, and, I may add, that it would be for the advantage of the subjects of any State, having an interest in the prosecution of these fisheries, if the observance of those regulations were more rigidly enforced.

It will be seen that the Act of 1862, for the protection of the herring and salmon fisheries, contains this section (No. 10):—

"Provided always that nothing in this Act contained shall in any way affect or interfere with the rights and privileges granted by Treaty to the subjects or citizens of any State or Power in amity with Her Majesty."

By the second section of our Washington Treaty Act the Governor in Council has the fullest powers to make orders "to give full effect to the Treaty" in accordance with its spirit and intention.

The Treaty of Washington Act of the Congress of the United States enables the produce of the fisheries of this Colony to be admitted into the United States free of duty. "from and after the date of a Proclamation by the President of the United States, declaring that he has satisfactory evidence that the Colony of Newfoundland has consented, in a due and proper manner, to have the provisions of the said Articles XVIII to XXV inclusive of the said Treaty extended to it."

If it has not been already done, I venture to express the belief that, after explanation made, and view had of the copies of the local enactments to which the proviso refers, and with the powers vested in the Governor in Council, and which your Excellency is prepared to exercise to the fullest extent, no further objections will be raised on the part of the Treasury Department of the United States to giving effect to the Treaty in favour of this Colony, and that the President of the United States will be of opinion that there is no substantial objection to the issue of the Proclamation provided by the Act of Congress.

Subjects of the States are now in the actual exercise and enjoyment on this coast of the privileges conceded to their Government by the Treaty, and our merchants justly feel aggrieved that the Customs authorities of the United States decline to admit into the ports and markets of that country their shipments of the produce of the fisheries of Newfoundland duty free.

I have, &c.

(Signed) ROBERT J. PINSENT, *Queen's Counsel.*

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*Schedule of Documents attached.*

1. An Act for the Protection of the Salmon Fishery of this Colony and for other Purposes, A.D. 1860.

2. An Act for the Protection of the Herring and Salmon Fisheries on the Coast of this Island, and for other Purposes, A.D. 1862.
3. An Act to amend above, A.D. 1866.
4. An Act Relating to the Treaty of Washington 1871, A.D. 1873.

No. 300.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 29, 1873.*  
 WITH reference to your letter of the 17th instant, in regard to the objection taken by the United States' Government to the sufficiency of the Act of the Newfoundland Legislature with reference to the Fishery Clause of the Treaty of Washington, I am directed by Earl Granville to transmit to you herewith a copy of a Report that his Lordship has received from the Law Officers of the Crown upon this question.\*

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

No. 301.

*Mr. Hammond to Mr. Holland.*

Sir, *Foreign Office, July 29, 1873.*  
 I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of despatches from Her Majesty's Minister at Washington, as marked in margin,† upon the subject of the Fishery Articles of the Treaty of Washington.

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

No. 302.

*Mr. Herbert to Mr. Hammond.—(Received August 4.)*

Sir, *Downing Street, August 2, 1873.*  
 I HAVE laid before the Earl of Kimberley your letter of the 29th ultimo, inclosing a copy of a Report from the Law Officers of the Crown upon the subject of the difficulty which has arisen as to the Newfoundland Legislature for giving effect to the Washington Treaty.

Lord Kimberley desires me to observe that the point which seems to require consideration is, in what position Newfoundland will be placed as regards her right to compensation under the Treaty, if the Commission meet and determine the amount of compensation due to Canada and Prince Edward Island, and is unable to take any notice of the Newfoundland fisheries in consequence of the United States' Government holding that the Newfoundland Act does not constitute formal compliance with the Washington Treaty. As the Newfoundland Legislature is unfortunately dissolved, and will not, his Lordship understands, meet again till February next, this question is one of practical urgency. His Lordship would suggest to Lord Granville that it might be desirable to furnish Sir E. Thornton with a copy of the Law Officers' opinion, in order that he may make a further endeavour to overcome the objections of the United States' Government to the Newfoundland Act.

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

No. 303.

*Mr. Herbert to Mr. Hammond.—(Received August 5.)*

Sir, *Downing Street, August 5, 1873.*  
 I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, three copies of the statement of the British claim under the Fishery Articles of

\* No. 288.

† Nos. 296 and 298.

the Treaty of Washington, which have been received from the Department of Marine and Fisheries in Canada, in compliance with a telegram sent to the Governor-General on the 12th of July.

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

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No. 304.

*Mr. Herbert to Mr. Hammond.—(Received August 8.)*

(Secret.)

Sir, *Downing Street, August 7, 1873.*  
WITH reference to previous correspondence respecting the appointment of a third Commissioner for the Commission which is to meet at Halifax on the subject of the fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of the decypher of a telegram which has been received from the Governor-General of Canada.

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

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Inclosure in No. 304.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

(Secret.)

*Ottawa, August 4, 1873.*

WE should prefer Belgian Minister as third Commissioner.

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No. 305.

*Mr. Herbert to Mr. Hammond.—(Received August 9.)*

Sir, *Downing Street, August 7, 1873.*  
WITH reference to your letter of July 18 on the subject of the expediency of sending a delegate to Washington to represent the claim of Newfoundland to the free admission of seal oil into the United States, I am to inclose copy of a despatch which Lord Kimberley has addressed to Governor Hill.

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

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Inclosure in No. 305.

*The Earl of Kimberley to Governor Hill.*

Sir, *Downing Street, August 7, 1873.*  
IN reply to your despatch of the 18th of June, as to the expediency of a delegate being sent by the Government of Newfoundland to Washington for the purpose of representing the claims of the Colony, with respect to the free admission of seal oil into the United States, I have to state to you that Her Majesty's Government think it would be better to defer taking this step until it has been settled that the Newfoundland fisheries are brought under the Treaty; and in the event of any delegate being sent hereafter, he should only be accredited to Sir E. Thornton, as it might lead to inconvenience if a precedent were established for placing one of Her Majesty's Colonies in direct official relations with the Government of the United States.

I am, &c.  
(Signed) KIMBERLEY.

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*Mr. Herbert to Mr. Hammond.—(Received August 9.)*

Sir, *Downing Street, August 8, 1873.*  
 WITH reference to your letter of the 7th of July respecting the selection of Mr. Rothery as Agent to attend the Fishery Commission appointed to meet at Halifax, and to the correspondence which has passed on the subject of the Newfoundland fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from Mr. Bennett, the Chief Minister of the Colony who is now in this country, and of a despatch transmitting copy of this letter, which Lord Kimberley proposes, with Earl Granville's concurrence, to address to Governor Hill.

Lord Granville will observe that Mr. Bennett supplies some general information as to the value of the Newfoundland fisheries, and Lord Kimberley would suggest that a copy of the letter and also of the inclosed telegram from Mr. Bennett should be sent to Mr. Rothery for his information.

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

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Inclosure 1 in No. 306.

*Mr. Bennett to Mr. Holland.*

My dear Sir, *4, Arlington Villas, Clifton, July 28, 1873.*  
 SINCE writing you last I have received the following telegram from Mr. Archibald, Her Majesty's Consul at New York:

“Seal oil was free under Reciprocity Treaty, entered as product of the fisheries; skins were never dutiable.”

On reference here to the American tariff, now before me, of 1861, I find, under the head of “skins,”—“fish skins for saddlers, &c., 20 per cent. *ad valorem*.”

The term “saddlers” applies, I assume, to a Newfoundland seal, called “saddlebacks.”

In the tariff of 1871, I find, under the head of “skins,”—“fish skins 20 per cent. *ad valorem*.”

There appears to be some discrepancy in regard to the duty between Mr. Archibald's telegram and the American tariff.

I am sensible that the seal, strictly speaking, is an amphibious animal, and not a fish, but, commercially speaking, and according to usage, it is invariably called a fish, and the oil produced from it is termed and sold as a fish oil, and the American tariff of 1861 recognizes it as such.

In reference to the Commission which is about to sit at Halifax, for the purpose of estimating the value of the fishery rights respectively conceded by the United States and the North American Colonies, I don't think that I can state the case more forcibly than is given me in the language of a friend, resident in Newfoundland, of high position, who has written me upon the subject as follows:—

“As a Commission is to sit next month at Halifax, for the purpose of estimating the value of the fishery rights respectively conceded by the United States and the North American Colonies, I think this Colony should be represented by a person resident here, who should be qualified to plead our rights by a familiar knowledge of the subject; I do not believe that a person non-resident can have the requisite local knowledge to enable him to get justice for us.

“The Americans will be represented by clever men, and will on this occasion endeavour to get the best of the bargain, as they have hitherto done, in every point connected with the Washington Treaty, and whoever is intrusted with our case should be supplied with ample and correct information.

“I propose to draw your attention to the three branches of fishery most important to us, and hope that I may give some hints which may assist our delegate.

“First of all is our cod fishery. It is considered by us as an in-shore fishery; our annual catch is from 1,000,000 to 1,300,000 quintals a year, which are taken and cured by 37,000 persons, and of which probably not 5,000 quintals are taken outside the three miles limit, therefore the Americans are now to be permitted to have free access to ‘new ground,’ yielding enormous returns. The value of this fishery is not less annually than 5,000,000 dollars, which, without increase in the catch, would yield 60,000,000 in twelve years. What are the quantity and values of the American in-shore fishery? The answer

to this will probably be found in American Congress returns, taking care to eliminate the bank, salmon, trout and river fishery, and all fish taken below the 39 deg. parallel.

“Our herring fishery is one capable of being developed to an enormous extent. At present we ship annually from 150,000 to 250,000 barrels. American fishing vessels have been engaged in this trade during the past twelve years. From twenty-five to fifty of their vessels have resorted to Fortune Bay, and have there purchased herrings to supply the New York and Boston markets. During the Reciprocity Treaty there were annually shipped from Fortune Bay 60,000 to 70,000 barrels, intended for the American market; a large portion of these shipments reached them *via* Nova Scotia, and will appear on returns as the produce of that Colony. On the whole, this fishery cannot be estimated at at less than 800,000 dollars annual value, which, in twelve years, would produce 9,600,000 dollars. Until now, Americans who have participated in this trade have been obliged to purchase. In future, this fishery will be open to them.

“*Baiting*.—The fishery in-shore, and more particularly on the banks, cannot be prosecuted profitably without an ample supply of bait. Experience has proved that herrings make the best bait for the banks. Fortune and Placatin Bays are always amply stocked during the fishing season. For many years we have furnished the French with all the bait they require; in fact, did we not supply them, their fishery must die out, or become very limited, in three years.

“The fishing season on the banks is so short that in order to make it pay no time can be lost in procuring bait, and there must be a certainty that it may be had when wanted. Our herring and caplin meet these requirements; and we are paid by the French from 80,000 to 125,000 dollars yearly. The average payment is certainly 100,000 dollars.

“It is only since the Proclamation issued two years ago by the Governor, giving American fishermen the right to participate in all our privileges, that they have resorted to our shores; but since then, and during the present summer, they come weekly to Fortune Bay, and without any delay get what bait they require. I think there are at least 100 sail of American vessels that now get their bait on our south-west coast, and as soon as the Treaty is in force, these numbers will probably be largely increased. This supply of bait must be worth more than one-quarter to the Americans that it is to the French. If we estimate it at 25,000 dollars per annum, this will give value for twelve years, 300,000 dollars.”

“However the other privileges may be estimated, I am certain that a round sum of 100,000 dollars for the privilege of bait alone will be a small part of what we are entitled to.”

I think before concluding this communication it is proper to observe, in confirmation of his Excellency Governor Hill's telegram of 5th July, upon the subject of the exception taken by the American Government to the Newfoundland Act, accepting the terms of the Treaty, that it was the opinion of the framers of that Act, that the Governor in Council possessed by that Act the power to meet any such contingency as that to which the exception has been taken, and to accept the Treaty in the spirit in which the Imperial Government had negotiated and accepted it; and this I am confident the Legislature of Newfoundland will, without hesitation, confirm by further legislation, if the American Government require it, by expunging the objectionable words, which were so unhappily and so unnecessarily introduced into the Act.

I beg that you will do me the favour of laying this statement before Earl Kimberley, and I regret the delay that has arisen in preparing it.

I have, &c.  
(Signed) C. BENNETT.

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Inclosure 2 in No. 306.

*Mr. Bennett to Mr. Holland.*

(Telegraphic.)

July 29, 1873.

IN my statement sent you yesterday I omitted the important fact that mackerel have for the last few years again appeared on the Newfoundland coast, and are increasing annually.

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## Inclosure 3 in No. 306.

*Proposed despatch to Governor Hill.*

Sir, *Downing Street, August , 1873.*  
 I TRANSMIT to you a copy of a letter and of a telegram which I have received from Mr. Bennett on the subject of the Newfoundland fisheries. You will observe that Mr. Bennett strongly urges the expediency of appointing a person especially conversant with the fisheries, to represent the Colony at the Commission which is to sit at Halifax.

It may, I fear, be doubtful whether, if the United States' Government persist in maintaining that the Act of the Newfoundland Legislature does not fulfil the conditions necessary to enable the provisions of the Treaty of Washington to be put in force as regards Newfoundland, the Commission can take into consideration the Newfoundland fisheries until this difficulty is removed, but otherwise there is no reason why a person should not be sent by the Colonial Government at their expense to assist Mr. Rothery, of whose appointment as Her Majesty's Agent to attend the Commission I informed you in my despatch of the 10th of July, and who will no doubt be greatly aided by the presence of a Colonial Agent possessing thorough local knowledge.

I have, &c.  
 (Signed) KIMBERLEY.

## No. 307.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.) *Foreign Office, August 9, 6.20 P.M., 1873.*  
 THE Dominion Government would prefer the Belgian Minister as third Commissioner.

Ascertain whether this would be agreeable to the United States, and also whether he understands English.

## No. 308.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, August 11, 1873.*  
 IN reply to your letter of the 8th instant, I am directed by Earl Granville to acquaint you that his Lordship concurs in the despatch which the Earl of Kimberley proposes to address to Governor Hill in regard to the Newfoundland fisheries.

I am to add that copies of your letter and of its inclosures will be sent to Mr. Rothery.

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

## No. 309.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, August 11, 1873.*  
 WITH reference to my other letter of this day's date, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, the accompanying copy of a telegraphic despatch from Sir E. Thornton, stating that Mr. Fish declined positively to entertain the proposed appointment of the Belgian Minister at Washington as third Commissioner on the Fisheries Question; and I am to request that you will state to Lord Kimberley that, under these circumstances, Lord Granville would suggest that Mr. Fish should be informed that the question of selecting a third Commissioner will be left to the Austrian Ambassador at this Court in accordance with the terms of the Treaty of Washington.

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

No. 310.

*Earl Granville to Sir E. Thornton.*

(No. 226.)

Sir, *Foreign Office, August 11, 1873.*  
 WITH reference to your despatch No. 285 of the 30th of June, I transmit, to you herewith, for your information, copy of a letter from the Colonial Office upon the subject of the Newfoundland seal fisheries.\*

I am, &c.  
 (Signed) GRANVILLE.

No. 311.

*Sir E. Thornton to Earl Granville.*

(Telegraphic.)

*August 11, 1873.*

IN consequence of a telegram from the Governor-General of Canada, I had already spoken to Mr. Fish as from myself about the Belgian Minister as third Commissioner. He positively declined to entertain his appointment, on the ground chiefly that the American people would not consider him an impartial person. I think it useless to urge it on the part of Her Majesty's Government.

No. 312.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, August 11, 1873.*  
 WITH reference to your letter of the 7th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch that his Lordship has addressed to Her Majesty's Minister at Washington, in regard to the appointment of a third Commissioner for the Fishery Commission at Halifax.†

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

No. 313.

*Mr. Herbert to Mr. Hammond.—(Received August 12.)*

Sir, *Downing Street, August 11, 1873.*  
 WITH reference to my letter of the 5th instant, inclosing copies of the Canadian case on the Fishery Question, I am directed by the Secretary of State for the Colonies to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor-General of Canada, dated the 18th July, requesting that the case may be modified, at Earl Granville's discretion, before it is submitted to the Commissioners.

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

Inclosure in No. 313.

*The Earl of Dufferin to the Earl of Kimberley.*

My Lord, *Charlotte Town, Prince Edward Island, July 18, 1873.*  
 IN conformity with the instructions contained in your Lordship's despatch, May 20th, 1872, I have the honour to forward seven copies of a draft case prepared by the Minister of Marine and Fisheries, setting forth the Canadian view of the Fishery Question now pending between the Dominion and the Government of the United States.

I am informed by the Minister of Marine and Fisheries that the facts and statements contained in this Memorandum are accurate, and I am now requested by my responsible advisers to move your Lordship to transmit it to the Foreign Office to be modified in its

form and style at the discretion of Lord Granville, previous to its being submitted to the Commissioners.

I have, &c.  
(Signed) DUFFERIN.

No. 314.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, August 12, 1873.*  
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, twenty copies, which have been printed at this office, of the Statement of the British Claim under the Fishery Articles of the Treaty of Washington, which formed the inclosure in your letter of the 5th instant.

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

No. 315.

*Mr. Herbert to Mr. Hammond.—(Received August 14.)*

Sir, *Downing Street, August 13, 1873.*  
I HAVE laid before the Earl of Kimberley your letter of the 8th instant, and I am to express his Lordship's concurrence in the Instructions proposed by Earl Granville to be given to Mr. Rothery, with respect to his movements as Agent of the Fisheries Commission.

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

No. 316.

*Earl Granville to Mr. Thornton.*

(No. 230.)  
Sir, *Foreign Office, August 14, 1873.*  
WITH reference to your despatch No. 299 of the 10th ultimo, I inclose herewith for your information a copy of a letter from the Colonial office respecting the objections raised by the United States' Government to the Newfoundland Fisheries Act, and you will state to Mr. Fish that if his Government persist in their objections Her Majesty's Government are of opinion that the question must await the meeting of the Newfoundland Legislature.

I am, &c.  
(Signed) GRANVILLE.

No. 317.

*Mr. Hammond to Mr. Herbert.*

Sir, *Foreign Office, August 14, 1873.*  
WITH reference to your letter of the 23rd ultimo, I am directed by Lord Granville to acquaint you, for the information of the Earl of Kimberley, that Sir E. Thornton has been instructed to state to Mr. Fish, that if the United States' Government persist in their objection to the Newfoundland Fisheries Act, Her Majesty's Government are of opinion that the question must await the meeting of the Newfoundland Legislature.

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

No. 318.

*Mr. Herbert to Mr. Hammond.—(Received August 15.)*

(Secret.)

Sir,

*Downing Street, August 14, 1873.*

I HAVE laid before the Earl of Kimberley your two letters of the 11th instant, on the subject of the appointment of a third Commissioner for the Fishery Commission which is to meet at Halifax.

His Lordship agrees in the course suggested by Earl Granville, and he proposes, with Lord Granville's concurrence, to inform Lord Dufferin by telegraph, that the United States' Government decline the Belgian Minister, and that Her Majesty's Government propose to inform the United States' Government that the choice of the third Commissioner will be left to the Austrian Ambassador.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

No. 319.

*Mr. Herbert to Mr. Hammond.—(Received August 15.)*

Sir,

*Downing Street, August 14, 1873.*

WITH reference to your letter of the 29th ultimo, inclosing despatches from Sir E. Thornton, respecting the difficulty as to the Newfoundland Act for carrying into effect the fishery clauses of the Treaty of Washington, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor of Newfoundland, forwarding a copy of Sir Edward Thornton's despatch of the 10th of July, which was inclosed in your letter of the 29th of July, above referred to, together with a copy of his answer to it.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 319.

*Governor Hill to the Earl of Kimberley.*

My Lord,

*Government House, Newfoundland, July 25, 1873.*

I HAVE the honour to transmit to your Lordship copy of a letter received at this office from Sir E. Thornton, by which it appears that Mr. Secretary Fish regrets, notwithstanding the explanations contained in my telegram of the 5th instant, copy of which I sent on the same date to your Lordship, that he cannot advise the President to issue a Proclamation for carrying into effect, with respect to Newfoundland, certain Articles of the Treaty of the 8th May, 1871, because the recent Act of this Colony, 36 Vic., cap. 3, was not such a consent as would allow the President, who must be guided by the Act of Congress upon the subject, to issue the Proclamation in question. I also transmit copy of my reply to the foregoing, in which I reiterate the statements made in my despatch to your Lordship of the 16th July, as to the restrictions contained in the Act of this Legislature in relation to the Washington Treaty, having reference only to the time and mode of taking herring and salmon.

I have, &amp;c.

(Signed) STEPHEN J. HILL.

Inclosure 2 in No. 319.

*Sir E. Thornton to Governor Hill.*

Sir,

*Washington, July 10, 1873.*

WITH reference to my letter of the 7th instant, I have the honour to inform your Excellency that Mr. Bancroft Davis, the Acting Secretary of State, this morning stated to me, on behalf of Mr. Fish, that the latter regretted that he was still unable, notwithstanding the explanations given in your Excellency's telegram received here on the 5th instant, to recommend to the President to issue a Proclamation for carrying into effect, with regard to Newfoundland, certain Articles of the Treaty of 8th May, 1871, because the

Act of Newfoundland was not a full consent to the Articles of the Treaty, nor such a consent as would allow the President, who must be guided by the provisions of the Act of Congress upon the subject, to issue the Proclamation in question.

Mr. Bancroft Davis added that Mr. Fish admitted that, as the United States' authorities would expect British fishermen in American waters to observe the Police Regulations with regard to the fisheries, so the Government of the United States would make no objection to similar regulations being enforced against American fishermen in British waters, but it could not accept the Act of Newfoundland, which contained restrictions of which no mention had been made in the Treaty.

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

Inclosure 3 in No. 319.

*Governor Hill to Sir E. Thornton.*

Sir,

*Government House, Newfoundland, July 18, 1873.*

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 10th instant, informing me that, notwithstanding the explanations embodied in my telegram of the 5th instant, respecting the restrictions complained of by the American Cabinet, in section 1 of the Act of this Legislature relating to the Treaty of Washington, Mr. Secretary Fish still objects to the restrictions, as being inconsistent with the operations of the Treaty in question.

2. I greatly regret the decision at which the United States' Government have arrived on the point now under consideration, as these restrictions being intended to benefit American as well as English fishermen, and being necessary for the preservation of herring and salmon, should not in all reason form an obstacle to the admission of this Colony to the participation of benefit arising from the action of a Treaty the operation of which is prospective, as far as Newfoundland is concerned; while, on the other hand, citizens of the United States have, since the season of 1871, enjoyed the privilege of fishing in these waters, a not inconsiderable right of the Convention of Washington.

3. As the inclosures which I have the honour to transmit herewith, for your Excellency's information, contain full explanations with respect to the instructions before referred to, I need not dwell further upon the subject of this despatch, but I may be permitted to express a hope that the perusal of our Crown Law Officer's Report, should your Excellency deem it expedient to communicate that document to the Government of Washington, will at least induce that Cabinet to reconsider their decision in relation to the local Act, 36 Vict. cap. 3.

4. I have to add that the Honourable F. Carter, Q.C., who is now in New York, has been requested to proceed to Washington by the St. John's Chamber of Commerce, to see if it is possible to remove the present difficulty. I feel assured that your Excellency will cause to be extended to Mr. Carter that assistance which his mission, the removal of a barrier inimical to the interests of Newfoundland, invites.

I have, &c.  
(Signed) STEPHEN J. HILL.

No. 320.

*Earl Granville to Sir E. Thornton.*

(No. 232.)

Sir,

*Foreign Office, August 15, 1873.*

WITH reference to my despatch No. 30 of the 14th instant, I inclose herewith, for your information, a copy of a further letter from the Colonial Office,\* respecting the objections raised by the United States' Government to the Newfoundland Fisheries Act. In accordance with the Earl of Kimberley's suggestion, I also transmit to you confidentially a copy of a Report of the Law Officers of the Crown upon this question;† and I have to instruct you to make a further endeavour to overcome the objections of the United States' Government to the Newfoundland Act.

I am, &c.  
(Signed) GRANVILLE.

No. 321.

*Earl Granville to Sir E. Thornton.*

(Telegraphic.)

*Foreign Office, August 17, 1873.*

AS the United States will not accept Belgian Minister for third Commissioner, whom the Government of the Dominion prefer, you will inform Mr. Fish, that as it does not seem that the two Governments can come to an agreement between themselves, there appears nothing for it but to leave the selection to the Austrian Ambassador in this country, in accordance with the terms of the Treaty.

No. 322.

*Mr. Hammond to Mr. Herbert.*

Sir,

*Foreign Office, August 18, 1873.*

IN reply to your letter of the 14th instant, I am directed by Earl Granville to acquaint you that he concurs in the telegram which the Earl of Kimberley proposes to send to the Governor-General of Canada, respecting the selection of a third Commissioner for the Fishery Commission.

I am at the same time to inclose, for Lord Kimberley's information, a copy of a telegraphic despatch which Lord Granville has addressed to Sir E. Thornton upon this subject.\*

I am, &amp;c.

(Signed) E. HAMMOND.

No. 323.

*Mr. Herbert to Mr. Hammond. (Received August 22.)*

(Confidential.)

Sir,

*Downing Street, August 21, 1873.*

I HAVE laid before the Earl of Kimberley your letter of the 18th instant, stating that Earl Granville concurred in the telegram proposed in the letter from this office of the 14th instant, to be sent to the Governor-General of Canada, respecting the selection of a third Commissioner for the Fishery Commission, and inclosing a copy of a telegram which Lord Granville had sent to Sir E. Thornton upon the subject.

I am to inclose a copy of the decypher of a telegram which was received on the 18th instant from Lord Dufferin, with a copy of one which has been sent to him this day in consequence of your letter.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 323.

*The Earl of Dufferin to the Earl of Kimberley.*

(Telegraphic.)

*August 18, 1873.*

MY Government strongly object to the appointment of any Minister resident at Washington, and we prefer to resort to the alternative provided by the Treaty, that is, to leave the nomination to Austrian Ambassador.

Inclosure 2 in No. 323.

*The Earl of Kimberley to the Earl of Dufferin.*

(Telegraphic.)

*August 20, 1873.*

THORNTON already instructed to inform Fish that we think selection of Commissioner must be left to Austrian Ambassador.