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CONFIDENTIAL.

(4922.)

CORRESPONDENCE

RESPECTING THE

CLAIMS OF UNITED STATES' FISHERMEN

FOR

INTERRUPTION OF THEIR FISHING

AT

F O R T U N E B A Y

AND ELSEWHERE ON THE

COAST OF NEWFOUNDLAND.



[In continuation of Confidential Paper No. 4517.]

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CONFIDENTIAL.

Correspondence respecting the Claims of United States' Fishermen for Interruption of their Fishing at Fortune Bay and elsewhere on the Coast of Newfoundland: 1881-83.

(In continuation of Confidential Paper No. 4517.)

No. 1.

Sir E. Thornton to Earl Granville.—(Received July 5.)

(No. 183.)

My Lord,

Washington, June 22, 1881.

WITH reference to your Lordship's telegram No. 32 of the 20th instant, I have the honour to state that the claim made by certain United States' fishermen for having been prevented from fishing for bait in Aspee Bay has always appeared to me a very small affair, and has, I know, been so considered by both Mr. Evarts and Mr. Blaine. But such little claims, if neglected, are apt to be magnified in course of time, and as it could not be considered as one having arisen in a dependency of Newfoundland, I thought it would be desirable to mention it separately.

I am, however, of opinion that 150*l.* would fully satisfy the Aspee Bay claims mentioned above, and I am convinced that the United States' Government will not assign more than that sum to their satisfaction.

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

No. 2.

Mr. Bramston to Sir J. Pauscefote.—(Received July 6.)

Sir,

Downing Street, July 5, 1881.

WITH reference to the letter from this Department of the 18th ultimo, and to your reply of the 24th respecting the amount paid to the United States' Government on account of the Aspee Bay affair, 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 had addressed to the Governor-General of Canada on the subject.

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

Inclosure in No. 2.

The Earl of Kimberley to the Marquis of Lorne.

My Lord,

Downing Street, June 30, 1881.

IN my despatch of the 2nd instant I explained to you that the agreement with the United States' Government under which the Fortune Bay claims and all other claims preferred up to the 4th March last have been settled by the payment of a sum of 15,000*l.*, included the settlement of the Aspee Bay claims.

[1567]

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2. The occurrence at Aspee Bay, Cape Breton, in June 1879, where James Anderson, of the schooner "Cadet," of Gloucester, Massachusetts, alleged that he was prevented by the inhabitants from taking squid with his seine, and thereby suffered loss, and certain other masters of American schooners alleged that, in consequence of the prohibition, they suffered similar loss, was of a comparatively unimportant character, and did not, in fact, present itself for consideration until a late stage of the negotiations, when, in coming to an agreement that the fixed sum to be paid should cover all outstanding claims, it was observed that there was this claim against the Dominion Government, in addition to the claims against the Government of Newfoundland.

3. Her Majesty's Government felt it their duty, having an opportunity of settling this matter, of which advantage could not have been taken if the decision had been delayed in order to give time for consultation with the Dominion Government, to act at once in the interest of your Government in the manner which they could not doubt that your Ministers would approve, more especially as it was clear that this course would commit Canada to the payment of a very inconsiderable sum, far less than the cost of an inquiry would have been if the affair had not been summarily disposed of.

4. I have requested the Secretary of State for Foreign Affairs to ascertain from Sir E. Thornton what proportion of the sum of 15,000*l.* represents the amount of the claims in respect of the Aspee Bay transaction, and Sir E. Thornton has replied that 150*l.* should be amply sufficient to cover it.

5. I trust that your advisers will be of opinion that in this matter Her Majesty's Government have acted for the best in the interests of the Dominion, and I shall be obliged by your requesting them to make the necessary provision for the repayment to Her Majesty's Exchequer of the amount thus paid on account of Canada.

I have, &c.
(Signed) KIMBERLEY.

No. 3.

Earl Granville to Sir E. Thornton.

(No. 139.)

Sir,

Foreign Office, July 7, 1881.

I HAVE to acknowledge the receipt of your despatch No. 168 of the 30th May last, with its inclosures, relative to the settlement of the American claims arising out of the occurrences at Fortune Bay and elsewhere on the coast of Newfoundland and its dependencies up to the 4th March last, including those at Aspee Bay.

In reply, I have to convey to you my approval of the terms of the communication addressed by you to Mr. Blaine on the 28th May, and to inform you that the reply returned by Mr. Blaine on the same day is considered as entirely satisfactory by Her Majesty's Government.

I am, &c.
(Signed) GRANVILLE.

No. 4.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, July 11, 1881.

WITH reference to my letter of the 24th ult.*mo.*, I am directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, for his Lordship's information, the accompanying copy of a despatch which has been received from Her Majesty's Minister at Washington, relative to the compensation which will probably be awarded on account of the Aspee Bay claim out of the sum paid to the United States' Government in consideration of the occurrences at Fortune Bay and elsewhere.*

I am, &c.
(Signed) TENTERDEN.

Draft of Despatch from Earl Granville to Mr. Drummond.(No. .)
Sir,*Foreign Office, August , 1881.*

I HAVE to acquaint you that Sir E. Thornton's despatch No. 142 of this year, inclosing a copy of Mr. Blaine's letter of the 6th May, was communicated to Her Majesty's Principal Secretary of State for the Colonies.

Mr. Blaine states at the end of that letter that he is prepared to discuss the subject of joint cruizers on the fishery-grounds in Newfoundland waters, and the Code of Instructions under which they should sail.

In reply to this announcement of Mr. Blaine, I have now to request that you will call the attention of the United States' Government to the following Acts, viz.: cap. 102, Consolidated Statutes, Newfoundland; 38 Vict., cap. 7; 39 Vict., cap. 6; 40 Vict., cap. 13; 42 Vict., cap. 2. These documents were appended to the Message from President Hayes to the House of Representatives No. 84 of the 17th May, 1880, pp. 131-138, which accompanied Sir E. Thornton's despatch No. 173 of last year.

You are aware that part of these Statutes relate to fisheries a right to participate in which has not been conceded to the United States.

You should invite the United States' Government to examine them, and to state whether they find in them anything open to objection, or have any suggestions to make with regard to them. Any communication which the United States' Government may make upon this subject will receive careful consideration on the part of that of Her Majesty; and when an agreement has been arrived at as to the Code which should govern the fisheries, the Legislature of Newfoundland will be invited to make the necessary changes in the law, if any such should be found to be necessary.

As the fishing operations on the coasts of Newfoundland for the present season must be already far advanced, Her Majesty's Government do not consider that the question of joint cruizers need be brought forward for the present.

I am, &c.

No. 6.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, August 11, 1881.

EARL GRANVILLE has had under his consideration your letter of the 30th June, with its inclosure from Sir William Whiteway.

With reference to the suggestion made in the fourth paragraph of that letter, that it is desirable that all the existing laws of Newfoundland bearing on the use of the fisheries to which United States' fishermen are entitled by Treaty, should be communicated to the Government of the United States, I am to request that you will state to the Earl of Kimberley that Lord Granville entirely concurs in that view; and upon being furnished with copies in triplicate of these laws, they should be forwarded to Her Majesty's Representative at Washington.

Meanwhile, I am to transmit to you a copy of an instruction which it is proposed, with Lord Kimberley's concurrence, shall be addressed to Her Majesty's Chargé d'Affaires at Washington.*

With regard to the question of joint cruizers referred to in the fifth paragraph of your letter, I am to remind you that the proposal originated with Her Majesty's Government, as will be seen from Lord Granville's despatch to Sir E. Thornton No. 35 of the 24th February last, of which a copy was transmitted to you with the letter from this Department of the following day.

Lord Granville presumes, however, that for the present the question of joint cruizers need not be brought forward.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

Mr. Lowell to Earl Granville.—(Received August 20.)

My Lord,

Legation of the United States, London, August 19, 1881.

I AM instructed by Mr. Blaine to ask the attention of Her Majesty's Government to a subject of serious interest in connection with the exercise by the fishermen of the United States of their Treaty privileges on the coast of Newfoundland.

In the examination of the Fortune Bay claims, in order to make a proper distribution of the amount lately paid by Her Majesty's Government, the attention of the Government of the United States has been forcibly drawn to the condition of affairs out of which those claims arose. Among the more recent claims which had not been submitted to Her Majesty's Government, but which are, of course, included in the settlement, were several going to show the existence, on the part of the native fishermen of Newfoundland, of a determined opposition to the exercise of the Treaty privileges by fishermen of the United States. In one case a large and angry mob of these Newfoundland fishermen took possession of an American fishing-vessel, cut her anchor, and set her sails for the avowed purpose of causing her to drift on the rocks. And the universal testimony of our fishermen, including many who have made no formal complaint to the Government, is that they are absolutely forbidden, both by the show and use of force, from taking bait on the coasts of Newfoundland and in other vicinities.

It might be supposed that the recognition by Her Majesty's Government of its responsibility for such lawless interference, and its having made reasonable compensation for losses consequent upon them, would put a stop to further violence. But the payment of even large damages by the Imperial Government does not make itself felt upon the provincial population. And from all the information submitted to the Government of the United States, it seems to be not an unfair or unreasonable conclusion that there is too much sympathy between the local authorities and the native fishermen, and that there exists at the fishing-stations no adequate police force with authority, ability, and disposition to check these outrages.

The condition of these people under the Treaty is, undoubtedly, hard. They are very poor and illiterate. They depend for what is, at best, a very scanty subsistence upon the sale of bait to the United States' vessels employed in cod-fishery upon the banks. And the use of their privilege of catching their own bait on the Newfoundland shores, which the Treaty secures to American fishermen, necessarily deprives the native fishermen of this means of support.

But it is to be assumed that these considerations were given their due weight by the British Government when negotiating the Treaty of Washington, and it must not be forgotten that Newfoundland has received a large sum from the United States' Treasury in payment for this privilege.

Mr. Blaine, in his despatch on this subject, states that he refers to these facts merely as they are indicative of future troubles, for if at any time the fishing-vessels of the United States should resolve to meet force with force, the result of so untoward an occurrence would be to raise issues equally unpleasant to both Governments.

The time is approaching when the present Treaty provisions will expire, and in the discussion of the common interests which must be anticipated, my Government is anxious that questions sufficiently grave in their own nature should not be complicated with local and temporary irritations.

It is believed by my Government, therefore, that Her Majesty's Ministers will agree in thinking it desirable that the Imperial Government should impress upon the provincial authorities their duty to maintain and enforce the rights which the Treaty has conferred within their jurisdiction upon citizens of the United States, and especially that they should place at the baiting-stations, and on the frequented portions of the coast, officials with sufficient authority to restrain these outbreaks of violence.

In bringing this subject to the attention of your Lordship, I am particularly instructed to take care that Her Majesty's Government shall fully understand the friendly spirit in which my representation is made, and that the desire of my Government in making it is to prevent in the future those disturbances which have done so much to render unsatisfactory the settlement which it was hoped had been reached in the fishery provisions of the Treaty of Washington.

I have, &c.

(Signed) J. R. LOWELL.

Earl Granville to Mr. Lowell.

Sir, *Foreign Office, August 29, 1881.*

I HAVE the honour to acknowledge the receipt of the communication which you were good enough to address to me on the 19th instant, in which, by Mr. Blaine's direction, you invite the attention of Her Majesty's Government to certain facts which tend to show, it is alleged, a determination on the part of the native fishermen of Newfoundland to oppose the exercise by the fishermen of the United States of the privileges secured to them by Treaty on the coast of Newfoundland.

In reply, I beg leave to state that the friendly language in which this representation from your Government is couched is fully appreciated by Her Majesty's Government, and I need not assure you that it shall be considered by them with all the care demanded by the importance of the interests concerned.

I am, &c.
(Signed) GRANVILLE.

No. 9.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, August 29, 1881.*

I AM directed by Earl Granville to transmit to you a copy of a letter which has been received from the United States' Minister in London, in which, by direction of his Government, he invites the attention of that of Her Majesty to certain facts which tend to show, it is alleged, a determination on the part of the native fishermen of Newfoundland to oppose the exercise by the fishermen of the United States of the privileges secured to them by Treaty on the coast of Newfoundland.*

I am at the same time to inclose a copy of the acknowledgment which Lord Granville has returned to Mr. Lowell's communication.†

In laying these papers before the Earl of Kimberley for any observations that he may wish to make upon them, I am to request that you will suggest to his Lordship that the opportunity offered by this communication from the Government of the United States should be taken for pressing upon them the desirability of proceeding at once to frame the Joint Fishery Regulations.

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

No. 10.

Mr. Meade to Sir J. Pauncefote.—(Received September 7.)

Sir, *Downing Street, August 23, 1881.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 11th instant, inclosing a draft despatch to Her Majesty's Chargé d'Affaires at Washington upon the subject of the fishery rights enjoyed by United States' fishermen in Newfoundland waters.

Lord Kimberley caused a reference to be made to Sir William Whiteway with respect to the Acts relating to the fisheries, which should be brought to the notice of the United States' Government, as suggested by Lord Granville; and I am to inclose a copy of a letter received from Sir William Whiteway in reply.

As the Acts which he mentions—viz., cap. 102, Consolidated Statutes, Newfoundland; 38 Vict., cap. 7; 39 Vict., cap. 6; 40 Vict., cap. 13; 42 Vict., cap. 2—are already before the United States' Government, having been appended to a Message from President Hayes to the House of Representatives, a copy of which accompanied Sir E. Thornton's despatch No. 173 of the 7th June, 1880, it will probably not be thought necessary that further copies should be transmitted to them. Subject to the slight alterations which will in such case be rendered necessary, Lord Kimberley

* No. 7.

† No. 8.

concur in the proposed despatch to Mr. Drummond, so far as concerns the Acts in question.

As regards the proposal for joint cruisers, which is referred to in the first and the last paragraphs of the draft, his Lordship would suggest to Earl Granville whether it might not be advisable to sound Mr. Blaine as to the abandonment of the project. It appears to Lord Kimberley that the more the subject is examined, the more difficult it will be found to frame any plan for joint action which will not lead to serious embarrassment.

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

No. 11.

Earl Granville to Mr. Drummond.

(No. 207.)

Sir, *Foreign Office, September 12, 1881.*

I HAVE to acquaint you that Sir E. Thornton's despatch No. 142 of this year, inclosing a copy of Mr. Blaine's letter of the 6th May, was communicated to Her Majesty's Principal Secretary of State for the Colonies.

I have now to request that, with a view to determining what Regulations it would be expedient to enforce for the protection of the fisheries in Newfoundland waters, you will call the attention of the United States' Government to the following Acts, viz.: cap. 102, Consolidated Statutes, Newfoundland; 38 Vict., cap. 7; 39 Vict., cap. 6; 40 Vict., cap. 13; 42 Vict., cap. 2.

These documents were appended to the Message from President Hayes to the House of Representatives No. 84 of the 17th May, 1880, pp. 131-138, which accompanied Sir E. Thornton's despatch No. 173 of last year.

You are aware that part of these Statutes relate to fisheries a right to participate in which has not been conceded to the United States.

You should invite the United States' Government to examine them, and to state whether they find in them anything open to objection, or have any suggestions to make with regard to them. Any communication which the United States' Government may make upon this subject will receive careful consideration on the part of that of Her Majesty; and when an agreement has been arrived at as to the Regulations which should govern the fisheries, the Legislature of Newfoundland will be invited to make the necessary changes in the law, if any such should be found to be necessary.

I am, &c.
(Signed) GRANVILLE.

No. 12.

Earl Granville to Mr. Drummond.

(No. 208. Confidential.)

Sir, *Foreign Office, September 12, 1881.*

WITH reference to my preceding despatch of this day's date, I have to state to you that, upon further consideration, Her Majesty's Government do not consider that the question of joint cruisers need be brought forward for the present; and if the United States' Government should recur to it again, you will avoid any discussion thereon pending further instructions.

I am, &c.
(Signed) GRANVILLE.

No. 13.

Mr. Meade to Sir J. Pauncefote.—(Received September 13.)

Sir, *Downing Street, September 12, 1881.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 29th ultimo, and to request that you will inform Earl Granville that in forwarding to the Officer administering the Government of Newfoundland the inclosures which

accompanied that letter, his Lordship has drawn attention to that portion of Mr. Lowell's despatch in which it is suggested that the authorities in Newfoundland should maintain and enforce the rights conferred within their jurisdiction upon citizens of the United States, and especially that they should place at the baiting-stations and on the frequented portions of the coast officials with sufficient authority to restrain outbreaks of violence.

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

No. 14.

Sir J. Pauncefote to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, September 13, 1881.*

YOUR letter of the 23rd ultimo,* with its inclosure, relative to the proposed instruction to Her Majesty's Chargé d'Affaires at Washington upon the subject of the fishery rights enjoyed by fishermen from the United States in Newfoundland waters, has been laid before Earl Granville.

With reference to the suggestion made by the Earl of Kimberley, that Mr. Blaine should be sounded as to the advisability of abandoning the project for sending joint cruisers to the fishing-grounds in Newfoundland waters, I am directed by Lord Granville to request that you will state to his Lordship that, although he has no objection to the project being abandoned, he is of opinion that, inasmuch as the proposal proceeded from Her Majesty's Government, the best course will be to inform Mr. Drummond in the instructions which will be sent to him, of which copies are inclosed,† that Her Majesty's Government do not consider that this question need be brought forward for the present; and that if the United States' Government should recur to it again, he should avoid any discussion thereon pending further instructions.

In that event, Lord Granville will not fail to communicate with the Secretary of State for the Colonies as to the course to be pursued.

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

No. 15.

Earl Granville to Mr. Drummond.

(No. 209. Confidential.)

Sir, *Foreign Office, September 13, 1881.*

WITH reference to my previous despatch of this day's date, I transmit to you a copy of a letter which has been addressed to the Colonial Department in reply to the suggestion which has been made by the Earl of Kimberley, that the United States' Government should be sounded as to the abandonment of the proposal for sending joint cruisers to the fishing-grounds in the Newfoundland waters.‡

I am, &c.
(Signed) GRANVILLE.

No. 16.

Mr. Herbert to Lord Tenterden.—(Received October 15.)

(Confidential.)

My Lord, *Downing Street, October 15, 1881.*

WITH reference to the letter from this Department of the 12th ultimo, 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 Officer administering the Government of Newfoundland, inclosing an extract from the Minutes of Council in reply to the observations of the United States' Minister at this Court, which accompanied your letter of the 29th August, respecting the alleged conduct of the fishermen of the Colony towards fishermen of the United States.

* This is an amended edition of a previous letter of the same date.

† Nos. 11 and 12.

‡ No. 14.

As a portion of this Minute is not in point as regards the immediate subject of complaint, Lord Kimberley would suggest, for Lord Granville's consideration, that a despatch might be addressed to the United States' Minister conveying the explanations now furnished by the Newfoundland Government in reply to his recent allegations, and omitting all reference to questions connected with the Fortuue Bay settlement, as not being contained in Mr. Lowell's letter.

Should this suggestion meet with Lord Granville's concurrence, Lord Kimberley would request to be furnished with a draft of the reply before it is sent.

His Lordship further proposes to inform the Newfoundland Government that a copy of their Minute has been communicated to the Foreign Office, in order that the United States' Government may be informed of their explanations in regard to the subjects of complaint.

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

Inclosure 1 in No. 16.

Administrator Sir F. B. T. Carter to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, Newfoundland, September 27, 1881.

I HAVE the honour to acknowledge the receipt of your Lordship's Secret despatch of the 9th instant, accompanied by a copy of a despatch received at the Foreign Office from Mr. Lowell, United States' Minister in London, respecting the alleged conduct of the fishermen of this Colony towards the fishermen of the United States with reference to privileges secured to them by Treaty; and copy of despatch of Earl Granville in reply thereto.

I lost no time in communicating these despatches to the Executive Council for such observations as they might think it advisable to make thereon; and I have now the honour to transmit an extract from the Minutes of the Council in relation to this important matter.

I have, &c.
(Signed) F. B. T. CARTER.

Inclosure 2 in No. 16.

Extract from Minutes of Council.

St. John's, Newfoundland, September 26, 1881.

THE Council have had under consideration the despatch of the Right Honourable Lord Kimberley of the 9th instant, inclosing copy of despatch of Mr. Lowell to Earl Granville, dated 19th August last, and his Lordship's reply of the 29th ultimo.

Fully appreciating the importance of the subject to which their attention has been directed, the Council regret that Lord Kimberley should have accepted as facts allegations which appear to have been made in very general terms by United States' fishermen when endeavouring to sustain claims proved to his Lordship on the evidence of the claimants themselves to have been fictitious, except as to a comparatively small amount which seemed to be justified only on the assumption of a position held by Lord Salisbury to be untenable. The Council are not surprised that the success of such representations has induced others still more exaggerated on the part of United States' fishermen; nor do they wonder that the acquiescence of Her Majesty's Government in the payment of such large damages, without an investigation of each individual claim, should embolden these fishermen to make charges which are unsustainable, with a view, it may be, to laying the foundation of future equally unfounded claims should a short fishery occur, as in 1878.

It is singular, if an American vessel had been "taken possession of by a large and angry mob, her anchor cut, and her sails set, for the avowed purpose of drifting upon the rocks," that not only should the master of this vessel have made no complaint to a magistrate, but that neither he nor his crew should have mentioned the subject until he had returned to the United States, and claims were being adduced. If the "universal testimony" brought before Mr. Blaine is of this character, and similar to that before referred to, it was hardly entitled to unquestioning acceptance.

The sympathy expressed by Mr. Blaine, when he refers to the condition of the Newfoundland fishermen as being "hard, poor, and illiterate, depending for a scanty subsistence upon the sale of bait to United States' vessels employed in cod-fishing on the Banks," exhibits a spirit highly benevolent; and if it were not contained in a State document, the reference would excite a smile at the facility with which United States' claimant fishermen had obtained credence for misrepresentations.

The imputation regarding local authorities is as unjustifiable as the statements referred to are groundless. That differences have arisen, and are likely to arise, between British and United States' fishermen is only what might have been expected when they fished in the same locality. These occurrences are not infrequent even where fishermen of the same nationality fish together. But the Council are not informed of any case of dispute between British and United States' fishermen in which, on complaint made, an investigation has not taken place and justice has not been administered.

The Council deem it desirable to call attention to the demoralizing effects upon the people of Newfoundland of the smuggling and sale by United States' fishermen of various articles, including spirits, to a considerable extent. The police force of this country has been necessarily increased, and even now is inadequate, not, however, to the preservation of peace amongst our own people (for the small force heretofore existing sufficed for this purpose), but for the prevention of wanton destruction of property and other lawless acts by a rough, unscrupulous class of United States' fishermen, who, after committing outrages, take refuge on board their vessels, leaving unfortunate sufferers without remedy.

(Signed) E. D. SHEA, *Clerk, Executive Council.*

No. 17.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, October 29, 1881.

IN reply to your letter of the 15th instant, marked "Confidential," I am directed by Earl Granville to transmit to you the draft of a letter which his Lordship proposes to address to the United States' Chargé d'Affaires in London in reply to Mr. Lowell's communication of the 19th August last, in regard to the opposition which it is asserted is experienced by the American fishermen in the exercise of their Treaty privileges on the coast of Newfoundland.

I am to request that you will lay this letter before the Earl of Kimberley, and move him to inform Lord Granville whether he concurs in its terms.

I am, &c.
(Signed) TENTERDEN.

Inclosure in No. 17.

Draft of Letter to Mr. Hoppin.

Sir,

Foreign Office, , 1881.

REFERRING to the letter which I had the honour to address to Mr. Lowell on the 29th August last, I now beg leave to state to you that Her Majesty's Principal Secretary of State has been in communication with the Government of Newfoundland in regard to the observations which Mr. Lowell had been instructed to address to Her Majesty's Government respecting the line of conduct which it is alleged is adopted by the fishermen of the Colony towards the fishermen of the United States, showing, as Mr. Lowell represents, the existence of a determined opposition on their part to the exercise of their Treaty privileges by the American fishermen.

I have now the honour of stating to you that the attention of the Government of Newfoundland has been particularly directed by the Earl of Kimberley to that portion of Mr. Lowell's letter of the 19th August in which it is suggested that the authorities in the Colony should maintain and enforce the rights conferred within their jurisdiction upon citizens of the United States, and especially that they should place at the baiting-stations, and on the frequented portions of the coast, officials with sufficient authority to restrain outbreaks of violence.

The Government of Newfoundland, in reply, fully recognize the importance of the subject to which their attention has been thus directed; but they point out, with reference

to the case of the American vessel which is cited by Mr. Lowell as having been taken possession of by a large and angry mob, her anchor cut, and her sails set, for the avowed purpose of drifting upon the rocks, that it is somewhat remarkable that not only was no complaint made by the master of this vessel to a magistrate, but that neither he nor his crew should have mentioned the subject until he had returned to the United States, and the claims of other fishermen were being brought forward for adjudication.

The Government of Newfoundland regret that the good faith of the local authorities should be called in question. It is not denied that differences have arisen, and may again occur, between British and United States' fishermen when plying their calling in the same locality, such differences being not infrequent even when fishermen of the same nationality fish together; but they are not aware of any case of dispute between British and American fishermen in which, on complaint made, an investigation has not taken place and justice has not been administered.

The Colonial authorities at St. John's have expressed a wish that the attention of the Government of the United States should be called to the demoralizing effects upon the people of Newfoundland resulting from smuggling and the sale by United States' fishermen of various articles, including spirits, to a considerable extent. The police force of the country, they state, has been necessarily increased, and even now is inadequate, not, indeed, for the preservation of order amongst the native population, but for the prevention of wanton destruction of property and other lawless acts committed by a rough class of United States' fishermen, who, after committing outrages, take refuge on board their vessels, leaving the unfortunate sufferers without remedy.

In making these observations, Her Majesty's Government are anxious that it should not be supposed that they wish to raise a discussion with the Government of the United States on matters which it would be unreasonable to expect should be entirely within their control.

Her Majesty's Government cordially reciprocate the friendly spirit in which their attention has been invited by Mr. Blaine to the Treaty privileges of the American fishermen; and they fully appreciate the desire expressed in Mr. Lowell's letter that every precaution should be taken to obviate the recurrence of disputes on the fishing-grounds of Newfoundland between the British and American fishermen.

I have, &c.

No. 18.

The Secretary to the Admiralty to Lord Tenterden.—(Received November 9.)

My Lord,

Admiralty, November 8, 1881.

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, extract from a letter which has been received from Commander Karlake, of Her Majesty's ship "Fantôme," dated the 8th October, reporting the time of the year when the American fishermen arrive at Fortune Bay to purchase bait and herrings.

I am, &c.
(Signed) ROBERT HALL.

Inclosure in No. 18.

Commander Karlake to the Secretary to the Admiralty.

(Extract.)

"Fantôme," October 8, 1882.

I ASCERTAINED when at Fortune Bay that the American fishermen arrive there about the 20th April to purchase bait, and then at once begin fishing, leaving again about the middle of July; some, however, remain to fish on the Banks.

They visit the bay again about the end of December and buy up all the herrings, returning to America as soon as they have a cargo.

No. 19.

Mr. Herbert to Lord Tenterden.—(Received November 11.)

(Confidential.)

My Lord,

Downing Street, November 10, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 29th ultimo, marked "Confidential," inclosing the draft of a letter which Earl Granville proposes to address to the United States' Chargé d'Affaires in reply to Mr. Lowell's communication of the 19th August last, in regard to the opposition which it is asserted is experienced by American fishermen in the exercise of their Treaty privileges on the coast of Newfoundland.

Lord Kimberley desires me to state that he concurs generally in the terms of this draft; but that he would submit, for Lord Granville's consideration, the alterations which are shown in red ink in the copy of the draft which is herewith inclosed.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 20.

Earl Granville to Mr. West.

(No. 245.)

Sir,

Foreign Office, November 12, 1882.

I TRANSMIT to you an extract of a letter which the Lords of the Admiralty have received from Commander Karslake, of Her Majesty's ship "Fantôme," dated the 8th October, reporting the time of the year when the American fishermen arrive at Fortune Bay to purchase bait and herrings.*

I am, &c.

(Signed) GRANVILLE.

No. 21.

Earl Granville to Mr. Hoppin.

Sir,

Foreign Office, November 17, 1881.

REFERRING to the letter which I had the honour to address to Mr. Lowell on the 29th August last, I now beg leave to state to you that Her Majesty's Principal Secretary of State for the Colonies has been in communication with the Government of Newfoundland in regard to the observations which Mr. Lowell had been instructed to address to Her Majesty's Government respecting the line of conduct which it is alleged is adopted by the fishermen of the Colony towards the fishermen of the United States, showing, as Mr. Lowell represents, the existence of a determined opposition on their part to the exercise of their Treaty privileges by the American fishermen.

I have now the honour of stating to you that the attention of the Government of Newfoundland has been particularly directed by the Earl of Kimberley to that portion of Mr. Lowell's letter of the 19th August in which it is suggested that the authorities in the Colony should maintain and enforce the rights conferred within their jurisdiction upon citizens of the United States, and especially that they should place at the baiting-stations, and on the frequented portions of the coast, officials with sufficient authority to restrain outbreaks of violence.

The Government of Newfoundland, in reply, fully recognize the importance of the subject to which their attention has been thus directed; but they point out, with reference to the case of the American vessel which is cited by Mr. Lowell as having been taken possession of by a large and angry mob, her anchor cut, and her sails set, for the avowed purpose of drifting her upon the rocks, that it is somewhat remarkable that not only was no complaint made by the master of this vessel to a magistrate, but that neither he nor his crew should have mentioned the subject until he had returned to the United States, and the claims of other fishermen were being brought forward for adjudication.

The Government of Newfoundland regret that the good faith of the local authorities should be called in question.

* Inclosure in No. 18.

It is not denied that differences have arisen, and may again occur, between British and United States' fishermen when plying their calling in the same locality, such differences being not infrequent even when fishermen of the same nationality fish together; but they are not aware of any case of dispute between British and American fishermen in which, on complaint made, an investigation has not taken place and justice has not been administered.

The Colonial authorities at St. John's have expressed a wish that the attention of the Government of the United States should be called to the demoralizing effects upon the people of Newfoundland resulting from smuggling and the sale by United States' fishermen of various articles, including spirits, to a considerable extent.

The police force of the country, they state, has been necessarily increased, and even now is inadequate, not, indeed, for the preservation of order amongst the native population, but for the prevention of wanton destruction of property and other lawless acts committed by a rough class of United States' fishermen, who, after committing outrages, take refuge on board their vessels, leaving the unfortunate sufferers without remedy.

In forwarding these observations, Her Majesty's Government have no desire to raise a discussion with the Government of the United States on matters which it would be unreasonable to expect should be entirely within their control. Her Majesty's Government cordially reciprocate the friendly spirit in which their attention has been invited by Mr. Blaine to the Treaty privileges of the American fishermen; but they would point out that reports, from whomsoever received, of irregularities of which no complaint is made at the time, and on or from the spot, to the responsible authorities must be accepted with some degree of caution. For their own part, Her Majesty's Government fully appreciate the desire expressed in Mr. Lowell's letter that every precaution should be taken to obviate the recurrence of disputes on the fishing-grounds of Newfoundland between the British and American fishermen; and they trust that the measures which have been adopted, and which will be supplemented, if necessary, by further action, may fulfil the common wishes of the two Governments.

I have, &c.
(Signed) GRANVILLE.

No. 22.

Earl Granville to Mr. West.

(No. 251.)

Sir,

Foreign Office, November 17, 1881.

I TRANSMIT herewith, for your information, copies of the correspondence, as marked in the margin,* which has passed between the United States' Legation in London, the Colonial Office, and this Department, on the subject of the opposition which it is alleged by the Government of that country is experienced by the American fishermen in the exercise of their Treaty privileges on the coast of Newfoundland.

I am, &c.
(Signed) GRANVILLE.

No. 23.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, November 18, 1881.

WITH reference to my letter of the 29th ultimo, I am directed by Earl Granville to request that you will inform the Earl of Kimberley that a letter has been addressed to Mr. Hoppin, the United States' Chargé d'Affaires in London, in the terms indicated in the draft which accompanied your communication of the 10th instant, in reply to Mr. Lowell's representation of the 19th August, relative to the opposition which it is asserted is experienced by the fishermen of the United States in the exercise of their Treaty privileges on the coasts of Newfoundland on the part of the fishermen of the Colony.

I am, &c.
(Signed) TENTERDEN.

No. 24.

Mr. Hoppin to Earl Granville.—(Received November 23.)

My Lord,

Legation of the United States, London, November 21, 1881.

I HAVE the honour to acknowledge the reception of your Lordship's letter of the 17th instant, in reply to Mr. Lowell's note of the 19th August last, in relation to the alleged interference by the inhabitants of Newfoundland with the fishermen of the United States on the coast of that island; and I beg to say that I shall not fail to transmit to Mr. Blaine a copy of your Lordship's communication by the earliest opportunity.

I have, &c.
(Signed) W. J. HOPPIN.

No. 25.

Mr. Bramston to Lord Tenterden.—(Received November 23.)

Sir,

Downing Street, November 22, 1881.

WITH reference to previous correspondence respecting the movements of Her Majesty's vessels engaged in the protection of the Newfoundland fisheries, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a letter from the Admiralty, together with an extract from a letter from Commander Karlake, of Her Majesty's ship "Fantôme," reporting the time of year at which American fishermen visit Fortune Bay.

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

Inclosure 1 in No. 25.

The Secretary to the Admiralty to Mr. Herbert.

Sir,

Admiralty, November 8, 1881.

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for the Colonies, extracts from a letter from Commander Karlake, of Her Majesty's ship "Fantôme," dated the 8th October, reporting the time of year when the American fishermen visit Fortune Bay, and that when at the Bay of Islands he had, at the request of the Administrator, taken deposition of witnesses in presence of a prisoner, who was charged with firing at and wounding a man.

I am, &c.
(Signed) ROBERT HALL.

Inclosure 2 in No. 25.

Commander Karlake to the Secretary to the Admiralty, October 8, 1882.

[See Inclosure in No. 18.]

No. 26.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, December 19, 1881.

WITH reference to the letter from this Department of the 28th September last, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, and for the confidential use of the Colonial Office, a copy of the Confidential printed correspondence, as marked in the margin, "respecting the claims of United States' fishermen for interruption of their fishing at Fortune Bay and elsewhere on the coast of Newfoundland."*

I am, &c.
(Signed) TENTERDEN.

Mr. Meade to Lord Tenterden.—(Received January 4.)

Sir, *Downing Street, January 3, 1882.*

WITH reference to your letter of the 28th September last and to previous correspondence respecting the claims of American fishermen arising out of occurrences at Fortune Bay and elsewhere, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch which was addressed to the Governor of Newfoundland on the 11th October last requesting that repayment might be made by the Newfoundland Government of the sum of 14,850*l.*, advanced by Her Majesty's Government in satisfaction of the claims of the United States' Government in respect of the occurrences which took place in Newfoundland.

2. I am also to inclose a copy of the reply which has been received from the Governor, transmitting a copy of a Minute of his Executive Council upon the subject.

3. The Newfoundland Government draw attention to the omission from the printed papers laid before Parliament relating to this subject of documents received from Newfoundland purporting to elucidate the nature of the American claims, especially a paper prepared by Judge Bennett, which was communicated to the Foreign Office in the letter from this Department of the 21st May last, and they request that, before presenting to the Colonial Legislature the documents relating to this matter, they may be informed of the reasons which induced Her Majesty's Government to adopt the course they took in regard to the settlement of the American claims.

4. Lord Kimberley proposes, in reply to the Governor's despatch, to instruct him to refer the Council to the letter which was addressed to Sir William Whiteway from this Department, dated the 26th May last, in which Sir William Whiteway was informed as follows:—

“Lord Kimberley communicated to the Secretary of State for Foreign Affairs the papers” (Judge Bennett's Statement, &c.) “which accompanied your letter, observing that they would have afforded valuable information, and have been of great assistance, if an inquiry with a view to the assessment of compensation to American fishermen were to be proceeded with; Lord Granville has, however, expressed a strong opinion, in which Lord Kimberley concurs, that it is desirable to adopt the alternative course which had been proposed, and to settle this question at once by the payment of the sum of 15,000*l.*, which Mr. Blaine is willing to accept in satisfaction of all claims up to the 4th March. Apart from the great advantage of terminating at once an irritating controversy, it appears to Her Majesty's Government that even if the United States' Government should, after an inquiry in which evidence might have been adduced in support of the statement of Judge Bennett, have consented to a reduction of their original demand, the cost of the inquiry, added to the compensation, would probably have amounted to at least as much as the United States' Government is now prepared to accept.

“Instructions will accordingly be sent to Sir Edward Thornton to inform Mr. Blaine that Her Majesty's Government are prepared to settle the United States' claims in the manner above indicated, on the clear understanding that the payment is made without prejudice to any question of the rights of either Government under the Treaty of Washington.”

Lord Kimberley proposes to point out to the Colonial Government that an arrangement having been arrived at in the manner explained in the letter above quoted, a document of the nature of Judge Bennett's statement, on which no action was taken in the negotiations with the United States' Government, would clearly not have been within the scope of the papers presented to Parliament.

5. With regard to the remarks of the Council respecting the Aspee Bay claims, Lord Kimberley proposes to reply to the effect that as the claim in this case lay against the Canadian Government it was obviously necessary that an assessment should be made in this particular case, in order that the amount might be claimed from Canada. Sir Edward Thornton, who was consulted on the matter, estimated the amount at 150*l.*, and Her Majesty's Government acted on his opinion.

6. Lord Kimberley desires me to request that you will move Earl Granville to inform him whether he approves of the proposed reply to the Governor, or whether he has any suggestions or observations to make upon the subject of the Minute of the Executive Council of Newfoundland.

I am, &c.

(Signed) R. H. MEADE.

Inclosure 1 in No. 27.

The Earl of Kimberley to the Officer administering the Government, Newfoundland.

Sir, Downing Street, October 11, 1881.

I INFORMED Sir J. Glover by my telegram of the 9th May last that the United States were willing to accept the sum of 15,000*l.* to be paid once in full satisfaction of the claims known as the Fortune Bay and Aspee Bay claims, and all other claims up to the 4th March last, arising out of interruptions from which American fishermen have suffered whilst in the exercise of the rights of fishery allowed to them under the Treaty of Washington, and I added that this arrangement appeared to Her Majesty's Government to be satisfactory.

In my despatch of the 7th June, I inclosed copy of a letter which I had caused to be addressed to Sir William Whiteway, explaining the reasons which, in the opinion of Her Majesty's Government, rendered it advisable that the question should be settled by the payment to the United States' Government of the fixed sum mentioned, and I stated that the correspondence upon the subject when laid before Parliament would be communicated to you in due course.

I have now the honour to forward to you the printed correspondence lately presented by command to both Houses of Parliament, from which you will perceive that after prolonged communications with the United States' Government, Her Majesty's Government came to the conclusion that the validity of the claim put forward on behalf of the United States' fishermen to some compensation must be admitted. With a view to fixing the amount of the indemnity it was originally proposed that an inquiry should be held by a Representative of Her Majesty's Government and a Representative of the United States' when it would have been necessary that evidence should be taken, and that the respective sides of the question should be argued by Counsel. Having regard, however, to the length of time already occupied by the negotiations and to the further delay which such an inquiry would have involved, and also to the considerable expense which would thus have been entailed, Her Majesty's Government came to the conclusion that a more satisfactory and, possibly in the end, a less costly settlement would be obtained if the United States' Government would consent to accept a fixed sum in satisfaction of all claims. This view met with the concurrence of the United States' Government, and after some further discussion Her Majesty's Government, acting upon the information supplied by the Government of Newfoundland and upon the statements made by the aggrieved fishermen, decided that a sum of 15,000*l.* might, with propriety, be offered on receiving the assurance of the United States' Government that it would be accepted in full of all claims arising out of any interruption of American fishermen on the coast of Newfoundland and its dependencies up to the 4th March last, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

The sum of 15,000*l.* was accordingly offered to the United States' Government and accepted by them, it being eventually agreed that it should include a claim by American fishermen to compensation for being deterred from fishing for bait in Aspee Bay, Cape Breton. The occurrence at Aspee Bay, where certain masters of American schooners alleged that they were prevented by the inhabitants from taking squid with their seines, and thereby suffered loss, was of a comparatively unimportant character, and Sir E. Thornton reported that 150*l.* should be sufficient to cover it. I have accordingly requested the Governor-General of Canada to move his Government to make the necessary provision for the repayment to Her Majesty's Exchequer of the amount thus paid on account of the Dominion.

The remainder of the sum of 15,000*l.* (a bill for which was drawn by Sir E. Thornton upon Her Majesty's Paymaster-General to Mr. Blaine's order) was paid in respect of the occurrences at Fortune Bay and other places on the coast of Newfoundland, the particulars of which are already in your possession, and will be found recorded in the printed correspondence now forwarded.

Her Majesty's Government consented to provide for the immediate payment of the sum awarded out of the Imperial funds, in order that this satisfactory settlement, whereby the possible growth of new claims was prevented, and the demands upon the Colonial Treasury were reduced to a precise sum of moderate amount, might not be endangered by a protraction of the negotiations. The payment is, however, obviously one which can only be a temporary charge upon the Imperial Revenue, as it relates to a matter in which those who contribute to that Revenue are not directly concerned; and an intimation was conveyed to Sir W. Whiteway in the letter referred to above, that a communication

would be made to the Governor of Newfoundland in due course with regard to its repayment by the Colony.

I feel confident that your Government will acknowledge that Her Majesty's Government have made the most favourable settlement of this question in the interests of the Colony of which the circumstances of the case admitted, and that they will recognize the justice of the request which I now make for the repayment of the sum advanced, which became payable in consequence of the acts of inhabitants of Newfoundland, and I may remind you that, by the prompt payment to the Newfoundland Government of its proportion of the Award of the Halifax Fishery Commission, the Colony was placed in possession of a fund to which the amount, now repayable to Her Majesty's Government, may appropriately be charged.

I have therefore to request that you will move your Government to submit to the Legislature a vote for the repayment of 14,850*l.* to the Imperial Exchequer.

I have, &c.

(Signed) KIMBERLEY.

Inclosure 2 in No. 27.

Sir H. Maxse to the Earl of Kimberley.

My Lord,

Government House, Newfoundland, November 26, 1881.

I HAVE the honour to report that your Lordship's despatch, and the Parliamentary papers which accompanied it, were laid before Council on two several occasions, with a sufficiently long interval between the sittings to enable Council to become acquainted with the contents of the papers in question, these having been transmitted in rotation to each member for this purpose.

2. I have now the honour to forward to your Lordship a copy of a Minute of Council on the subject.

3. There is no question but that this payment to the United States is a very burning question here, the Newfoundland view being that they were entirely in the right throughout.

4. The Council naturally share this view. They do not, in the remotest degree, impugn the conduct or equity of the Imperial authorities, who, they are satisfied, acted, according to their view of the question, for the best of the Colony; but they are much annoyed that their Case, as exhibited in the papers transmitted from here, was not also printed with the other Parliamentary papers.

5. The inclosed Minute pretty clearly exhibits what the feelings of Council are in this matter, and on the approaching last Session of the House of Assembly it is about what might have been expected.

6. I pointed out the fact that Sir Edward Thornton had positively declared that, had Her Majesty's Government not settled the matter in the way they did, the claims would have been much higher; and reminded Council also of the sum of money received by the Halifax Award. I must await your Lordship's instructions before proceeding further.

I have, &c.

(Signed) H. FITZ. MAXSE.

Inclosure 3 in No. 27.

Extract from Minutes of Council of November 22, 1881.

THE Council, having had under consideration the despatch of the Right Honourable the Secretary of State for the Colonies, dated the 11th day of October, 1881, with the accompanying printed correspondence presented to both Houses of Parliament, observe the absence of correspondence which took place between Lord Kimberley and the Government of this Colony relative to the proposed submission of the questions at issue to adjudication, when an opportunity would be afforded for a thorough investigation of the claim of the United States. The Council also notice that, whilst Lord Kimberley points in his despatch to the decision at which Her Majesty's Government had arrived being based upon information received from this island, the papers forwarded from this Colony, purporting to elucidate the nature of the American claims—notably one prepared by Judge Bennett—are not amongst those which appear to have been laid before

Parliament. The Council respectfully refer his Lordship to the papers emanating from this Government, as evidencing a strong protest against the legality and equity of the claims of the United States. Confident of the just character of their defence, and conscious of the fictitious basis upon which many of the American claims are founded, as distinct from the principal ground whether the Americans have any claims, either legal or equitable, under the terms of the Treaty, the Council cannot but regret that a sum of money has been paid which appears a general admission of the justness of their claims.

The Council also feel that this payment, having been made "without prejudice to any question of the rights of either Government under the Treaty of Washington," leaves the substantive matters in dispute in a most unsatisfactory state. For example, notwithstanding that it was most stoutly contended by the American Counsel that the Americans had no right of strand fishing, their claim can only be sustained upon the assumption that they have such right.

Had there been, as proposed by Her Majesty's Government, a full inquiry and investigation, and an amount found to be equitably due to the United States' Government, this Council are satisfied that a decision under such circumstances would have been cheerfully acquiesced in.

The Council, moreover, cannot appreciate the distinction drawn between the Aspee Bay case in Canada and others of a similar nature occurring in Newfoundland. In the former, the damages sworn to by American affidavit appear to be 7,000 dollars; Sir Edward Thornton reduces this to 150*l*. If proportionate reduction were made in the claims against Newfoundland, they would amount to about 10,000 dollars.

The original proposition for arbitration, in which this Government acquiesced, having been exchanged for another mode of settlement, without reference to the local Executive, the Council trust that Lord Kimberley will see how important it becomes that, before presenting the documents in this matter to the Legislature, the Government should be furnished with the reasons which induced Her Majesty's Government to adopt the course they have taken.

(Signed) E. D. SHEA, *Clerk, Executive Council.*

No. 28.

Mr. Bramston to Lord Tenterden.—(Received January 31.)

(Confidential.)

Sir,

Downing Street, January 30, 1882.

WITH reference to your letter of the 18th November last and to previous correspondence respecting the opposition alleged to be experienced by American fishermen in the exercise of their Treaty privileges on the coast of Newfoundland, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further dispatch from the Officer administering the Government of the Colony on the subject.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure in No. 28.

Administrator Carter to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, Newfoundland, January 18, 1882.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, Secret, of the 3rd December last, referring to Sir Fitzhardinge Maxse's Confidential despatch of the 27th September, 1881, and transmitting a copy of a letter which has been addressed by Earl Granville to Mr. Hoppin on the subject of the opposition which it is alleged is experienced by American fishermen in the exercise of their Treaty privileges on the coast of this Colony.

From recent official inquiry by this Government on the subject of your Lordship's letter, it has been reported, from authentic sources, that between the fishermen of both nations where they congregate great harmony exists, and so far there is no reason to apprehend that any differences will occur.

I have, &c.

(Signed) F. B. T. CARTER.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, March 3, 1882.*

I AM directed by Earl Granville to state to you, for the information of the Earl of Kimberley, that he has had under his consideration your letter of the 3rd January, with its inclosures, relative to the repayment by the Government of Newfoundland of the sum advanced by Her Majesty's Government in order to satisfy the claims of the Government of the United States on account of the occurrences at Fortune Bay.

In reply, I am to request that you will state to Lord Kimberley that Lord Granville concurs in the answer which it is proposed to return to the despatch from Sir H. Maxse of the 26th November last upon this question.

I am, &c.
(Signed) TENTERDEN.

No. 30.

Mr. West to Earl Granville.—(Received March 4.)

(No. 74.)

My Lord,

Washington, February 19, 1882.

I HAVE the honour to transmit to your Lordship herewith official copies of the Report of the Committee of Foreign Affairs of the House of Representatives on the joint Resolution, copies of which are also inclosed, relating to the termination of certain provisions of the Treaty with Great Britain of 1871 concerning the fisheries.

This Report states that it is claimed by American fishermen that the right to fish in British waters is vastly overbalanced by the disadvantages to which they are subjected by the introduction of British-caught fish into American markets duty free (Article XXI), and that they are willing to part with this privilege rather than submit any longer to the provisions of Article XXI of the Treaty of 1871; and, under these circumstances, the Committee recommend that the Resolution be adopted.

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

Inclosure 1 in No. 30.

47TH CONGRESS, 1ST SESSION.—HOUSE OF REPRESENTATIVES.

[REPORT No. 235.]

Certain Provisions of the Treaty of Washington, relating to Fisheries.

February 4, 1882.—Recommitted to the Committee on Foreign Affairs and ordered to be printed.

MR. W. W. RICE, from the Committee on Foreign Affairs, submitted the following—

Report:

[To accompany H. Res. 99.]

The Committee on Foreign Affairs, to whom was referred the joint Resolution (H. R. 99) relating to the termination of certain provisions of the Treaty with Great Britain of 1871, concerning the fisheries, having had the same under consideration, submit the following Report:—

Articles XVIII to XXI, inclusive, of the Treaty of 1871, relate to the fisheries, and are as follows:—

“Art. 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 the United States and Great Britain, 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's 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 Magdalene 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 coasts 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 citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of the Treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States, north of the 39th 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 distances 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 shell fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States."

Article XX relates to the reservation of certain localities from the operation of the Treaty, and need not be quoted at length.

Article XXI is as follows:—

"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 United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country respectively free of duty."

Articles XXII, XXIII, XXIV, and XXV provide for the Halifax Commission and the method of procedure, and have no longer any operative force.

Article XXXII provides that Articles XVIII to XXV inclusive and Article XXX "shall remain in force for the period of ten years from the date at which they may have come into operation, and further, until the expiration of two years after either of the High Contracting Parties have given notice to the other of its wish to terminate the same, each of said High Contracting Parties being at liberty to give such notice to the other at the end of said period of ten years, or at any time afterwards."

Article XXX provides for reciprocal rights to British and United States' citizens of carrying goods through certain sections of each country free from duty. It is entirely independent of the other articles connected with it in the provisions of Article XXXIII.

The Committee know no reasons why the provisions of this Article are not mutually and equally advantageous to the citizens of both countries. If it is necessary by the terms of the Treaty to include it in the notice of termination, it would undoubtedly be immediately revived by proper negotiations. The Treaty went into operation on the 1st July, 1873. According to its terms, notice for its termination cannot be given until the 1st July, 1883, to take effect two years thereafter.

The Committee are informed and believe that it is the unanimous wish of those engaged in American fisheries, and dependent upon them for a livelihood, that this notice should be given at the earliest possible date.

The Legislature of the State of Maine of 1880 adopted the following Resolutions:—

"Joint Resolutions relating to the Termination of Articles XVIII and XXI of the Treaty of 1871 with Great Britain.

"Resolved by the Senate and House of Representatives in Legislature assembled,—That justice to fishermen and to the fishing interests of the country require that Articles XVIII and XXI of the Treaty concluded between the United States and Great Britain on the 8th May, 1871, should be terminated at the earliest possible period.

Resolved,—That we respectfully instruct our Senators and request our Representatives in Congress to use all honourable means to accomplish the purposes indicated by the foregoing resolve.

Resolved,—That the Secretary of State be required to transmit a copy of these Resolves to each of our Senators and Representatives in Congress, and also a copy to the President of the United States."

The Legislature of Massachusetts adopted similar Resolutions at about the same time.

The immediate cause of these Resolutions was the Fortune Bay outrages, for which the British Government has since paid indemnity, but they express the sentiments still entertained by the people of those States on the subject.

Prior to the Treaty of 1871 our fishermen had licences for the right to fish in waters claimed to be in British jurisdiction; that they might enjoy this right without payment of a licence, the Halifax Commission awarded the payment of 5,500,000 dollars by our Government. The Treaty further contained the provisions of Article XXI, already quoted, relating to the importation of fish from one country to the other free of duty. It is now claimed by our fishermen that the right to fish in British waters, as given them in the Treaty, is vastly overbalanced by the disadvantage to which they are subjected by the introduction of British-caught fish into our markets free of duty. Discovery of new fishing grounds, and of improved methods of taking fish by our fishermen, have rendered the privilege of fishing in the Gulf of St. Lawrence, and on the adjacent inshore fishing grounds, of greatly less value to them than in former times, and they are willing to part with that privilege rather than submit longer to the provisions of Article XXI. They claim that they are entitled as a class to the protection which the policy of our Government extends to its other industries; and that while every other American labourer is protected and encouraged by the Government of the country against competition with ignorant and underpaid foreign labour, it is unjust that they alone, the hardy toilers of the sea, should be exempted from this protection and encouragement.

The Committee need not enter upon any discussion of the issues involved in the discussion between those in favour of protection to American industry by a duty upon foreign imports and those in favour of free trade. They only contend that, while protection is the policy of the Government, it is unjust that this one class of labourers, peculiarly serviceable to the country, should alone be excluded from its effects. The Committee insert and adopt the following extracts from a Report made by the Committee on Foreign Affairs of the Forty-sixth Congress on this subject:—

"The fisheries have always been regarded as among the most important of our national industries. They furnish for our market a cheap and healthy article of food. They give employment to a large number of men, of a nature peculiarly interesting and advantageous to the country. They have been a nursery for sailors, a training-school which has supplied experienced and hardy men to defend the flag upon the water in every war. In the colonial times the New England fishermen captured Louisburgh, under a General born among them, and pre-eminent in the traits of character for which they were, as a class, distinguished. During the Revolution their privateers swarmed the seas, earning wealth for their owners and glory and advantage for their struggling country. In the war of 1812 they manned our vessels, and, under the motto of 'Free Trade and Sailors' Rights,' they certainly did their part toward bringing the war to a successful conclusion. It may be that, in future wars, they may not play so conspicuous a part as in those of the past. Iron and steel are superseding wood and sail, and science fights the naval battle by its own instrumentalities, instead of the daring men who used to sail from the harbours of Gloucester and Marblehead; but still we cannot well anticipate the time when the qualities and experience gained by the fishermen in their adventurous business will not be most profitable to the country, not only in time of war, but in those commercial pursuits which are about to occupy a wider sphere and enter more intimately into all international relations. This importance of the fisheries has always been recognized by our Government in its Treaty negotiations.

"The Treaty of 1783 between Great Britain and the United States recognized the rights of American citizens to the fisheries, as they had been exercised before the Revolution, as fully as it did their rights to the soil within the boundaries of the States. The statesmen of that day would accept nothing less than perfect equality for our fishermen upon any fishing grounds where they might choose to go. John Adams said he would fight the Revolution over again if the fisheries were not secured to us. It was not his fault, or that of his compeers, that the United States have since been reduced to a

position of humiliation and disgrace in this respect. In the Treaty by which they obtained recognition of our national existence, they included, as one of our recognized and vested national rights, freedom and equality upon the fishing-grounds of the north-east, which had been won from France to England by New England fishermen, under their favourite leader, Sir William Pepperill.

“The same freedom and equality would be ours to-day had it not been disgracefully surrendered in later negotiations. After the war of 1812 Great Britain claimed sole jurisdiction of the shore fisheries of her North American dominions, and excluded our fishermen from them on the ground that the Treaty had been terminated by the war, and the right of fishing on British fishing-grounds was a Treaty right, not a vested right. In the Treaty of Ghent the subject was not included, the Commissioners of the two Powers avowing opposite views in regard to it. If the American view were the correct one, the right to fish in British water was a vested national right, as much as that to the soil of the States, and did not need to be again provided for in the Treaty. If the British view were correct, the right ceased with the old Treaty, and could only be revived by being included in the new Treaty.

“It is too late now to argue which of these positions was legally right. England maintained hers by the strong arm. She drove by violence our fishermen from the grounds won by their valour, preserved to them by the Treaty which fixed the national status, which they had done so much to secure, and which their courage and patriotism would have retained had they been sustained by the Government of their country. But this was not the fact.

“In the Convention of 1818 the United States acquiesced to a great extent in the British claim. She renounced for ever the liberty before enjoyed of fishing within 3 marine miles of any of the British coasts, excepting the shores of the Magdalen Islands, the north, south, and west shores of Newfoundland, and the shores of Labrador. A pusillanimous provision was inserted into the Treaty that American fishermen should be allowed to enter British bays and harbours for the purpose of shelter and repairing damages, of purchasing wood and obtaining water, and for no other purpose whatsoever. But a judicious system of bounties and the superior energy and skill of our fishermen enabled them to survive even this treacherous betrayal of their interests. From 1825 to 1854 the fishing business of Massachusetts constantly and regularly increased. In 1825 the fishing fleet from Gloucester consisted of 154 vessels, of 6,000 tons burden; in 1847 of 287 vessels, of 12,000 tons; and in 1854 of 300 vessels, of over 20,000 tons. The business of the other fishing towns increased in similar proportion.

“In 1854 our diplomacy struck another blow at the fishing interests by the Reciprocity Treaty. This Treaty gave to American fishermen the right to British inshore fisheries, and the same right to British fishermen in American waters north of the 36th parallel. It also opened the markets of each country to fish of the other, free from duty. The greater demand in the American market made this concession of great value to British fishermen; they at once enlarged their fleets, and when the reverses of our Civil War drove our vessels from the fishing-grounds they pressed their advantages, and supplied our market with free fish, while our fishermen were engaged in the navy in the war, or were by force of circumstances excluded from participation in the business which had supplied themselves and their ancestors for generations. It will be noticed by reference to the prices current that the price of fish was not varied to the American consumer. The hardy toiler on the seas was depressed—the bread was taken from him; but there was no compensating advantage to any one, except the British fisherman and the market middlemen.

“In 1866 the Reciprocity Treaty was terminated, against the wishes of the Canadians, who were but too eager to continue a system which brought them many dollars for every one it took from them; they then sold licences to American vessels to fish in their waters, raising the price of the licence year after year, from 50 cents to 2 dollars a-ton, until, at the last price, American fishing-vessels disappeared from British waters.

“The provisions of the Treaty of 1871 relating to the fisheries have already been stated. The fishermen of New England, through their Representatives in Legislature assembled, now ask that these provisions be terminated. They admit that they would derive some advantages from the free and undisturbed enjoyment of the privileges accorded them in these provisions, but they say that the disadvantages are vastly greater than the advantages, and that, while they are subjected to the disadvantages in full force, they are deprived of the paltry advantages by local prejudice and annoyances, culminating in mob violence, not hindered by the local authorities, and now apparently sustained by the Home Government.

"It was claimed by the American Counsel before the Halifax Commission, and supported by what seems to be the strongest testimony, that the value of the American concessions was equal to that of the British concessions, and that no balance, or at least but a very small one, should be awarded against the United States.

"It is useless here to discuss the character of the testimony by which this claim was controverted, or of the Tribunal by which it was coolly and peremptorily disregarded. After payment of the Award, the men most interested in the subject justify the claim of our Counsel by offering to resign what they get for what they give, less the $5\frac{1}{2}$ million Award, which we must be content to pay for our experience of the result of friendly arbitration with Great Britain; they only ask to be restored to the *ante-Treaty* status, and they will trust to their own resources for future protection against Canadian competition. Their claim, in substance, is that the privileges they gain may be estimated in money value pretty accurately by the highest amount which could be derived by the Canadian Government from licences between 1866 and 1871, before the price was raised to the prohibitory point, which was less than 40,000 dollars a-year, while, on the other hand, the duty on the fish which the Canadians import free into our markets would average 350,000 dollars a-year. They complain that the Treaty discriminates against them in favour of the Canadians; that they fish in vessels and with apparatus whose price is increased by the duty imposed upon the materials of which they are made, while the British fish in smaller, less expensive, and untaxed vessels. They are far from home; the British are along their own shores, near their supplies, and the catch of both is equally free to enter our markets. They profess a confidence in their own ability to overcome by superior skill and energy the other disadvantages, excepting those growing out of their heavier taxation at home; but they claim that, while they sustain their share of the burdens of their own country by payment of duties and taxes, they should be protected, as are other industries, against the competition of those who are not subjected to these burdens. They claim that they should be allowed to fish in untaxed vessels, or should be protected against their competitors who fish in untaxed vessels. Handicapped by this indirect discrimination, they claim that it is only a question of time when their business will be ruined, and the fisheries so highly prized by the early statesmen, so important in many respects to the country, be given over to their British competitors. They complain still further that they are deprived of the small advantages which they might derive from the Treaty, and for which this country has paid so dearly, by colonial legislation and by illegal action by the British fishermen, and thus far without redress or protection. And they give proof of the sincerity of these complaints by asking for the abrogation of these Treaty provisions.

"It is easy to understand the advantages derived by the British fishermen from the freedom of our markets. Statistics show that their business is increased and ours diminished by the operation of these provisions.

"After the abrogation of the Reciprocity Treaty in 1866, to the Treaty of 1871, the tonnage of United States' vessels over 20 tons, engaged in the fisheries, increased 27,418 tons. Since the Treaty it has decreased in Massachusetts alone 12,709 tons.

"During the last period the Canadian tonnage has steadily and rapidly increased. From 1871 to 1877 (we have not the statistics for the subsequent years) this increase was 35,580 tons in 645 vessels, manned by 11,181 fishermen. These figures tell the story of the results of the Treaty upon the fishing interests of the two countries. Is it any wonder that our fishermen ask to be relieved from the results of diplomacy and friendly arbitration, and to be left once more to their own resources unaided by the advantages of British concessions?

"But it is not necessary to rely wholly upon these statistics. A brief consideration of the fishery business as at present conducted will enable us to understand why the so-called Treaty concessions are of so little value to our fishermen.

"The Atlantic fisheries, as pursued by American fishermen, comprise the cod, halibut, mackerel, and herring fisheries. The cod fishery is unqualifiedly an ocean fishery, extending from 10 to 100 and more miles from the shore; the most prolific grounds are the banks on the inner edge of the Gulf Stream, from Hatteras to Cape Race, thence north indefinitely, following the Arctic and Greenland currents. None of these banks are under British jurisdiction, but are the common property of all nations. No cod of any consequence are taken by American vessels within 3 miles of British territory. The concession of inshore fishing, so far as this branch of the fisheries is concerned, is of no considerable value.

"Halibut are now taken by American fishermen in the deepest water upon the ocean banks; they have been taken at particular seasons in the Gulf of St. Lawrence, but never continuously, and of late years not to any considerable extent at any time. The American

fishermen are content to take the halibut from the same localities where they take the cod. Inshore halibut fishing in British waters is of no value to them.

"The habits and grounds of the mackerel are more uncertain and varying. They make their appearance off Hatteras in April, and apparently move north. In June they are found off Massachusetts and Maine, and at nearly the same time in the Gulf of St. Lawrence. From the time of their appearance in April, until November, they are found at all these points, varying in quantity and quality at different times, and at from 1 to 100 miles from shore. Even of the small proportion of the entire catch taken by American fishermen in the Gulf of St. Lawrence not more than one-quarter is taken within 3 miles of the shore. The quality of these is inferior to that of those taken off our own shores, especially of late years. In the present condition of this much-changing and uncertain fishery, our fishermen may, about as well as not, keep entirely out of British waters; certainly the benefit of entering them is very small. The trade to the inhabitants of the provinces and islands from our fishermen, and the advantages they would derive from observation of their superior methods, would alone be ample compensation for this advantage. It certainly is no object for us to retain this petty privilege to be practised in the midst of a jealous and hostile population.

"The herring fishery, different from the others, is almost wholly a shore fishery. They are taken on the shores of Massachusetts and Maine, and of nearly all the British provinces and islands. But the Americans have heretofore not been accustomed to use British waters for taking herring in such a way as to make it an American fishery. They have either hired the boats and apparatus of the British fishermen, or bought their herring from them to be sold in our market or used as bait in the cod fishery. The least valuable of all the fisheries, the profit is scarcely large enough to engage the attention of our fishermen. While it is admitted to be of some advantage to them to have the right to fish for herring in British inshore waters, and to be the one concession in the Treaty, which is of the greatest value to them, yet it is by no means an indispensable advantage. The right to fish can be wholly abandoned, and the commercial right of purchase from British fishermen, now very largely used, be the sole dependence. It is worth something, but a mere trifle compared with what is paid for it.

"All the above statements of the value of these fisheries to our fishermen were made by our Counsel before the Halifax Commission, and sustained by testimony. The British Counsel, on the other hand, claimed that they were of immense value, amounting, in their claim, in the aggregate, to 12,000,000 dollars. We now prove the honesty of our claim by the offer to terminate, without consideration, the Treaty provisions which concede these privileges. It is probably too much to anticipate that British sincerity will bear an equal test.

"But there is another branch of this subject which demands our consideration. Without reviving old recollections, forgetfulness of which is most conducive to the kindly feeling we desire to entertain towards Great Britain, we can, at least, assume that we now deal with her on equal terms. Never second in anything tending to promote such an intercourse as should exist between Christian nations of kindred blood and instincts, we shall not fail to exact for our citizens the same treatment which we accord to others under Treaty or international law, and to demand and obtain restitution for all violation of these laws and obligations toward our citizens. It smacked a little of the old spirit when the British Counsel at Halifax deemed worthy of consideration the privilege of our fishermen to put into their bays and harbours for shelter and trade. These are common international privileges.

"It seems to this Committee that what we receive in this respect we return; that it is not necessary to provide in a Treaty that the vessels of a friendly Power are to have the privilege of shelter and trade in our ports, but that the enforcement of this common privilege can safely be left to the operation of charity and mutual interest.

"Scarcely had the heavy price been paid, rather as a tribute to national honour than because it was due on any principle of equity or fair dealing, when the jealousy of the British fishermen and the ingenuity of provincial legislators was set at work to devise means of depriving us of the paltry privileges of mackerel and herring fishing, and of trade and shelter, which we had so dearly bought. Legislative measures were proposed, and some of them enacted, the result of which would be to restrict and hamper us in the exercise of our Treaty privileges.

"Legislation restricting the sale of bait and of ice for packing to American fishermen were discussed in the Newfoundland Legislature. A statute was enacted, April 1876, prohibiting the taking of herring and other fish used for bait on Sundays. It may well be argued that any restrictive legislation in conflict with the Treaty concessions would not be applicable to American fishermen. In the discussions before the Halifax Com-

mission, the British concessions were rated at full price, as without restriction, and whatever local laws might be made, the Treaty stipulations should override them as to American fishermen. The inshore herring fishery, as has been seen, was almost the only concession of the Treaty worth anything to Americans. By it they could catch their own herring instead of buying them from the British fishermen.

“But to make this privilege worth anything they must do their fishing in their own way; they are at a distance from home; the British live on shore in sight of the fishing grounds; they must use vessels built strongly and of the best material, fitted to withstand the roughest ocean weather; these vessels are from 50 to 150 tons burthen, and cost from 5,000 dollars to 10,000 dollars a-piece; the British fish in boats worth, perhaps, 100 dollars a-piece. Under these circumstances the Americans must fish at the most advantageous times and in the most expeditious manner. They have but a few days for their season's work, while the British have nothing else to do the year round. As a consequence the Americans use seines in the herring fishery of much larger capacity than those used by the British. By use of them they can catch herrings enough in a day, when they appear, to load an entire fleet. With these preliminary statements we can better understand the events which took place at Fortune Bay, Newfoundland, the 6th January, 1878. We give the statement of the owners of two of the American vessels, made to the Secretary of State, which is as follows.”

It is not important to add these statements. They show the determined hostility of the Newfoundlanders to American fishermen catching herrings by their new methods in the waters they consider their own.

As will be seen from the foregoing extract, the American fisheries are for cod, halibut, mackerel, and herring. Beyond these they only seek squid and capelin—small fish used for bait. Cod and halibut are ocean fisheries; they are taken on the ocean banks, common to all nations. We need pay nothing to Great Britain for them. When fish were taken by the line, they were sought especially in the waters of the Gulf of St. Lawrence, claimed to be under British jurisdiction. Since the adoption by American fishermen of seining for mackerel fishing, they catch mackerel off our own shores more advantageously and of better quality than before in British waters. We ask no favours from Great Britain for our mackerel fisheries. This leaves only the herring and bait fisheries; these are small fish, caught in shore, and principally in British waters. They are caught by the population of the adjacent coasts in boats, without outfit, and where the fishermen can return to their own homes each night. Our fishermen, cruising in costly vessels at a distance from home, do not wish to compete with these home fishermen for the scanty profits of these small fisheries in the face of such hostility as they have shown. They are willing to pay the poor fishermen of Newfoundland and the islands for them. They only ask that the Government will protect them in the pursuit of their perilous and useful calling in the ocean fisheries, where they still enjoy the rights of which British diplomacy has deprived them in the Gulf of St. Lawrence and the adjacent shores.

The Committee, therefore, report back the joint Resolution (H. Res. 99) referred to them, with the recommendation that it be adopted.

Inclosure 2 in No. 30.

47TH CONGRESS, 1ST SESSION.—HOUSE OF REPRESENTATIVES, 99.

[REPORT No. 235.]

In the House of Representatives.

January 16, 1882.—Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.

February 4, 1882.—Recommitted to the Committee on Foreign Affairs and ordered to be printed.

MR WILLIAM W. RICE introduced the following joint Resolution:—

Joint Resolution requesting the President to give notice to Great Britain of the termination of certain provisions of the Treaty of Washington relating to the fisheries:

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President of the United States be, and he

hereby is, respectfully requested to give the notice to Great Britain provided for in Article XXXIII of the Treaty of 1871 for the termination of the provisions of said Treaty contained in Articles XVIII to XXV, inclusive, and relating to the fisheries; and that he also be respectfully requested to institute negotiations with Great Britain, by which, after the termination of the said provisions, the fisheries of this nation shall be restored to the rights and privileges formerly enjoyed by them."

No. 31.

Mr. Bramston to Lord Tenterden.—(Received March 17.)

My Lord,

Downing Street, March 16, 1882.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 8th instant, inclosing a copy of a despatch from Her Majesty's Minister at Washington, relating to the question of the termination of certain provisions of the Treaty of Washington concerning the fisheries; and I am to request that you will move Earl Granville to cause this Department to be furnished with spare copies of the Report of the Committee of Foreign Affairs of the House of Representatives, and of the joint Resolution forwarded in that despatch, with the view of their being transmitted to the Governor-General of Canada and to the Officer administering the Government of Newfoundland.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 32.

Earl Granville to Mr. West.

(No. 63.)

Sir,

Foreign Office, March 18, 1882.

I REQUEST that you will endeavour to procure and to forward to this Department three more copies of the Report of the Committee of Foreign Affairs (No. 225) of the House of Representatives, and of the joint Resolution relating to the termination of certain provisions of the Treaty between Great Britain and the United States of 1871, concerning the fisheries, which documents were inclosed with your despatch No. 74 of the 19th ultimo, with a view to their being communicated to the Governor-General of Canada and to the Officer administering the Government of Newfoundland.

I am, &c.

(Signed) GRANVILLE.

No. 33.

Mr. Bramston to Lord Tenterden.—(Received March 27.)

My Lord,

Downing Street, March 25, 1882.

I AM directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that he has received a telegram from the Governor-General of Canada making an inquiry respecting the present state of the negotiations between the United States and Newfoundland relating to the fisheries.

Lord Kimberley proposes, with Lord Granville's concurrence, to reply to the Governor-General by telegraph in the terms of the answer given by Sir Charles Dilke to the question asked by Sir Henry Holland in the House of Commons on the 13th February last, as such answer was reported in the "Times" of the following day.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 34.

Sir J. Pouncefote to Mr. Herbert.

Sir, *Foreign Office, April 3, 1882.*
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 25th ultimo, informing his Lordship that Her Majesty's Secretary of State for the Colonies has received a telegram from the Governor-General of Canada making an inquiry respecting the present state of the negotiations between the United States and Newfoundland relating to the fisheries, and I am, in reply, to request you to state to the Earl of Kimberley that Lord Granville concurs in the reply which it is proposed to return to the Marquis of Lorne's question.

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

No. 35.

Mr. Herbert to Sir J. Pouncefote.—(Received April 7.)

Sir, *Downing Street, April 6, 1882.*
 WITH reference to the letter from this Department of the 25th ultimo, and to your reply of the 3rd instant, 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 telegram which has been addressed to the Governor-General of Canada respecting the present state of the negotiations with the United States' Government with regard to the Newfoundland fisheries.

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

Inclosure in No. 35.

The Earl of Kimberley to the Marquis of Lorne.

(Telegraphic.) *Downing Street, April 4, 1882.*
 YOUR telegram No. 23.
 Suggestions of United States' Government have been invited for prevention of further disputes between British and American fishermen. No reply yet received.

No. 36.

Earl Granville to Mr. West.

(No. 103.)
 Sir, *Foreign Office, April 8, 1882.*
 WITH reference to my despatch No. 207 of the 12th September last to Mr. Drummond, I transmit herewith, for your information, copies of the letters, marked in the margin,* which have been received from the Colonial Office relative to the present state of the negotiations with the Government of the United States with regard to the Newfoundland fisheries.

I am, &c.
 (Signed) GRANVILLE.

No. 37.

Mr. Bramston to Lord Tenterden.—(Received April 15.)

My Lord, *Downing Street, April 14, 1882.*
 WITH reference to the letter from this Department of the 5th July last, inclosing copy of a despatch addressed to the Governor-General of Canada, respecting the

* Nos. 33 and 35.

settlement of the Aspee Bay claims, in connection with those arising out of the occurrences at Fortune Bay, Newfoundland, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch which has been received from the Governor-General of Canada on the subject, together with a copy of the reply, which has been returned to the Marquis of Lorne.

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

Inclosure 1 in No. 37.

The Marquis of Lorne to the Earl of Kimberley.

My Lord,

Government House, Ottawa, March 11, 1882.

IN reply to your Lordship's despatch of the 30th June, 1881, acquainting me, for the information of my Government, that the sum of 150*l.* had been applied, out of the 15,000*l.* awarded on account of the Fortune Bay claims, to compensate the owners of certain American fishing-vessels for losses alleged to have been sustained by them at Aspee Bay, Nova Scotia, and requesting repayment of the amount from the Government of Canada, I have the honour to forward herewith a copy of an approved Report of a Committee of the Privy Council of the Dominion, to which is appended a copy of a Report of the Acting Minister of Marine and Fisheries, which states that, in his opinion, Parliament cannot properly be asked to vote any sum of money for the purpose specified.

I have, &c.
(Signed) LORNE.

Inclosure 2 in No. 37.

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General on the 1st day of March, 1882.

THE Committee of Council have had under consideration the despatch dated 30th June, 1881, from Her Majesty's Secretary of State for the Colonies, in which it is represented that in an agreement made between the British and American Governments to settle certain claims made against Great Britain for interference by the inhabitants of Newfoundland with United States' fishermen at Fortune Bay, it was considered advisable to include (amongst the definite claims) losses alleged to have been sustained by American fishing-vessels at Aspee Bay, Nova Scotia, and that part of the compensation, amounting to the sum of 150*l.*, was applied to that purpose, which amount the Canadian Government is requested to refund.

The Acting Minister of Marine and Fisheries, to whom the despatch has been referred, states that he is of opinion, considering all the circumstances described in his Report dated 28th February, 1882, hereto annexed, Parliament cannot properly be asked to vote any sum of money for the purpose specified in Lord Kimberley's despatch.

The Committee concur in the Report of the Acting Minister of Marine and Fisheries, and submit the same for your Excellency's approval; and they recommend that a copy of this Minute, when approved, and of the Report hereto annexed, be forwarded to Her Majesty's Secretary of State for the Colonies.

Certified,
(Signed) J. O. COTÉ,
Clerk, Privy Council, Canada.

Inclosure 3 in No. 37.

Report of the Acting Minister of Marine and Fisheries.

Marine and Fisheries, Canada, Ottawa, February 28, 1882.

REFERRING to a despatch of the Earl of Kimberley dated the 30th June, 1881, representing that in an agreement made between the British and American Governments to settle certain claims made against Great Britain for interference by the inhabitants of

Newfoundland with United States' fishermen at Fortune Bay, it was considered advisable to include (amongst the definite claims) losses alleged to have been sustained by American fishing-vessels at Aspee Bay, Nova Scotia, and that part of the compensation, amounting to the sum of 150*l.*, was applied to that purpose, which amount the Canadian Government is requested to refund, the Undersigned has the honour to report as follows:—

1. The Government of Canada having been invited to assist in negotiating the Fishery Articles of the Treaty of Washington, which were afterwards ratified by the Dominion Parliament and the Provincial Legislature of Prince Edward Island (since included in the Dominion), it is presumable that in carrying out these Articles all differences affecting matters of detail would necessarily be referred before settlement to the Canadian authorities, who are sincerely desirous to maintain their reciprocal obligations, and to protect, if necessary, United States' citizens in the full enjoyment of the rights and privileges accorded to them by that Treaty. They would be also ready and willing to make just compensation for any injury or loss to American fishermen which, upon inquiry, they should be found to have sustained through interference with their legitimate fishing operations by inhabitants of Canada. It is, however, considered essential that any such instances where claims to indemnity arise should be carefully investigated, as, otherwise, precedents might occur which would involve the Government, sooner or later, in frequent disputes of a trivial character.

2. The present correspondence between the British and American Governments, and the accompanying documents, show that complaints were made by the American Government of interference with American fishermen when exercising or about to exercise the rights claimed to them by the Treaty.

These complaints are of two classes:—

(a.) Where it is alleged in the complaint that violence was used and the nets and seines of American fishermen were destroyed, and they themselves driven from the fishing-ground, viz., at Fortune Bay and Job's Cove, in Newfoundland, and damages were alleged to the amount of 105,000 dollars.

(b.) Where the complaint did not charge violence, but simply that resident fishermen (having no legal or judicial authority) forbid them to fish in certain localities and by certain means, as in the case of the schooner "Mist," Captain Cozzens, master, who complains of threats at Broad Cove, Newfoundland, and claims 800 dollars damages; also of the schooner "Cadet," James L. Anderson, master, who makes a similar complaint against certain fishermen at Aspee Bay, in Cape Breton, within the Dominion of Canada.

In the voluminous correspondence which passed between the British and American Governments, and in the action of the United States' House of Representatives, the latter class of complaints (which includes the occurrence at Aspee Bay) is evidently dropped, and forms no part of the grounds upon which a formal claim for damages exceeding 100,000 dollars is urged.

Under date of the 7th March, 1881, in referring to one of these cases, that of the "Mist," Mr. Evarts specifically states that he "does not entertain the claim, and had so informed the claimant."

3. The first mention made in the correspondence connected with these negotiations of any claim arising out of alleged interference at Aspee Bay, in Nova Scotia, occurs in a reported conversation between Sir Edward Thornton and Mr. Blaine on the 5th May, 1881, after the lump sum had been settled, when Sir Edward Thornton voluntarily "concluded that, although Aspee Bay was not on the coast of Newfoundland, these claims were among those for which a demand had been made by Mr. Evarts of the sum of 105,305 dol. 2 c."

The Aspee Bay depositions having been made in September 1879, about a month after the claims forming the demand for 105,305 dol. 2 c. were made up by Mr. Evarts and presented to Mr. Welsh, it seems impossible that any sum could have been reckoned on account of the occurrence at that place.

The original claims for the Fortune Bay affair (Class A), in 1878, amounted to 103,162 dol. 73 c.

There were twenty-two specific claims, ranging from 2,496 dol. 9 c. to 8,506 dol. 5 c. each, the total of which amounted to that sum of 103,162 dol. 73 c. Other two claims for cases at Job's Cove in 1879 were afterwards admitted without specifying their amount; but the ultimate demand on the British Government was for 120,000 dollars, being the original demand with interest and these two special claims added. The telegram of Mr. Evarts to Mr. Lowell, dated the 3rd March, 1881, makes this conclusive as follows:—

“ . . . All the previous communications either way related to Fortune Bay claims. Claims of No. 109 (Job's Cove claims) were introduced specifically by Secretary as additional to Fortune Bay, and I accepted the sum offered for both. I cannot consent to any modification of the completed settlement of specific claims. I have at no time treated except of definite pecuniary interests of claimants in my charge. The agreed sum measured these claims and goes to these claimants. I have been willing to give every assurance to cover all claims brought to the knowledge of either Government, and authorize you to inform Secretary that, as a matter of fact, no others were entertained by this Government. . . . ”

4. On the 27th October, 1880, long after the occurrence at Aspee Bay, Earl Granville, in a despatch to Mr. Lowell, says :—

“ Her Majesty's Government have no hesitation in admitting that the conduct of the Newfoundland fishermen, in violently interfering with United States' fishermen and destroying or damaging some of their nets, is indefensible and much to be regretted ; ” and further informs him that “ Her Majesty's Government are quite willing that they (the American fishermen) should be indemnified for any injuries and losses which, upon a joint inquiry, may be found to be sustained by them, and in respect of which they are reasonably entitled to compensation. ”

For the purpose of a full inquiry, it is presumed that the Newfoundland Government was duly notified of the claims preferred, and assurances were given by Her Majesty's Government that every opportunity would be afforded for a defence, particularly in view of the probable necessity of requiring the Colonial Government to refund whatever damages might be awarded.

The Undersigned cannot suppose that Her Majesty's Government would have been less considerate to the Dominion of Canada had the Aspee Bay occurrence been entertained or considered by either of the negotiating parties as forming a portion of the injuries on account of which compensation was claimed.

5. It is shown by the correspondence that an offer of a lump sum of 15,000*l.*, or 75,000 dollars, was made by the British Government as a settlement in full. Exception was taken by the United States' Government to the words “ in full, ” because of the possibility, as remarked by Mr. Evarts to Sir Edward Thornton on the 28th February, 1880, that “ something might be occurring on the coasts of Newfoundland of which we must necessarily be ignorant. ”

The proposition was then made to refer the claims to Sir Edward Thornton and Mr. Blaine for assessment of damages ; and on the 2nd April, 1881, Earl Granville, in his despatch to Sir Edward Thornton, informs him that the Colonial authorities prefer this mode of settlement to the payment of a lump sum, in view of the “ desirability of obtaining the co-operation and concurrence of the Government of Newfoundland, ” and authorizes him to settle either by a lump sum or by assessment of individual claims, and adds, “ under present circumstances, they would prefer an arrangement by assessment. ”

The original mode of settlement preferred by Her Majesty's Government being by a lump sum, it is presumable that this change was made at the instance of the Government of Newfoundland.

On the 3rd May, 1881, concurrent instructions were given by the Earl of Kimberley to communicate with the Government of Newfoundland to send a competent person to assist Sir Edward Thornton in the settlement, and by Lord Granville to Sir Edward Thornton to arrange that time be afforded to Her Majesty's Government to communicate with the authorities of Newfoundland.

Her Majesty's Government having more than two months previously, on the 24th February, 1881, offered 15,000*l.* in settlement of the American fishery claims, which sum was eventually accepted, it would, after the careful consideration shown towards the Newfoundland authorities, be unjust to Her Majesty's Government to suppose that they held or admitted that the Dominion of Canada had any pecuniary interest in the settlement either by lump sum or assessment.

6. On the 4th April, 1881, Mr. Blaine offers to accept 16,000*l.*, and give a receipt in full. On the 25th he offers to take 15,500*l.*, as he is convinced there are no other claims than those presented. On the 27th Her Majesty's Government refused to exceed 15,000*l.*, the original offer of February 1881. On the 5th May Mr. Blaine informed Sir Edward Thornton that he had caused searching inquiries to be made as to whether there existed any other claims besides those which had been already brought before the two Governments, and that he had satisfied himself “ that there were none ; and as his Government, therefore, did not wish to place any obstacles in the way of the settlement of the claims in question, it would be prepared to accept the sum of 15,000*l.* originally

offered by Her Majesty's Government, in full of the Fortune Bay claims, and of all claims arising out of wrongs done to United States' fishermen on the coasts of Newfoundland and its dependencies up to the 4th March last."

This closes the negotiations, and the final settlement is effected.

7. The earliest intimation of the existence of a claim of this nature made to the Dominion Government was by the despatch of the Earl of Kimberley to his Excellency the Governor-General on the 2nd June, 1881, stating that it had been settled, in conjunction with the Fortune Bay claims. A later despatch of the 30th of the same month refers to the case of a comparatively unimportant character, which was settled without consulting the Government of Canada, because such a reference would have delayed the general settlement agreed upon. If, however, the matter had been considered in the nature of a serious claim when referred to in Sir Edward Thornton's despatch to Earl Granville dated the 7th June, 1880, there was ample time to communicate the fact to Canada. Also between the date the 5th May, 1881, when Sir Edward Thornton voluntarily suggested to Mr. Blaine the inclusion of such a claim in the pending settlement, there was sufficient time for the Government of Canada to be consulted. It was two days later that the Newfoundland Government was notified to send a Representative to Washington. The whole matter was closed on the 30th May, 1881.

Had the Canadian Government at any time since the occurrence been informed of this complaint, the particulars would have been investigated, and if the complaint was well founded, prompt reparation would have been offered.

8. Apart from these substantial reasons, there is another serious objection to the recognition of this payment as a "claim against the Dominion Government" to which it is desirable, in this connection, to advert. The documents referred to this Department with the despatch of the Earl of Kimberley embrace copies of Reports by the Committee on Foreign Affairs of the House of Representatives, on which the proposed Bill of 1880 to reimpose customs duties on fish imported into the United States from Newfoundland and Canada was based.

These Reports, and the Preamble to the Bill, set forth—

"Whereas the fishermen of the United States have been driven by violence from the fishing-grounds in which such freedom of fishery has been granted by said Treaty, and laws in limitation of their rights have been passed by the local Legislatures of said dominions, and Her Britannic Majesty's Government have refused all redress therefor, and have supported the claim of the said dominions to enforce said legislation," &c.

The Committee on Foreign Affairs also reported a joint Resolution in terms following:—

"Whereas American fishermen are deprived of the privileges of fishery conceded to the United States by the Treaty with Great Britain, dated the 8th May, 1871, by hostile legislation and the unlawful violence of the inhabitants of the British provinces; and whereas said hostile legislation is sustained and said unlawful violence is not rebuked or restrained by the Government of Great Britain," &c.

The state of affairs to which these documents relate existed solely in Newfoundland, and although it was proposed by the Bill to collect duties also on fish imported from Canada to form a fund for the satisfaction of claims against that Colony, no such interference and no such legislation had taken place in the Dominion of Canada.

In 1879 agents were commissioned by the American Government to inquire into "the conduct of the inshore fisheries by American fishermen, and the treatment which they had received at the hands of the local authorities and population."

These Commissioners are reported, in the despatch of Sir Edward Thornton to Earl Granville dated the 7th June, 1880, to have found but this single occurrence at Aspee Bay of which to complain. The acceptance of any responsibility whatever for the dissatisfaction thus forcibly expressed, coupled as it is with phrases and proposals affecting Canada which the adoption of this payment, however small the sum, might seem to admit, ought, therefore, to be carefully avoided.

The present opportunity should also be taken to disclaim the unfriendly acts and illiberal spirit imputed to Canada by these unqualified statements. It is sufficient corroboration of this disclaimer to observe that, while the only appreciable interruptions of the pursuits of American fishermen were confined to "the waters of Newfoundland and its dependencies," on the occasions described in these negotiations, United States' citizens have, with this single exception at Aspee Bay, which both Mr. Evarts and Mr. Blaine appear to have treated as an incident of no practical moment, during nearly ten years past exercised their Treaty rights in the inshores of Canada without any restriction and free from molestation.

9. The Undersigned is of opinion that, considering all of the circumstances above described, Parliament cannot properly be asked to vote any sum of money for the purpose specified in Lord Kimberley's despatch.

The whole respectfully submitted.

(Signed) A. W. McLELAN,
Acting Minister of Marine and Fisheries.

Inclosure 4 in No. 37.

The Earl of Kimberley to the Marquis of Lorne.

My Lord,

Downing Street, April 11, 1882.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 11th ultimo, inclosing a copy of a Report of a Committee of your Privy Council, with a Memorandum by the Acting Minister of Marine and Fisheries, stating that, in his opinion, the Parliament of the Dominion cannot properly be asked to vote a sum of money in repayment of the amount of 150*l.* advanced by the Imperial Government in settlement of what are known as the Aspee Bay claims.

2. Her Majesty's Government have received with regret this expression of opinion on the part of the Government of Canada. The repayment of the amount at which the Aspee Bay claims were assessed by Her Majesty's Minister at Washington was requested in my despatch of the 30th June last, not on the ground that the responsibility of Canada for the alleged occurrences at Aspee Bay had been established or admitted by Her Majesty's Government, but on the ground that an inquiry could not be refused if pressed for, and that it did not appear worth while, when the opportunity presented itself of setting these claims at once for a trifling sum in connection with the settlement of the Fortune Bay claims, to incur the cost and trouble of a formal investigation. There can be no difficulty in placing on record that, in reimbursing Her Majesty's Government the sum in question, Canada in no way admits the validity of these claims or its responsibility for the transaction, and Her Majesty's Government will be much disappointed if their action in this matter is now repudiated by the Dominion Government.

3. With regard to the contention in Mr. McLelan's Memorandum, that Canada should have been consulted before any decision was arrived at, you will assure your Ministers that the action of Her Majesty's Government did not proceed from the slightest desire to pass them over; they fully recognize that it would, on every ground, have been proper and desirable to obtain the previous concurrence of the Dominion Government, had the circumstances permitted. But it was felt that such a consultation would involve considerable delay and correspondence, which might have prejudiced the whole negotiation; and in so very small a matter as the Aspee Bay claims, Her Majesty's Government had confidence that the Government of the Dominion would not decline to acquiesce in a settlement made in their interest by the Diplomatic Representative of Her Majesty, acting, as he believed, for the best at the moment.

I have, &c.
(Signed) KIMBERLEY.

No. 38.

Mr. West to Earl Granville.—(Received April 17.)

(No. 145.)

My Lord,

Washington, April 1, 1882.

IN compliance with the request contained in your Lordship's despatch No. 63 of the 18th ultimo, I have the honour to transmit herewith further copies of the Report of the Committee of Foreign Affairs, and of the joint Resolution introduced into the House of Representatives, relative to the termination of certain provisions of the Treaty of Washington of 1871 concerning the fisheries, which documents formed the inclosures in my despatch No. 74 of the 19th February last.

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

Inclosure 1 in No. 38.

Certain Provisions of the Treaty of Washington relating to Fisheries.

[See Inclosure 1 in No. 30.]

Inclosure 2 in No. 38.

Joint Resolution.

[See Inclosure 2 in No. 30.]

No. 39.

Mr. Herbert to Lord Tenterden.—(Received April 20.)

My Lord,

Downing Street, April 19, 1882.

WITH reference to the letter from this Department of the 14th instant, and to previous correspondence respecting the settlement of the Aspee Bay claims in conjunction with those arising out of the occurrences at Fortune Bay, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a letter from the High Commissioner for Canada, stating that he has received telegraphic instructions from the Dominion Government to repay to Her Majesty's Government the sum of 150*l.* advanced by them in settlement of these claims.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 39.

Sir A. Galt to the Earl of Kimberley.

*Dominion of Canada, Office of the High Commissioner,
10, Victoria Chambers, London, April 15, 1882.*

My Lord,

I HAVE the honour to state that I am in receipt of telegraphic instructions from the Government of Canada to repay to Her Majesty's Government the sum of 150*l.* advanced in settlement of the claim by the Government of the United States for certain fishing claims in connection with Aspee Bay.

I request your Lordship will have the goodness to inform me to whom the payment should be made.

I have, &c.

(Signed) A. T. GALT, *High Commissioner.*

No. 40.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, April 21, 1882.

IN compliance with the request contained in your letter of the 16th ultimo, I am directed by Earl Granville to transmit to you herewith further copies of the inclosures in Mr. West's despatch No. 74 of the 19th February last, relating to the question of the termination of certain provisions of the Treaty of Washington concerning the fisheries.*

I am, &c.

(Signed) TENTERDEN.

No. 41.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, April 29, 1882.*
 I AM directed by Earl Granville to acknowledge the receipt of your further letter of the 19th instant, together with its inclosure, relative to the repayment by the Government of Canada of the sum of 150*l.* advanced by Her Majesty's Government in settlement of the Aspee Bay claim in conjunction with those arising out of the occurrences at Fortune Bay; and I am to state to you, for the information of the Earl of Kimberley, that a copy of your letter has been communicated to the Lords Commissioners of Her Majesty's Treasury, who have been requested to state what directions they would wish issued with regard to this repayment.

I am, &c.
 (Signed) TENTERDEN.

No. 42.

Lord Tenterden to Sir R. Lingen.

Sir, *Foreign Office, April 29, 1882.*
 WITH reference to my letter of the 9th August last, and to previous correspondence, I am directed by Earl Granville to transmit to you the accompanying copy of a letter from Her Majesty's Secretary of State for the Colonies, together with its inclosure, relative to the repayment by the Government of Canada of the sum of 150*l.* advanced by Her Majesty's Government in settlement of the Aspee Bay claim in conjunction with those arising out of the occurrences at Fortune Bay;* and I am to request that, in laying this letter before the Lords Commissioners of Her Majesty's Treasury, you will move their Lordships to cause Lord Granville to be informed what directions they would wish issued with regard to the repayment in question.

I am, &c.
 (Signed) TENTERDEN.

No. 43.

Mr. West to Lord Tenterden.—(Received May 5.)

(Private.)

My dear Tenterden,

Washington, May 5, 1882.

IN looking over the Fisheries question the other day I made an awkward discovery, and have done my best to remedy it. V. Drummond, I found, never acted on No. 207 of the 12th September, 1881, and has told me that he does not remember to have seen the despatch. In order to cover this oversight, I immediately drew up a Memorandum for communication to the State Department, and took it to Bancroft Davis, to whom I explained the reason for this course. I asked him to reply by Memorandum, and leave out all dates, which he has done. He was only desirous to have it put on record that the apparent delay in answering the communication was not the fault of the State Department, and I told him that I would write to you on the subject.

Drummond was in a state of mind about it, and I was anxious not to expose his oversight.

Yours, &c.
 (Signed) L. S. SACKVILLE WEST.

No. 44.

Mr. Cole to Lord Tenterden.—(Received May 6.)

My Lord,

Treasury Chambers, May 5, 1882.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to acknowledge the receipt of your letter of the 29th ultimo, and of its inclosures, respecting the

* No. 39.

repayment by the Dominion Government of Canada of the sum of 150*l.* advanced out of Imperial funds in settlement of the Aspee Bay fishery claims preferred by the Government of the United States.

I am to state, for the information of Earl Granville, that a copy of Sir Alexander Galt's letter of the 15th ultimo was transmitted to this Department by the Colonial Office on the 19th ultimo, and that my Lords have requested that Department to furnish him with the information for which he applies.

I have, &c.
(Signed) J. H. COLE.

No. 45.

Mr. Wingfield to Lord Tenterden.—(Received May 11.)

Sir, *Downing Street, May 10, 1882.*

WITH reference to your letter of the 29th ultimo, and to previous correspondence respecting the repayment by Canada of the sum of 150*l.* advanced by Her Majesty's Government in settlement of the Aspee Bay claims, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a correspondence which has taken place between this Department and the Treasury on the subject, together with a copy of a letter from this Department to the High Commissioner for Canada.

I am to add that, since the date of this correspondence, Sir A. Galt has reported the payment of the sum in question into the Bank of England.

I am, &c.
(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 45.

Mr. Herbert to Sir R. Lingens.

Sir, *Downing Street, April 19, 1882.*

WITH reference to previous correspondence respecting the settlement of the Aspee Bay claims in connection with those arising out of the occurrences at Fortune Bay, I am directed by the Earl of Kimberley to transmit to you, to be laid before the Lords Commissioners of the Treasury, a copy of a letter from the High Commissioner for Canada stating that he has received telegraphic instructions from the Dominion Government to repay to Her Majesty's Government the sum of 150*l.* advanced by them in settlement of this claim, and desiring to be informed to whom payment should be made.

I am to request that, in laying this letter before their Lordships, you will move them to supply Lord Kimberley with the information desired by Sir Alexander Galt.

I am to inclose, for their Lordships' information, a copy of a despatch received from the Governor-General of Canada on this subject on the 28th March last, together with a copy of the reply which Lord Kimberley returned to the Marquis of Lorne on the 11th instant, previous to the receipt of Sir A. Galt's letter now forwarded.

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

Inclosure 2 in No. 45.

Mr. Cole to Mr. Herbert.

Sir, *Treasury Chambers, April 26, 1882.*

I AM directed by the Lords Commissioners of Her Majesty's Treasury to acknowledge the receipt of your letter of the 19th instant, and its inclosures, stating that the High Commissioner for Canada has received instructions from the Dominion Government to repay the sum of 150*l.* advanced out of Imperial funds in settlement of the Aspee Bay claims, and included in the sum of 15,000*l.* paid by Her Majesty's Government in satisfaction of the claims by American fishermen in respect of the occurrences at Fortune Bay and elsewhere.

I am to request that you will move the Secretary of State to cause the inclosed receivable order to be forwarded to Sir Alexander Galt, and request him to make payment of the sum of 150*l.* in accordance therewith.

I have, &c.
(Signed) J. H. COLE.

Inclosure 3 in No. 45.

Mr. Wingfield to Sir A. Galt.

Sir,

Downing Street, April 28, 1882.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 15th instant, stating that you have received instructions to repay to Her Majesty's Government the sum of 150*l.* advanced by them in settlement of the Aspee Bay claims, and inquiring to whom payment should be made.

In reply, I am desired to transmit to you the accompanying receivable order, and to request that you will be good enough to make payment of the sum of 150*l.* in accordance therewith.

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

No. 46.

Mr. West to Earl Granville.—(Received May 20.)

(No. 207.)

My Lord,

Washington, May 9, 1882.

WITH reference to your Lordship's despatch No. 207 of the 12th September last, I have the honour to inclose herewith to your Lordship copy of a Memorandum which has been drawn up by the United States' State Department on the Fisheries question.

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

Inclosure in No. 46.

Memorandum.

REFERRING to the British Memorandum relating to the Newfoundland Statutes restricting the fisheries, viz., cap. 102, Consolidated Statutes of Newfoundland; 38 Vict., cap. 7; 39 Vict., cap. 6; 40 Vict., cap. 13; 42 Vict., cap. 2; the Government of the United States makes the following observations on these Acts:—

Section 2 of cap. 102, which is as follows:—

“No person shall at any time between the 20th day of December and the 1st day of April in any year, use any net to haul, catch, or take herrings on or near the coasts of this Colony or of its dependencies, or in any bays, harbours, or other places therein, having the mokes, meshes, or scales of such net less than 2 inches and $\frac{3}{4}$ ths of an inch at least, or having any false or double bottom of any description; nor shall any person put any net, though of legal size mesh, upon or behind any other net not of such size mesh for the purpose of catching or taking such herring or herring fry passing a single net of legal size mesh;”

And section 4 of the same Act:—

“No person shall, between the 20th day of May and the 20th day of October in any year, haul, catch, or take herrings or other bait for exportation, within 1 mile, measured by the shore or across the water, of any settlement situate between Cape Chapeau Rouge and Point Enragée, near Cape Ray; and any person so hauling, catching, or taking within the said limits may be examined on oath by a justice, officer of Customs, or person commissioned for the purpose, as to whether the herrings or other bait are intended for exportation or otherwise, and on refusal to answer, or answering untruly, such person shall, on conviction, be subject to the provisions of the 12th section of this chapter;”

are both considered to be in their provisions restrictive of the rights guaranteed to American fishermen by the XVIIIth Article of the Treaty of 1871, and the amendment to section 4 by the 39 Vict., cap. 6, which substitutes the 10th day of May for the 20th day of April, while it modifies the hardship does not remove it.

Section 4 of the latter Act 39 Vict., cap. 6, "No person shall between the hours of 12 o'clock on Saturday night and 12 o'clock on Sunday night, haul or take any herring, caplin, or squids, with nets, seines, bunts, or any such contrivance, or set or put out any such net, seine, bunt, or contrivance for the purpose of such hauling or taking," is in itself objectionable; and as amended by the 40 Vict., cap. 13, which provides "That the 4th section of the said recited Act shall be held to include and apply to the jigging of squids, and to the use of any contrivance whatever, and to any mode of taking and obtaining fish for bait," becomes, if possible, still more restrictive; and the 1st section of 42 Vict., cap. 2, is conceived by this Government to be clearly in contravention of the right of American fishermen under the stipulations of the Treaty.

That section is in these words:—

"No person shall haul, catch, or take herrings by or in a seine or other such contrivance, on or near any part of the coast of this Colony or its dependencies, or in any of the bays, harbours, or other places therein, at any time between the 20th day of October in any year and the 18th day of April in the following year, or at any time use a seine or other contrivance for the catching and taking of herrings, except by way of shooting and forthwith hauling the same: Provided that nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for in-barring or inclosing herrings in a cove, inlet, or other place."

It is true that by the 18th section of cap. 102, Consolidated Statutes of Newfoundland, which say that "Nothing in this chapter shall affect the rights and privileges granted by Treaty to the subjects of any State or Power in amity with Her Majesty," the intention of the Legislature of Newfoundland to hold in due regard the rights of American fishermen under the Treaty is manifested, but the complaint of citizens of the United States engaged in the herring fisheries on the coast of Newfoundland is that this provision has been wholly disregarded by the local Ministerial and Executive officers, and that while the prohibitory provisions of the Consolidated Statutes were rigidly enforced against American fishermen, the native fishermen were allowed complete immunity in the constant violation of the Statutes.

Section 5 of the 42 Vict., cap. 2, provides a summary mode for the execution of the Statutes and the enforcement of penalties, namely:—

"Any Justice of the Peace, Sub-Collector of Customs, preventive officer, fishery warden, or constable may board any vessel suspected of carrying herrings in bulk between the 20th day of October in any year and the 18th day of April in the following year; and in case any such Justice, Sub-Collector, preventive officer, fishery warden, or constable shall make signal to any vessel suspected as aforesaid, from any vessel employed by the Government, by dipping the ensign at the main peak three times, and firing a gun, it shall be the duty of the owner, master, or person managing or controlling such vessel so signalled to heave-to such vessel until such Justice, Sub-Collector, preventive officer, fishery warden, or constable shall have boarded and examined such last-named vessel; and in case of such master, owner, or person managing or controlling as aforesaid such last-named vessel omitting so to heave her to, or to afford facilities for such Justice, Sub-Collector, preventive officer, fishery warden, or constable boarding such vessel, or obstructing such Justice, Sub-Collector, preventive officer, fishery warden, or constable boarding or examining any such vessel, he shall be subject to a penalty of 500 dollars, to be recovered with costs in a summary manner before a Justice of the Peace; and in case default shall be made in the payment of such penalty, such Justice shall issue his warrant and cause such offender to be imprisoned for a period not exceeding thirty days."

Americans have been constantly subjected to the surveillance contemplated by that section, while Newfoundland fishermen have been not only exempted from its provisions, but have been called on by the local officials to aid them in enforcing the Statute against American fishing-vessels.

The views entertained by the Government of the United States on the subject were thus expressed to Her Majesty's Government in 1878 by Mr. Evarts, who then said:—

"This Government conceives that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland now set up as authority over our fishermen, and from every other regulation of fishing now in force or that may hereafter be enacted by that Government."

The President adheres to the interpretation thus given to the Treaty, and it is evident that, so long as these several provisions remain on the Statute Books of Newfoundland, and the disposition of the local officers to discriminate against American fishermen in their enforcement continues, the Treaty rights become a nullity, and the American fishermen have no security in the pursuit of this great industry.

If the Legislature of Newfoundland cannot dispense with these provisions altogether, then this Government conceives that an Act should be passed by it expressly declaring that the provisions enumerated shall have no application to citizens of the United States who are now, or who may hereafter, be engaged in fishing in the waters of Newfoundland under the stipulations of the Treaty of the 8th May, 1871, between the United States and Great Britain.

No. 47.

Mr. Herbert to Lord Tenterden.—(Received May 25.)

Sir, *Downing Street, May 24, 1882.*

WITH reference to your letter of the 21st ultimo, and to previous correspondence, 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 Officer administering the Government of Newfoundland relative to certain papers transmitted to him respecting the question of the termination of certain provisions of the Treaty of Washington concerning the fisheries.

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

Inclosure in No. 47.

Administrator Carter to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, May 9, 1882.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 24th April, 1882, transmitting copies, received through the Foreign Office, of a Report of the Committee of Foreign Affairs of the House of Representatives of the United States, and of the joint Resolution referred to therein, relating to the question of the termination of certain provisions of the Treaty of Washington concerning the fisheries.

These inclosures I have referred for the consideration of my Ministers.

I have, &c.
(Signed) F. B. T. CARTER.

No. 48.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, May 26, 1882.*

WITH reference to your letter of the 6th ultimo, and to previous correspondence, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a Memorandum which has been drawn up by the State Department of the United States, embodying the views of the American Government upon certain Acts which regulate the fisheries in Newfoundland waters.*

A copy of the despatch to Mr. Drummond, in which he was directed to call the attention of the United States' Government to this question, was forwarded with the letter from this Department of the 14th September last.

I am, &c.
(Signed) TENTERDEN.

No. 49.

Mr. Herbert to Lord Tenterden.—(Received May 31.)

Sir,

Downing Street, May 30, 1882.

WITH reference to the letter from this Department of the 5th instant, relating to the settlement of the Fortune Bay claims of American fishermen, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a correspondence with the Treasury upon the question of the repayment by the Government of Newfoundland of the sum advanced on this account by Her Majesty's Government.

I am, &c.

(Signed)

ROBERT G. W. HERBERT.

Inclosure 1 in No. 49.

Mr. Courtney to Mr. Herbert.

Sir,

Treasury Chambers, May 20, 1882.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to acknowledge the receipt of Mr. Bramston's letter of the 5th instant, stating that the Officer administering the Government of Newfoundland considers it advisable to defer bringing the question of the repayment of the sum advanced out of Imperial funds in satisfaction of the Fortune Bay claims before the Colonial Legislature for the present.

I am to state, for the information of the Earl of Kimberley, that the considerations urged in the letter from this Department of the 24th January last increase in force with each further delay in repayment on the part of Newfoundland.

My Lords cannot but feel that it will not be proper to abstain much longer from submitting to the House of Commons an estimate for the repayment of this amount to the Civil Contingencies Fund, and such a course would probably lead to an embarrassing discussion, in which observations might be made that would be received with little favour in the Colony, and might even provoke resentment.

My Lords trust that the Earl of Kimberley will see his way to taking such steps as will obviate so undesirable a result.

I have, &c.

(Signed)

LEONARD COURTNEY.

Inclosure 2 in No. 49.

Mr. Herbert to Mr. Courtney.

Sir,

Downing Street, May 30, 1882.

I AM directed by the Earl of Kimberley to acquaint you, for the information of the Lords Commissioners of the Treasury, that on the receipt of your letter of the 20th instant his Lordship addressed a telegram to the Officer administering the Government of Newfoundland, informing him that it would before long be necessary that a vote should be taken for the advance made by Her Majesty's Government on account of the settlement of the Fortune Bay claims of American fishermen, and desiring him to inquire of his Ministers whether, in view of the discussion which would ensue, and which might be unpleasant to the Colony, and create increased irritation, they would not consider it expedient to propose to the local Legislature a vote for repayment.

His Lordship has received a telegram in reply, stating that the Newfoundland Parliament was prorogued on the 20th of this month, and that the Government had not been able, previous to the pending dissolution, to propose a vote on this account, and that a final settlement would have been prejudiced and matters complicated by the adverse result which would have been probable had such a vote been proposed.

I am, &c.

(Signed)

ROBERT G. W. HERBERT.

No. 50.

Mr. Herbert to Lord Tenterden.—(Received June 19.)

My Lord,

Downing Street, June 19, 1882.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 26th ultimo, inclosing a copy of a Memorandum embodying the views of the United States' Government upon certain Acts which regulate the fisheries in Newfoundland waters.

2. It appears from this Memorandum that the President of the United States adheres to the interpretation given to the Treaty of Washington by Mr. Evarts, who, in 1878, contended, on the part of the United States' Government, "that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the State of Newfoundland, now set up as authority over our fishermen, and from every other regulation now in force, or that may hereafter be enacted by that Government."

3. Lord Kimberley desires me to request that you will call the attention of Earl Granville to the Report of the Law Officers of the Crown, dated the 19th July, 1873, a copy of which accompanied the letter from the Foreign Office to this Department of the 29th of the same month, in which the opinion was expressed that the words "in common with the subjects of Her Britannic Majesty," which occur in Article XVIII of the Treaty of Washington, 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 the necessity of the case seems to require that the same restriction shall apply to American fishermen. The Lord Chancellor, in his Memorandum of the 21st July, 1880, expressed his concurrence in this opinion, and held with the Law Officers that the clause in question did not mean that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject, and that there was nothing (*i.e.*, as Lord Kimberley understands, in the Treaty) to waive any part of the territorial sovereignty of Great Britain in those waters, or to give the citizens of the United States any privilege or advantage in them above British subjects. His Lordship stated that Mr. Marcy's Circular of the 28th March, 1856, which was quoted in Lord Salisbury's note to Mr. Hoppin of the 3rd April, 1880, seemed to him to be altogether right, and that its principle was as much applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view.

4. Lord Kimberley conceives this to be the view maintained by Her Majesty's Government. The object, as his Lordship understands it, of the communication made by Mr. Drummond, in pursuance of Lord Granville's instructions of the 12th September, 1881, was to ascertain which, if any, of the existing local regulations for the fisheries the United States' Government, after examining them in detail, may consider unreasonable, and in that case what amendments they would suggest.

5. It would consequently appear useless to proceed further in this matter if the United States' Government declare that their fishermen have, under the Treaty, a right to be exempt from all local regulations whatsoever; and Lord Kimberley would suggest, for the consideration of Lord Granville, whether this should not be pointed out to the United States' Government, with a clear statement that their interpretation of the Treaty is not admitted by Her Majesty's Government.

I am, &c.

(Signed)

ROBERT G. W. HERBERT.

No. 51.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, July 10, 1882.

I HAVE laid before Earl Granville your letter of the 19th ultimo, commenting on the Memorandum which has been drawn up by the United States' State Department, and which contains the views of the Government of the United States on certain Colonial Acts regulating the fisheries in Newfoundland waters.

I am now to transmit to you the draft of a despatch which Lord Granville proposes, with Lord Kimberley's concurrence, to address to Her Majesty's Minister at Washington, in reply to that Memorandum.*

I am, &c.

(Signed)

TENTERDEN.

Mr. Herbert to Lord Tenterden.—(Received July 15.)

Sir, *Downing Street, July 14, 1882.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 10th instant, inclosing the draft of a despatch which Earl Granville proposes to address to Her Majesty's Minister at Washington, upon the subject of the Memorandum drawn up by the State Department of the United States' Government, upon certain Acts of the Legislature of Newfoundland for the regulation of the fisheries in the waters of the Colony.

Lord Kimberley desires me to request that you will inform Lord Granville that he concurs in the terms of this draft despatch.

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

Earl Granville to Mr. West.

(No. 212.)

Sir, *Foreign Office, July 15, 1882.*

I HAVE to acknowledge the receipt of your despatch No. 207 of the 9th May last, transmitting a Memorandum drawn up by the State Department of the United States' Government upon certain Acts of the Legislature of Newfoundland for the regulation of the fisheries in the waters of the Colony.

This Memorandum was communicated to you by Mr. Frelinghuysen in answer to the request of Her Majesty's Government to be favoured with any suggestions which the United States' Government might be prepared to offer with a view to the friendly consideration by the two Governments of such amendments of the Fishery Regulations as might be reasonably called for in the interests of both countries.

Her Majesty's Government regret to find that the Memorandum contains no suggestion of any kind tending to that object, but that it reopens a discussion on the construction of the Treaty of Washington which it was hoped had been exhausted in the previous correspondence.

The Memorandum cites the following extract from a despatch written by Mr. Evarts in 1878, as representing the views of the United States' Government:—

“This Government conceives that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland, now set up as authority over our fishermen, and from every other regulation now in force, or that may hereafter be enacted by that Government.”

Her Majesty's Government, however, have never accepted that construction of the Treaty, and on this point I have nothing to add to the views expressed in the note which I had the honour to address to Mr. Lowell on the 27th October, 1880.*

In that note I used the following language:—

“Without entering into any lengthy discussion on this point, I feel bound to state that, in the opinion of Her Majesty's Government, the clause in the Treaty of Washington which provides that the citizens of the United States shall be entitled, ‘in common with British subjects,’ to fish in Newfoundland waters within the limits of British sovereignty means that the American and the British fishermen shall fish in these waters upon terms of equality, and not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject.

“Her Majesty's Government entirely concur in Mr. Marcy's Circular of the 28th March, 1856. The principle therein laid down appears to them perfectly sound, and as applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view; they cannot, therefore, admit the accuracy of the opinion expressed in Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878, ‘that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland,’ if by that opinion anything inconsistent with Mr. Marcy's principle is really intended. Her Majesty's Government, however, fully admit that, if any such local

* See Parliamentary Papers “United States No. 1 (1881);” and “No. 2 (1881),” p. 55, No. 39.

Statutes could be shown to be inconsistent with the express stipulations, or even with the spirit of the Treaty, they would not be within the category of those reasonable regulations by which American (in common with British) fishermen ought to be bound; and they observe, on the other hand, with much satisfaction, that Mr. Evarts, at the close of his letter to Mr. Welsh of the 1st August, 1879, after expressing regret at 'the conflict of interests which the exercise of the Treaty privileges enjoyed by the United States appears to have developed,' expressed himself as follows:—

“There is no intention on the part of this [the United States'] Government that these privileges should be abused, and no desire that their full and free enjoyment should harm the colonial fishermen.

“While the differing interests and methods of the shore fishery and the vessel fishery make it impossible that the regulation of the one should be entirely given to the other, yet if the mutual obligations of the Treaty of 1871 are to be maintained, the United States' Government would gladly co-operate with the Government of Her Britannic Majesty in any effort to make those regulations a matter of reciprocal convenience and right, a means of preserving the fisheries at their highest point of production, and of conciliating a community of interest by a just proportion of advantages and profits.”

I expressed the satisfaction with which Her Majesty's Government not only recognized in Mr. Evarts' proposal above referred to an indication that their desire to arrive at a friendly and speedy settlement of the controversy was fully reciprocated by the Government of the United States, but also discerned in it the basis of a practical solution of the difficulty; and I assured Mr. Lowell of the readiness of Her Majesty's Government to confer with the Government of the United States respecting the establishment of Regulations under which the subjects of both parties to the Treaty of Washington should have the full and equal enjoyment of any fishery which, under the Treaty, is to be used in common.

The Memorandum of the United States' Government, after reviewing certain provisions of the Newfoundland Acts, complains of partiality in their enforcement by the magistrates and other officials of the Colony (a complaint which Her Majesty's Government cannot admit to be well-founded, and in support of which no facts are adduced), and concludes with a suggestion that if the Legislature of Newfoundland cannot dispense with those provisions altogether, it should pass an Act expressly declaring that they shall have no application to the citizens of the United States.

I can only renew the expression of the regret and disappointment which is felt by Her Majesty's Government at the apparent disinclination on the part of the Government of the United States to carry out Mr. Evarts' proposal; and I have to instruct you to read this despatch to Mr. Frelinghuysen, and to leave a copy of it with him should he desire it, conveying to him at the same time the hope of Her Majesty's Government that, upon further consideration, the Government of the United States will agree to let the disputed question of Treaty rights remain in abeyance, and will unite with Her Majesty's Government in carrying out the revision of the Fishery Regulations in the spirit and with the object indicated by Mr. Evarts.

I am, &c.
(Signed) GRANVILLE.

No. 54.

Mr. Cole to Lord Tenterden.—(Received July 20.)

My Lord,

Treasury Chambers, July 19, 1882.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to return to you the inclosures which accompanied Sir Julian Pauncefote's letter of the 14th instant, respecting the feeling evinced in the Colony of Newfoundland on the subject of the settlement of the claims preferred by American fishermen on account of occurrences at Fortune Bay and elsewhere, and I am to transmit to you, for the information of Earl Granville, the inclosed copy of a letter which my Lords caused to be addressed to the Colonial Office on the subject on the 1st instant.

I have, &c.
(Signed) J. H. COLE.

Inclosure in No. 54.

Mr. Courtney, M.P., to Mr. Herbert.

Sir,

Treasury Chambers, July 1, 1882.

THE Lords Commissioners of Her Majesty's Treasury have had before them Mr. Bramston's letter of the 23rd ultimo, transmitting the copy of a despatch from the Officer administering the Government of Newfoundland, inclosing a printed Report of a speech by Mr. Harvey in the Legislative Council on the subject of the settlement of the claims preferred by American fishermen on account of occurrences at Fortune Bay and other places.

I am to return to you the printed inclosure to Sir F. Carter's despatch; and I am to state, for the information of Earl Kimberley, that my Lords would suggest that advantage should be taken of the approaching visit of Sir William Whitway to press on his attention the considerations urged in the letters from this Department of the 24th January and 20th May, and especially the necessity under which my Lords will be constrained to ask the House of Commons to vote the sum that has been paid for the Newfoundland Government in the absence of a certain and speedy prospect of repayment by the Colony.

I have, &c.

(Signed) LEONARD COURTNEY.

No. 55.

Mr. West to Earl Granville.—(Received August 15.)

(No. 309.)

My Lord,

Washington, August 3, 1882.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 212 of the 15th instant expressing the views of Her Majesty's Government on the Memorandum drawn up by the State Department of the United States Government upon certain Acts of the Legislature of Newfoundland for the regulation of the fisheries in the waters of that Colony, and to inform your Lordship that I have this day communicated it to the Secretary of State according to the instructions therein contained, and at his request left a copy of it in his hands.

I drew Mr. Frelinghuysen's attention to the expression of the hope on the part of Her Majesty's Government that the Government of the United States will agree to let the disputed question of Treaty rights remain in abeyance, and that they will unite with Her Majesty's Government in carrying out the revision of the fishery regulations in the spirit, and with the object indicated by Mr. Evarts; and I urged upon him the expediency of attending to this matter during the recess.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 56.

Mr. Bramston to Sir J. Pouncefote.—(Received August 24.)

Sir,

Downing Street, August 23, 1882.

WITH reference to previous correspondence respecting the Aspee Bay claims, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further despatch, with its inclosure, from the Governor-General of Canada, on the subject of the payment to Her Majesty's Government of the sum of 150l. on this account.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure 1 in No. 56.

The Marquis of Lorne to the Earl of Kimberley.

My Lord,

Citadel, Quebec, July 29, 1882.

WITH reference to your Lordship's despatch of the 30th June, 1881, and to my reply of the 11th March last, I have the honour to forward herewith a copy of an approved Report of a Committee of the Privy Council of Canada, embodying a Report by the Minister of Marine and Fisheries, recommending, for the reasons stated therein, that payment of 150*l.* be made to Sir John Rose, Bart., to settle the claim preferred by Her Majesty's Government against the Government of Canada on account of the Aspee Bay affair.

I have, &c.
(Signed) LORNE

Inclosure 2 in No. 56.

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General on the 22nd day of July, 1882.

THE Committee of Council have had under consideration a despatch dated the 30th June, 1881, setting forth a claim on the Dominion Government for payment of 150*l.* as a part of the sum paid by the Imperial Government to the Government of the United States in settlement of certain claims for alleged interruptions of their fishery rights under the Washington Treaty by inhabitants of Newfoundland, including the affair at Aspee Bay.

The Minister of Marine and Fisheries, to whom the said despatch was referred, reported under date the 28th February, 1882, that he saw no sufficient reasons why such payment should be made; but since that time there has been placed before him communications of a confidential nature which lead him, notwithstanding the circumstances set forth, and the reasons given in his Report of the 28th February last, to advise the payment; and he, the Minister, therefore recommends that payment of 150*l.* be made to Sir John Rose, Bart., G.C.M.G., to settle the Aspee Bay claim with the Imperial Government.

The Committee concur in the foregoing recommendations of the Minister of Marine and Fisheries, and submit the same for your Excellency's approval. At the same time, the Committee must repeat their regret that this claim was entertained without the knowledge or consent of the Canadian Government; and they desire that it should not be understood that they admit the justice of the claim. They also desire that this Minute be communicated to Her Majesty's Principal Secretary of State for the Colonies.

(Signed) JOHN MCGEE,
Clerk of the Queen's Privy Council for Canada.

No. 57.

Mr. Ashley to Lord E. Fitzmaurice.—(Received August 10.)

Dear Fitzmaurice,

Downing Street, August 9, 1883.

I WISH you would suggest to Lord Granville the expediency of sending another reminder to Washington, asking for an answer to our proposal for an agreement as to Fishery Regulations in Newfoundland. It is true that the United States' Government has given notice to determine the fishery clauses of the Treaty, but still it has two years to run, and though we have had no fishery rows the last year, some may arise; and I am from time to time questioned in the House as to whether we have agreed with United States on any regulations.

Yours, &c.
(Signed) EVELYN ASHLEY.

No. 58.

Earl Granville to Mr. West.

(No. 185.)

Sir, *Foreign Office, August 24, 1883.*

REFERRING to my despatch No. 212, and to your despatches Nos. 309 and 407 of last year's series, I have to remind you that no further communication has yet been received by Her Majesty's Government relative to the proposed revision of the Regulations for the protection of the fisheries in Newfoundland waters.

Although notice has been given by the United States' Government of their intention to terminate the fishery Articles of the Treaty of Washington in two years' time from the 1st July last, Her Majesty's Government are anxious that in the interval no cause of difference should arise between the fishermen of Newfoundland and of the United States who may resort to those waters; and they would be glad, therefore, to know the views of the United States' Government as to their proposal.

I have now to request that you will again bring this matter before the United States' Government, and report to me the result of your communications.

I am, &c.
(Signed) GRANVILLE.

No. 59.

*Mr. Currie to Sir R. Herbert.*Sir, *Foreign Office, August 30, 1883.*

WITH reference to your letter of the 14th July, 1882, and to previous correspondence on the subject of the proposed Revision of the regulations for the protection of the fisheries in Newfoundland waters, I am directed by Earl Granville to transmit to you a copy of a despatch which his Lordship has addressed to Her Majesty's Minister at Washington, instructing him to bring the matter again before the United States' Government.*

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

No. 60.

Memorandum by Lord E. Fitzmaurice.

SEND to Lord Lansdowne, at Meikleour, Perth, any Confidential Memoranda or other papers which it may be desirable for him to see in regard to the Fishery question, and the clauses of the Treaty of Washington bearing on it.

E. F.

September 25, 1883.

No. 61.

*Mr. Currie to the Marquis of Lansdowne.*My Lord, *Foreign Office, September 28, 1883.*

I AM directed by Earl Granville to transmit, for your Lordship's perusal, the accompanying Confidential printed correspondence respecting the termination of the fishery Articles of the Treaty of Washington of the 8th May, 1871, notice of which was communicated to Her Majesty's Government by the United States' Minister in London, on the 2nd July last.†

A copy of that Treaty is inclosed herewith for convenience of reference.

I am at the same time to forward the correspondence, noted in the margin,‡ showing the present position of the negotiations with the United States' Government in regard to the Regulations to be enforced for the protection of the fisheries in Newfoundland waters,

* No. 58.

† See "Correspondence respecting the Termination of the Fishery Articles of the Treaty of Washington of the 8th May, 1871," Nos. 1 to 33.

‡ Nos. 10, 11, 46, 50, 52, 53, 55, 56, 58, and 59; see also Colonial Office, June 30, 1881, not printed.

pending the termination, on the 1st July, 1885, of the fishery Articles Nos. XVIII to XXV, and No. XXX of the Treaty of Washington.

It is requested that these papers may be returned to the Foreign Office.

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

No. 62.

The Marquis of Lansdowne to Mr. Currie.—(Received October 2.)

Sir,

Meikleour, Perth, September 30, 1883.

I HAVE the honour to return herewith the papers sent to me from the Foreign Office under cover of Mr. Currie's letter of the 28th instant, and I am much obliged to Lord Granville for having given me an opportunity of seeing them.

I have, &c.
(Signed) LANSDOWNE.

No. 63.

Mr. West to Earl Granville.—(Received October 29.)

(No. 301.)

My Lord,

Washington, October 10, 1883.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 185 of the 24th August, instructing me to bring the matter of the revision of the Fisheries Regulations again before the United States' Government, and to inclose to your Lordship herewith copy of a note which I have addressed to the Secretary of State on this subject.

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

Inclosure in No. 63.

Mr. West to Mr. Frelinghuysen.

Sir,

Washington, October 9, 1883.

REFERRING to a communication from Earl Granville, conveyed to me in a despatch, copy of which I had the honour to place in your hands on the 3rd August of last year, respecting the revision of the Fishery Regulations, I have the honour to inform you that his Lordship has requested me again to bring this matter before the United States' Government.

Although notice has been given by the United States' Government of their intention to terminate the fishery Article of the Treaty of Washington in two years' time from the 1st of July last, no further communication has been as yet received by Her Majesty's Government relative to the proposed revision of the Regulations for the protection of the fisheries in Newfoundland waters, and Her Majesty's Government are anxious that in the interval no cause of difference should arise between the fishermen of Newfoundland and of the United States who may resort to those waters. They would be glad, therefore, to know the views of the Government of the United States on the proposed revision. At the same time Her Majesty's Government hope that in the interval before the termination of the fishery Articles in question the Government of the United States will agree to let the disputed question of Treaty rights remain in abeyance, and will unite with Her Majesty's Government in carrying out the revision of the Fishery Regulations in the spirit and with the object indicated by Mr. Evarts in his letter to Mr. Welsh of the 1st August, 1879, in which it is said that "there is no intention on the part of the Government of the United States that privileges should be abused, and no desire that their full and free enjoyment should harm the colonial fishermen. While the different interests and methods of the shore fishery and the vessel fishery makes it impossible that the regulation of the one should be entirely given to the other, yet if the mutual obligations of the Treaty of 1871 are to be maintained, the United States' Government would gladly co-operate with the Government of Her Britannic Majesty in any effort to make those Regulations a matter of reciprocal

convenience and right, a means of preserving the fisheries at their highest point of production and of conciliating a community of interest by a just proportion of advantages and profits."

In expressing, therefore, the hope on the part of Her Majesty's Government that this matter may receive the early consideration of the Government of the United States, I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 64.

Mr. West to Earl Granville.—(Received October 29.)

(No. 309.)

My Lord,

Washington, October 13, 1883.

I HAVE the honour to inform your Lordship that I had yesterday some conversation with the Secretary of State on the subject of my note respecting the Fisheries Regulations, copy of which was inclosed in my despatch No. 301 of the 10th instant.

Mr. Frelinghuysen said that the Marquis of Lorne, when in Washington, had suggested to him the appointment of an International Scientific Commission, which should examine all questions connected with the fisheries, but that he had been unable as yet to consider this suggestion.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 65.

Mr. Currie to Sir R. Herbert.

Sir, *Foreign Office, November 5, 1883.*
 WITH reference to the letter from this Department of the 30th August last, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Derby, copies of the correspondence marked in the margin,* containing the substance of Mr. West's latest communications with the United States' Government on the subject of the proposed revision of the Regulations for the protection of the fisheries in Newfoundland waters.

I am, &c.

(Signed) P. CURRIE.

X

* Inclosure in No. 63, and No. 64.