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CONFIDENTIAL.

(7135.)

PART I.

CORRESPONDENCE

RESPECTING THE

PROCEEDINGS OF THE JOINT COMMISSION

FOR THE

**SETTLEMENT OF QUESTIONS PENDING BETWEEN
THE UNITED STATES AND CANADA.**

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CONFIDENTIAL.

Correspondence respecting the Proceedings of the Joint Commission for the Settlement of Questions pending between the United States and Canada.

PART I.

No. 1.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received March 19.)

(No. 56. Confidential.)

My Lord,

Washington, March 10, 1898.

I HAVE the honour to acknowledge the receipt of your Lordship's telegram No. 15 of the 1st instant, inquiring whether I could give some idea of the yearly sum which the United States' Government might be disposed to pay for the suspension of pelagic sealing, in the event of a suggestion which I had ventured to make for a settlement of the fur-seal question on that basis being entertained.

Shortly after the receipt of that inquiry, I took the opportunity of a private conversation with General Foster to discuss with him the possibility of such a solution. I found him as much opposed to it as to every other proposal which has yet been made. The main objection, in his view, was that other nations, and especially Russia and Japan, might immediately claim a similar money compensation for their abstention from pelagic sealing. I pointed out the extreme improbability of such a claim, and urged, moreover, that such a remote contingency might be met by a power on either side to terminate the agreement on reasonable notice. But I failed to convert him to my view, and I do not think that there is much prospect of any amicable arrangement so long as he is intrusted by his Government with the management of their fur-seal negotiations.

I subsequently availed myself of the occasion of presenting General Gascoigne (commanding the Canadian Militia) at the White House, to converse with the President on the subject, and generally, on the desirability of appointing a Mixed Commission who should endeavour to adjust the various questions in difference between the United States and Canada. Such a Commission, I observed, would be sitting now had not General Foster insisted on an impracticable condition, namely, the immediate suspension of pelagic sealing.

The President expressed the most earnest desire to facilitate the settlement of all those questions, and especially those which related to the development of the gold mining industry in the Valley of the Yukon, and to the reciprocal facilities which should be granted by both countries for that purpose in the interest of civilization. As to the suggested settlement of the fur-seal question by means of a money payment, he saw no objection to it in principle, and, if a Mixed Commission were appointed it might be charged to endeavour to work out that scheme failing any other solution. But he thought it useless to convene a Mixed Commission until a preliminary investigation had taken place with a view to arriving at a basis of arrangement after a careful examination of the various complaints and requirements on both sides. He finally proposed that I should myself enter upon such preliminary investigation with

Mr. Kasson, the United States' Reciprocity Commissioner, and Mr. Day, the Assistant Secretary of State.

The effect of that arrangement would be to transfer the negotiation from the Fur-seal Commissioner to the Reciprocity Commissioner, and to let the fur-seal question rest until revived by the Mixed Commission, should they be fortunate enough to agree upon some adequate compensation for the suspension by Canada of the national right of pelagic sealing.

I did not discourage the idea of such preliminary investigation, as if conducted with proper assistance from Canadian Delegates it would probably be as effective as a formal Commission. I therefore thanked the President for his suggestion, and said that I would communicate it to your Lordship.

It is not possible to estimate the amount of pecuniary compensation which the United States would be willing to give for the suspension of pelagic sealing. That amount would have to be settled by the Mixed Commission or by arbitration, and, provided the principle of monetary compensation be accepted, I believe there would be no difficulty in getting the necessary appropriation from Congress.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 2.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received April 11.)

(No. 91.)

My Lord,

Washington, April 1, 1898.

I HAVE the honour to report that, upon receipt of your Lordship's telegram No. 28 of the 23rd ultimo, I addressed a note to the United States' Secretary of State, copy inclosed, stating the decision of Her Majesty's Government with regard to the proposed discussion for the revision of the Behring Sea Regulations, and also respecting the suggestion of a preliminary discussion of the questions at issue between Canada and the United States.

I have now received a reply from the Acting Secretary of State, Mr. Day, copy of which I also inclose.

Mr. Day states that "it will be a source of great satisfaction to the United States' Government" if, "by the pursuance of the methods proposed, all the relations of the United States with the neighbouring Dominion can be established on a just and mutually advantageous basis, which shall promote alike their prosperity and their concord."

The Honourable J. W. Foster is designated to conduct, on the part of the United States, the discussion respecting the revision of the Behring Sea Regulations, and the Honourable John A. Kasson to conduct that respecting the other questions between Canada and the United States, it being agreed that both discussions shall proceed *pari passu*.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 2.

Sir J. Pouncefote to Mr. Sherman.

Sir,

Washington, March 26, 1898.

I HAVE the honour to state that I transmitted, without delay, to my Government a copy of your note of the 1st instant, in which you urge that an arrangement be agreed upon with as little delay as possible for the revision of the Seal Fishery Regulations prescribed under the Award of the Behring Sea Arbitration Tribunal.

I also informed my Government of the suggestion made in the course of my conversation at the State Department on the subject of a Mixed Commission for a settlement of questions at issue between Canada and the United States, that it might be desirable to hold a preliminary discussion of those questions with a view to arriving at a basis of arrangement which would justify the assembling of a formal Commission. I added that it would seem important that both discussions, though conducted separately, should proceed *pari passu*.

It affords me much gratification to inform you that I have now received a telegram from the Marquess of Salisbury, to the effect that Her Majesty's Government agree to a discussion for the revision of the Behring Sea Regulations, and that the Canadian Minister of Marine will be associated with me for the purpose. Further, that Her Majesty's Government also gladly accede to the suggestion for a preliminary discussion of questions at issue between Canada and the United States, for which purpose a Canadian Delegate will be sent to Washington to assist me.

Her Majesty's Government concur in my suggestion that the two discussions should take place *pari passu*.

On learning when your Government is prepared to proceed as above, I will communicate with the Governor-General of Canada with a view to fixing the date for the arrival of the Minister of Marine and of the Canadian Delegate.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 2.

Mr. Day to Sir J. Pauncefote.

Excellency,

Washington, March 30, 1898.

I HAVE the honour to acknowledge the reception of your Excellency's note of the 26th instant, in which, after referring to your previous conversation at the Department of State, you advise me that Her Majesty's Government agree to a discussion for the revision of the Behring Sea Regulations, in respect to which the Canadian Minister of Marine will be associated with you. You were also pleased to inform me that Her Majesty's Government accede to the suggestion for a preliminary discussion of the questions at issue between Canada and the United States, for which purpose a Canadian Delegate will be sent to Washington to assist you. You further suggest, on the part of your Government, that the two discussions should take place *pari passu*.

It will be a source of great satisfaction to this Government if, by the pursuance of the methods proposed, all the relations of the United States with the neighbouring Dominion can be established on a just and mutually advantageous basis, which shall promote alike their prosperity and their concord.

To facilitate this result the President has designated the Honourable John W. Foster to conduct, on the part of the United States, the discussion respecting the revision of the Behring Sea Regulations, and the Honourable John A. Kasson to conduct the discussion respecting the other questions at issue between Canada and the United States.

In respect to the date for the convenient arrival of the respective Canadian Representatives, I beg you will put yourself in communication with the gentlemen named on the part of this Government.

I have, &c.

(Signed) WILLIAM R. DAY,
Acting Secretary.

No. 3.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received April 11.)

(No. 35.)

(Telegraphic.) P.

Washington, April 11, 1898.

MIXED Commission.

With reference to my despatch No. 91 of the 1st instant, I have received from the Governor-General of Canada by telegraph a list of the subjects proposed by the Dominion Government for preliminary discussion.

His Excellency has repeated this to the Colonial Office.

Am I authorized to communicate this list to the United States' Government ?

No. 4.

The Marquess of Salisbury to Sir J. Pouncefote.

(No. 69.)

(Telegraphic.) P.

Foreign Office, April 15, 1898.

QUESTIONS for discussion between Canada and the United States.

Your telegram No. 35 of the 11th April.

If you see no objection, you may communicate list to United States' Government.

No. 5.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received May 27.)

(No. 75.)

(Telegraphic.) P.

Washington, May 27, 1898.

THE arrival of the Canadian Minister of Marine took place on 24th May.

It is desired by the United States' Government and Canadian Government that all matters in difference between them, including Alaska Boundary, Atlantic and Pacific fur-seal and inland fisheries, bonding and transit privileges, readjustment of duties, armed vessels on great lakes, frontier boundaries, alien labourer laws, mining rights, &c., shall be dealt with by an important Commission, composed of eminent and impartial members, who shall command the confidence of both countries.

Canadian Minister and I have commenced preliminary negotiations with Messrs. Kasson and Foster. We are preparing a list of subjects and an entire scheme for carrying out the proposal. Our proceedings are of course *ad referendum*.

The United States' Government are willing the Commission should sit at Ottawa, with power to move to any other place; but the President is most anxious that the Commission should be composed of five members on each side, as he deems it necessary, in order to facilitate the adoption of its conclusions by Congress, that the influential members of the Senate and the House of [? Representatives] should be included. I have objected to so large a number, and on that and on any other point I should be glad to receive your Lordship's instructions.

No. 6.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, May 28, 1898.

WITH reference to the letter from this Department of the 21st instant, I am directed by the Marquess of Salisbury to transmit to you a copy of a telegram from Her Majesty's Ambassador at Washington,* on the subject of the informal discussions now proceeding at that capital with regard to the questions pending between the United States and Canada.

It will be seen that the United States' and Canadian Governments desire that all matters of difference between them, including the fur-seal question, should be referred to an important Commission which would command the confidence of both countries, and that the President of the United States is anxious that it should be composed of five members on each side.

Sir J. Pouncefote states that he has objected to so large a number, but asks that he may be furnished with instructions on this and any other point.

Lord Salisbury would be glad to be favoured with Mr. Secretary Chamberlain's views as to the reply which should be sent to his Excellency.

I am, &c.

(Signed) FRANCIS BERTIE.

No. 7.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received May 31.)

(No. 76.)

(Telegraphic.) P.

Washington, May 31, 1898.

PROPOSED Commission on Canadian questions.

I am forwarding by to-day's mail copy of the Protocol of recent Conference, which was yesterday signed *ad referendum*. The Canadian Minister of Marine expressed himself quite satisfied with the arrangements concluded, and has left for Ottawa.

It is recommended that the first meeting should take place at the city of Quebec.

The number of the Commissioners to be appointed on either side is left for future determination.

The following additions are made to the list of subjects :—

1. Reciprocity in regard to wrecking and salvage on sea coasts.
2. The conveyance, by officers of either country, of prisoners through the territory of the other for trial or punishment.
3. Any other question remaining unsettled between Canada and the United States which it may be agreed by the Commission to take up.

The conclusions arrived at by the Commission are to be embodied in the form of one or more Conventions, with a view to their ratification by the respective Governments.

Certain other usual provisions have been inserted.

No. 8.

Colonial Office to Foreign Office.—(Received June 2.)

(Confidential.)

Sir,

Downing Street, June 2, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 28th ultimo, inclosing copy of a telegram from Her Majesty's Ambassador at Washington on the subject of the informal discussion now proceeding there with regard to the questions pending between the United States and Canada.

In view of the number and complexity of the questions to be dealt with by the proposed International Commission, Mr. Chamberlain considers that the larger number of members would probably facilitate business by rendering it possible to appoint Committees of the Commission to deal with special questions, and he would suggest, for Lord Salisbury's consideration, that Sir J. Pauncefote should be informed that Her Majesty's Government see no objection to a Commission of five on each side, as in the case of the negotiations which led to the Treaty of Washington in 1871.

I am to add that Mr. Chamberlain does not consider it necessary to instruct Sir J. Pauncefote at present on any other point.

I am, &c.

(Signed) H. BERTRAM COX.

No. 9.

The Marquess of Salisbury to Sir J. Pauncefote

(No. 107.)

(Telegraphic.) P.

Foreign Office, June 2, 1898.

WITH reference to your telegram No. 75 of the 21st May, regarding questions pending between the United States and Canada, Her Majesty's Government see no objection, in view of the number and complexity of the questions to be discussed, to the proposed Commission consisting of five members on each side.

No. 10.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received June 9.)

(No. 186.)

My Lord,

Washington, May 31, 1898.

WITH reference to my telegrams No. 75 and 76 of the 27th instant and this day respectively, on the subject of the proposed Joint Commission for the adjustment of questions in difference between Canada and the United States, I have the honour to transmit herewith copy of the Protocol of the Conferences, held in Washington, which was signed on the 30th instant by myself and the Honourable Sir Louis Davies, Minister of Marine of Canada, on the part of Great Britain, and by the Honourable John Kasson and the Honourable J. W. Foster, on the part of the United States.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 10.

Protocol of the Conferences at Washington in May, 1898, preliminary to the appointment of a Joint Commission for the adjustment of questions at issue between the United States and Great Britain in respect to the relations of the former with the Dominion of Canada.

AT the first meeting of the Conferees, held on the 25th day of May, were present:—

On the part of Great Britain, his Excellency the Right Honourable Sir Julian Pauncefote, G.C.B., G.C.M.G., Her Britannic Majesty's Ambassador at Washington, &c., and the Honourable Sir Louis Davies, K.C.M.G., Minister of Marine and Fisheries of the Dominion of Canada; and, on the part of the United States, the Honourable John W. Foster, late Secretary of State of the United States, &c., and the Honourable John A. Kasson, Special Commissioner Plenipotentiary, &c.

At this meeting the Conferees considered and adopted the following Declarations:—

There is concurrence of views on both sides upon the following points:—

1. It is desirable that all controversies between the United States and Great Britain in respect to the Dominion of Canada should be amicably settled, to the end that their intercourse shall be established and maintained on the principle of a cordial friendship between coterminous neighbours.

2. To accomplish this result, it is expedient that each should communicate to the other, in outline, the modification of existing conditions, the concessions, or adjustments which it believes ought to be made for the removal of grievances and for the improvement of its commercial or international relations with the other.

3. That for the final consideration and adjustment of the questions so presented a Joint Commission, to consist of _____ members to be appointed by each of the Governments, should be created with Plenipotentiary powers, whose conclusions shall be presented in the form of a Convention, or Conventions between the two Governments.

4. In the meantime it is expedient that informal *pourparlers* should proceed with a view to formulate the propositions to serve as bases for the consideration and determination of the Commission to be appointed as above suggested.

At the second meeting, held on the 26th day of May, the same Conferees being present, the subjects which should be presented for the consideration and action of the proposed Joint Commission were presented and discussed. The number of members of which the Commission should consist, and the place where the sessions of the Commission should be held, were also considered.

The Conferees on the part of the United States expressed their desire to consult the wishes of the Canadian Government in respect to the place of meeting of the Commission, and would not object to a convenient point in Canada, if this should be more agreeable to that Government.

They further expressed the opinion that in view of the number and character of

the questions before the Commission, it should be composed of five Representatives of each Government.

The Conferees on the part of Great Britain were apprehensive that so large a number might be conducive to debate and delay rather than to deliberation and decision.

Without concluding the consideration of the foregoing subjects, the meeting was adjourned until Friday, the 27th.

At the third meeting, held on Friday, the 27th May, the same Conferees being present, the subjects discussed at the previous meeting were again under consideration, and the following statement of the subjects to be presented for the action of the Joint Commission was agreed upon.

In order to attain a complete concord in the relations between the United States and the Dominion of Canada, it is expedient to come to an agreement upon the following subjects:—

1. The questions in respect to the fur-seals in Behring Sea and the waters of the North Pacific Ocean.

2. Provisions in respect to the Fisheries off the Atlantic and Pacific coasts, and in the inland waters of their common frontier.

3. Provisions for the delimitation and establishment of the Alaska-Canadian boundary, by legal and scientific experts, if the Commission shall so decide, or other wise.

4. Provisions for the transit of merchandize in transportation to or from either country across intermediate territory of the other, whether by land or water, including natural and artificial waterways, and intermediate transit by sea.

5. Provisions relating to the transit of merchandize from one country, to be delivered at points in the other beyond the frontier.

6. The question of the alien labour laws applicable to the subjects or citizens of the United States, and of Canada.

7. Mining rights of the citizens or subjects of each country within the territory of the other.

8. Such readjustment and concessions as may be deemed mutually advantageous of customs duties applicable in each country to the products of the soil or industry of the other, upon the basis of reciprocal equivalents.

9. A revision of the Agreement of 1817 respecting naval vessels on the lakes.

10. Arrangements for the more complete definition and marking of any part of the frontier-line, by land or water, where the same is now so insufficiently defined or marked as to be liable to dispute.

11. Provisions for the conveyance for trial or punishment of persons in the lawful custody of the officers of one country through the territory of the other.

Any other unsettled difference not included in the foregoing specifications may be considered and acted upon by mutual agreement of the Commissioners representing the two Governments.

It was also understood that, so far as practicable, and in accordance with the second paragraph of the Declaration adopted at the first meeting, each Government should communicate to the other, in advance of the meeting of the Commission, a Memorandum of its views on each of the aforesaid subjects.

There was also a concurrence of opinion that each Government should defray the expenses of its own Commissioners, and that any joint expenses incurred by order of the Joint Commission, and so certified, should be paid in equal moieties by the respective Governments.

And that the Joint Commission when assembled, should be authorized to determine from time to time, in its discretion, the dates and places of its sessions.

The meeting was then adjourned until Saturday the 28th.

At the fourth meeting held on Saturday, the 28th May, the same Conferees being present, upon the suggestion of Sir Louis Davies, the third clause in the statement of subjects to be submitted to the proposed Commission, and relating to the Alaska-Canadian boundary, was amended by adding the following words at the end thereof: "by legal and scientific experts if the Commission shall so decide, or otherwise."

In that connection it was remarked by the Conferees, on the part of the United States, that, in their opinion, the power of the Commission to consider this method of adjustment already existed in the former terms, and that this addition neither enlarged nor restricted the powers already granted. They had, therefore, no objection to the amendment.

It was further agreed that each Government would have the power at any time after the appointment of its Commissioners to fill any vacancy in its representation arising from any cause.

The British Conferees desiring time to consult their Government touching the number of Commissioners and the time and place for the first meeting of the Joint Commission, it was agreed that these points should be settled by subsequent correspondence between the two Governments.

In the meantime, the Conferees of the United States concurred in the suggestion of the British Conferees that Quebec might be named as a suitable place for the assembling of the Commission.

The Conference then adjourned until Monday, the 30th May.

At the fifth meeting held on Monday, the 30th May, the same Conferees being present, Sir Louis Davis renewed the question which had been mentioned at the meeting on Saturday of submitting to the proposed Commission the subject of reciprocity in wrecking and salvage rights and in the coasting trade, and urged, in accordance with instructions from the Canadian Government, that they should be specifically referred for consideration to the proposed Commission.

In reply, it was stated by the Conferees, on the part of the United States, that in respect to wrecking they regarded that question as an "unsettled difference" which had been already discussed between the two Governments, and that it could properly come before the Commission.

Thereupon it was distinctly understood by the Conferees that the question of reciprocity in wrecking and salvage rights should be submitted to the proposed Joint Commission.

In respect to the coasting trade, the Conferees, on the part of the United States, observed that this could hardly be considered a question in difference between the two Governments. Under existing instructions from their Government they did not feel at liberty to include it within the jurisdiction conferred upon the Joint Commission.

Having concluded the subjects before them for consideration, the Conference then adjourned without date.

In verification of the foregoing Protocol of their proceedings and conclusions, the Conferees aforesaid have hereunto affixed their names in duplicate this 30th day of May 1898, under reserve of the approval of their respective Governments.

(Signed)

JULIAN PAUNCFOTE.

L. H. DAVIES.

JOHN W. FOSTER.

JOHN A. KASSON.

No. 11.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received June 9.)

(No. 187.)

My Lord,

Washington, May 31, 1898.

IN continuation of my despatch, No. 169, of the 17th instant, I have the honour to report that the Honourable Sir Louis Davies, Minister of Marine of Canada, arrived in Washington on the 24th, and gave me full explanations of the wishes of his Government with regard to the proposed discussions in relation to the Fur-seal Fishery Regulations, and to all other questions in difference between the United States and Canada.

He had been instructed to agree to a discussion of the preliminaries for the convening of a Joint Commission, which should deal with the whole of the questions above mentioned.

On the following morning we called on the Secretary of State, and afterwards, by appointment, on the President, who received us with the greatest friendliness, and expressed his entire concurrence in the proposal for the immediate appointment of a Joint Commission.

I took the opportunity of stating that, in view of the great importance of the questions which would be submitted to the Commission, I thought it indispensable that it should be composed of eminent and impartial members, who would command the confidence of both countries.

The President expressed his entire assent, and stated that, on the part of the

United States, care would be taken to select the very best men available. He added that he had only for the present thought of one member, whom he considered would be eminently fitted, although he had not made up his mind on the subject. He referred to the Honourable J. A. Kasson, the Reciprocity Commissioner Plenipotentiary.

I replied that I thought such an appointment would be quite satisfactory to my Government. The President did not mention the name of General Foster, which makes me hope that, although engaged in the preliminary negotiations for a Commission, he will not be appointed a member of it.

On taking leave of the President, we adjourned to the State Department, where, in accordance with previous arrangement, I and Sir Louis Davies opened the negotiations, of which a full report is inclosed in my despatch No. 186 of this day's date.

I am now awaiting your Lordship's instructions on the subject of the Joint Commission, and I trust that my action in relation thereto will be approved by Her Majesty's Government.

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

No. 12.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, June 11, 1898.

WITH reference to my letter of the 31st ultimo, I am directed by the Marquess of Salisbury to transmit to you, to be laid before Mr. Secretary Chamberlain, a copy of a despatch from Her Majesty's Ambassador at Washington,* inclosing the Protocol of the Conferences held at Washington and signed on the 30th May, providing for the appointment of a Joint Commission for the adjustment of all questions pending between Canada and the United States.

The Protocol was signed *ad referendum*, and Lord Salisbury would be glad to know whether, in Mr. Chamberlain's opinion, it may be accepted and approved by Her Majesty's Government.

I am also to inclose a copy of a further despatch from Her Majesty's Ambassador,† giving an account of the discussions which took place between his Excellency, the Canadian Minister of Marine, and the President of the United States, previous to the holding of the Conferences, and to state that Lord Salisbury proposes, with Mr. Chamberlain's concurrence, to express approval of Sir J. Pauncefote's proceedings in the matter.

I am, &c.
(Signed) F. H. VILLIERS.

No. 13.

Colonial Office to Foreign Office.—(Received June 14.)

(Confidential.)

Sir,

Downing Street, June 14, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 11th instant, inclosing copy of a despatch from Her Majesty's Ambassador at Washington, covering the Protocols of the Conference to discuss the preliminaries for a Joint Commission for the adjustment of all unsettled questions between Canada and the United States.

Mr. Chamberlain entirely concurs in the proposal of the Marquess of Salisbury to express approval of Sir J. Pauncefote's action in this matter.

In regard to the date for the first meeting of the Conference and other matters in the Protocols, a further communication will be addressed to you when a reply has been received to the telegram sent to the Governor-General on the 10th instant, copy of which accompanied the letter from this Department of the 11th instant.

I am, &c.
(Signed) H. BERTRAM COX.

No. 14.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 113.)

(Telegraphic.) P.

Foreign Office, June 15, 1898.

JOINT Commission on pending questions.

My telegram No. 107 of 2nd June. Governor-General of Canada has been informed that it is proposed that Dominion Government should nominate four members of British Commission and Her Majesty's Government one member.

He has been asked to telegraph names of Canadian members as soon as possible if his Ministers agree.

No. 15.

Colonial Office to Foreign Office.—(Received June 22.)

(Confidential.)

Sir,

Downing Street, June 21, 1898.

WITH reference to the letter from this Department of the 14th instant, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Salisbury, copies of telegraphic correspondence with the Governor-General of Canada respecting the proposed Joint Commission for the settlement of the questions outstanding between the United States and Canada.

2. Mr. Chamberlain presumes that Lord Salisbury will now submit the names of the British Commissioners to Her Majesty, and will cause the necessary Commission and instructions to be prepared.

3. Before doing so, however, it might be well to communicate the names to Her Majesty's Ambassador at Washington, with instructions to ascertain whether the date suggested for the meeting at Quebec will meet the wishes of the United States' Government.

4. Mr. Chamberlain thinks it desirable that the Memorandum of the views of the Dominion Government, which is to be submitted to the United States' Government before the meeting of the Conference, should be communicated to Her Majesty's Government in the first instance, and he has accordingly telegraphed to the Governor-General to that effect.

5. I am to add that the full names and offices of the Canadian Commissioners are :—

The Right Honourable Sir Wilfred Laurier, Q.C., G.C.M.G., Member of the House of Commons of Canada, President of the Privy Council of Canada; the Honourable Sir Richard John Cartwright, G.C.M.G., Member of the House of Commons of Canada and Minister of Trade and Commerce of Canada; the Honourable Sir Louis Henry Davies, Q.C., Member of the House of Commons of Canada, Minister of Marine and Fisheries for Canada; and John Charlton, Esq., Member of the House of Commons of Canada.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 15.

Mr. Chamberlain to the Earl of Aberdeen.

(Secret.)

(Telegraphic.) P.

Downing Street, June 17, 1898, 6.50 P.M.

JOINT Commission.

We consider it very desirable to take advantage of present friendly feeling between United States and this country to press work forward.

If work can be completed so as not to interfere with Venezuelan Arbitration, expected to begin next May, Lord Herschell has agreed to represent this country.

In order to enable Commission to get to work as soon as possible you should urge Ministers to expedite preparations.

Inclosure 2 in No. 15.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.) P.

[Undated.]

CONTENTS of your Secret telegram of 17th communicated to Premier, who proposes end of July for meeting of Commission. He entirely concurs in advisability of early meeting for reasons mentioned.

Inclosure 3 in No. 15.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.) P.

June 19, 1898.

REFERRING to your telegram of 10th June, following submitted by Ministers as names of Canadian Members of Commission :—

Sir Wilfred Laurier, Prime Minister; Sir Richard Cartwright, Minister of Trade and Commerce; Sir Louis Davies, Minister of Marine and Fisheries; John Charlton, Esq., M.P.

They desire to express appreciation of proposal that there shall be four Canadians among the five British Representatives.

No. 16.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received June 25.)

(No. 36.)

(Telegraphic.) P.

Washington, June 25, 1898.

WITH reference to your Lordship's telegram No. 114 of the 22nd instant, I have the honour to report that the United States' Government assent to the proposal that the Joint Commission should assemble at Quebec at the end of next month.

The appointment of the United States' Commissioners will be made immediately. I have reason to believe, though the final selection has not yet been made, that the list will be as follows :—

Honourable W. B. Allison, of Iowa, Member of the Senate Finance Committee.

Honourable George Gray, of Delaware, of the Senate Foreign Relations Committee.

Honourable Nelson Dingley, of Maine, Chairman of the House of Representatives Ways and Means Committee.

Honourable John A. Kasson, and General J. W. Foster.

No. 17.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 115.)

(Telegraphic.) P.

Foreign Office, June 26, 1898.

HER Majesty's Government approve the Protocol of the Conferences at Washington, signed on the 30th May and forwarded in your despatch No. 186 of the 31st May.

No. 18.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received June 27.)

(No. 211.)

My Lord,

Washington, June 17, 1898.

I HAVE the honour to transmit herewith copy of a note of the 15th instant from the United States' Secretary of State, inclosing a letter signed by the Honourable Don M. Dickenson and Mr. Robert Lansing, of counsel for certain firms, Corporations, and individual citizens of the United States. This note points out that the enforcement of a

certain Act of the Ontario Legislature of December 1897, relating to the manufacture of lumber, would inflict grievous hardship and serious loss on American lumber interests of great magnitude, and raises questions as to the validity of such retroactive legislation.

Mr. Day states that the "questions so raised would necessarily fall in the class of pending matters cognizable by the Joint Commission to amicably settle all controversies between the United States and Great Britain in respect to the Dominion of Canada."

He requests that "steps may be taken to bring about a suspension of the construction of the Ontario Act of December 1897 pending the negotiation for the appointment of such Joint Commission, and its final determination of the matters to come before it."

I have communicated copies of the inclosed correspondence to the Governor-General of Canada.

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

Inclosure 1 in No. 18.

Mr. Day to Sir J. Pauncefote.

Excellency,

Department of State, Washington, June 15, 1898.

I HAVE the honour to communicate to you, for your consideration and such early action as may be practicable, a letter addressed to me by the Honourable Don. M. Dickenson and Mr. Robert Lansing, of counsel for certain named firms, Corporations, and individual citizens of the United States, who hold renewable licences to cut timber on the Crown lands of the Province of Ontario, and on whose behalf it is averred, that the application to the existing renewable licences at a recent enactment of the Legislature of Ontario that all licences hereafter granted shall require the manufacture of the lumber in Canada, will work grievous hardship and destroy rights built up during the past under the system of licences heretofore issued and annually renewable.

The magnitude of the interests of citizens of the United States as licensees of Canadian timber land, and the extent of the injury amounting to virtual confiscation of their large investments in Canada and practical extinction of their equally large investments in the United States which are wholly dependent on their Canadian operations, are set forth in the accompanying paper.

These consequences would flow not from any condition or interpretation contained in or fairly deducible from the original contract, which is the thing renewable from year to year under its own terms, but would result from the virtue of substitution of a new contract entirely variant in purpose and effect from the previous instrument. It is not alleged that there has been any failure to comply with the conditions of their original licences, which is the express condition of their title to a renewal thereof. In complying with those conditions, the American licensees have necessarily incurred much outlay in the Dominion, and on the faith of the terms of their original contract have made permanent investments of great value, so that there would seem to be no ground to dispute the soundness of the opinion furnished to the parties by several leading counsel of the dominion "that the renewals are a matter of right, and the tenure is a vested interest."

If it were the contention of the Government of Ontario that the contracts could be summarily terminated by refusing renewals, the importance of the questions of right and vested interest would be apparent, and the barrier would be set to any such arbitrary action.

I cannot see that these points of right and vested interest are less soundly taken when the proposition is to destroy the contract itself by imposing such new conditions upon its stipulated renewal as to render the contracted privilege illusory.

In this relation the observations of Mr. Charlton before the Ontario Legislature on the 9th December, 1897, as quoted by the memorialists, have a special pertinence.

Should the Government of Ontario adhere to the construction of the Act of December 1897, which it had only announced within a few weeks past, and holds that the conditions which that Act sets upon the granting of timber-cutting licences after the 29th day of April last, are capable of being engrafted upon licences prior to that date, this would amount not to renewal of existing licences, but to an abrupt alteration of the essential terms thereof, thus impairing the validity of existing contracts, and opening to improvement the good faith under which they were entered into. The question so raised would necessarily fall in the class of pending matters, cognizable by the Joint Commission,

to amicably settle all controversy between the United States and Great Britain in respect to the Dominion of Canada, for the establishment of which negotiations are pending under the Protocol signed by the recent Conference of the two Governments on the 30th ultimo. Under the circumstances, and in furtherance of the harmonious understanding for which the late Conference was assembled, and to award the realization of which it made such substantial and auspicious progress, I have the honour to request that steps may be taken to bring about a suspension of the construction of the Ontario Act of December 1897, pending the negotiations for the appointment of such Joint Commission, and its final determination of the matter to come before it.

I am advised by Messrs. Dickenson and Lansing that they have had the pleasure of a conversation with you on the 8th instant, in the course of which they orally set forth the present matter; the accompanying brief has been prepared by them with a view to laying their statements before you in writing for your further and more convenient information. They offer to submit a further Memorial on the subject, which I hope to be able to communicate to you in a few days.

I have, &c.
(Signed) W. R. DAY.

Inclosure 2 in No. 18.

Messrs. Dickenson, Lansing and others to Mr. Day.

Sir,

Detroit, Michigan, June 11, 1898.

SINCE 1825, before the Confederation and since, it has been a part of the Public Lands system and policy of the British Governments of Canada to sell the standing timber separate from the land.

The provinces, as well as the Dominion, have a Crown Lands Department, and the system pursued in respect of timber has been to grant a tenure of the lands in the form of an annual licence to cut timber.

These licences are subject to certain Rules and Regulations, which are given the force of Statute Law, and upon compliance with these Rules and Regulations the licensee is given an absolute right to a renewal from year to year, so that upon paying for the original licences, and certain dues and rents, the purchaser may invest in timber to hold permanently as an investment, without cutting, or proceed to cut, according to his election.

It is the express provision of the Ontario Law, as of other provinces, that upon compliance with the conditions the licensee "shall be entitled to a renewal," &c.

Upon this question, too, we have the opinion of several leading counsel of the Dominion that the renewals are a matter of right, and the tenure is a vested interest.

These licences expire on the 30th April of each year. The renewals are regularly granted on or before the 1st July of each year.

In further evidence of the construction of these licences, we quote from the speech of Mr. Charlton, a Member of the Government of Ontario (the Premier), before the Ontario Legislature on the 9th December, 1897:—

"Now, Sir, what guarantee has the man who pays the Government \$73,000 dollars on the 13th October, 1892, for 35½ square miles for this privilege, and does not intend to cut a log, and has not cut any? What guarantee, I ask, has he that on the first day of May next he will have 1 dollar's interest in that property for which he has paid 373,000 dollars? He has no guarantee except his faith on the honour of the Government that they will deal fairly with him in the future, as they have done with others in the past. In addition to this he has the record of the Government that so long as the ground rent of 3 dollars per mile is paid each year, so long will they renew his licence from year to year. This has always been done, and timber-holders have had confidence and have paid large sums in that way, depending upon the honour of the Government to do right. Now, Sir, the licence itself, coupled with the practice of the Government, form a contract which cannot be broken without violating the principles of justice, and there is not a Judge upon the Bench in this country who would, after examining this timber licence in connection with the practice of the Government, say that the Government had any right, legal or moral, to impose restrictions upon the exportations of logs cut upon limits which were sold without notice of such intention."

2. The subject was of little interest to American citizens so long as our own timber supply was abundant around the Great Lakes and their connecting waters. But as the

white pine became depleted and scarce upon this side of the line, the Canadian Government, taking notice of the demand, sent the Circulars of the Crown Lands Department broadcast to American citizens. To letters addressed by American citizens to the Crown Lands Department, inquiring as to the nature of the licences and of the tenure, as to the safety of investments made in such timber, as to the perpetual character of the grant, and especially, and most important of all, as to the right to remove the timber when cut from Canada to the United States for manufacturing into lumber, official replies were received advising our citizens expressly in accordance with the construction and interpretation set out as above under the head of "I," and that the timber when cut could be removed for manufacture to the United States.

In consequence, American citizens, in 1884 and 1885, commenced to invest in large numbers and in great amounts in this Canadian pine under this system of licences.

Several times since that period an export tax was imposed upon the logs by the Canadian Governments. But this was not burdensome, and as it checked the sales of timber and thus curtailed that source of great revenue, the taxes were removed. Another ostensible consideration was the lowering of our tariff on lumber, but it is well understood that the first-named was the moving cause.

Once (in 1890), without legislative authority, the Governor-General of the Dominion in Council imposed a Regulation providing that in all future licences a proviso should be inserted that the timber cut should be manufactured in Canada.

No one dreamed then of imposing even that Regulation on old licensees under purchases prior to that Regulation. However, the Regulation so cut down the sales that it was never enforced, and was abrogated within a few months.

3. In addition to what American investors paid the Provincial Government of Ontario under these circumstances, they had invested large sums in improving streams in Canada, in establishing camps and large plants in and about the business.

More than this, they have made immense investments in new mills, and in rebuilding and equipping old ones in this country for the manufacture of the logs so cut from Canada.

These mills, in the conditions now existing, have practically no other source of supply except this. But by far the greater part of the expenditure has been made upon the ground in the Dominion. Indeed, in a speech delivered in the Ontario Legislature on the 21st December, 1897, Mr. Gibson, the Commissioner of Crown Lands, submitted carefully-prepared statistics, showing an analysis of the original cost of pine lumber, and there demonstrated that four-fifths of that cost was in cutting the logs and getting them into the streams, and but one-fifth for milling.

4. In these conditions, on the 17th December, 1897, the Lieutenant-Governor of Ontario in Council made this timber Regulation:—

"Every licence or permit to cut pine timber on the ungranted lands of the Crown, or to cut pine timber reserved to the Crown on lands located, sold, granted, patented, or leased by the Crown, which shall be issued on or after the 30th April, 1898, shall contain and be subject to the condition that all pine which may be cut into logs or otherwise under the authority or permission of such licence or permit, shall, except as hereinafter provided, be manufactured into sawn lumber in Canada, that is to say, into boards, deal, joists, lath, shingles, or other sawn lumber, or into waney board or square or other timber in Canada; and such condition shall be kept and observed by the holder or holders of any such licence or permit, who shall cut or cause to be cut pine trees or timber under the authority thereof, and by any other person or persons who shall cut or cause to be cut any of such pine trees or timber under the authority thereof, and all pines so cut into logs, or otherwise, shall be manufactured in Canada as aforesaid."

Other Regulations followed, providing a penalty for violation amounting to a forfeiture of the licence and for a seizure of the property of the licensee.

It was provided, however, by clause 6, as follows:—

"The foregoing Regulations shall not come into force unless and until they shall be approved by an Act of the Legislature."

At the then Session of the Legislature an Act was passed as follows:—

"1. All sales of pine timber limits or berths by the Commissioner of Crown lands which shall be hereafter made, and all licences or permits to cut pine timber on such limits or berths thereafter granted by the Commissioner, shall be so made or granted subject to the condition set out in the first Regulation of Schedule (A) of this Act, and it shall be sufficient if such condition be cited or mentioned as 'the manufacturing condition' in all notices, licences, and permits or agreements or other writings.

"2. The Regulations set out in Schedule (A) to this Act are hereby approved.

"3. The Lieutenant-Governor in Council may make any further or additional Regulations necessary to enable the Commissioner of Crown lands to carry into effect the object and intent of the Regulations contained in Schedule (A).

"4. Section 1 of this Act shall come into force on the passing hereof, and the other parts of this Act shall come into force on the 29th day of April, 1898."

Schedule (A) referred to in that Act are the Regulations above quoted, and referred to as passed by the Lieutenant-Governor in Council on the 17th December, 1897.

Her Majesty's Government of Ontario now construe that Act as applying to existing licences, and it is held that American citizens who have invested and operated these lands on licences purchased and conformed to since 1880, and prior to the passage of this Act, are subject to its provisions, and that timber cut under them must be manufactured in Canada.

5. *The effect upon Investors.*—It will be seen that the Act did not go into effect until the 30th April last, and this construction has only just been realized by the great body of American citizens interested.

These, under the old Law of 1869, still existing, must take out their renewal of licences before the 1st July. To accept that construction, of course means widespread disaster, and is impossible.

It is not too strong a statement to say that such a construction amounts to confiscation. This result is patent.

We represent but a comparatively small portion of those interested, who have hastily organized, and these alone have property interests in Canada, taken under these licences amounting to upwards of 12,000,000 dollars. This is exclusive of their investments in mill plants on this side, which are a dead loss unless the supply comes from the Canadian timber investments made by their owners. Moreover, the security of this standing timber has come to be considered so good, with the good faith of Her Majesty's Government of Ontario behind it, that nearly every one in interest, whom we represent, have been large borrowers at American as well as Canadian banks upon the faith of this, their Canadian property.

The banks, so far as they have learned of this construction, demand other security, and where it cannot be given, refuse to renew.

It should be said in passing, that the law of the provinces permits the mortgage and transfer of these licences as security.

In addition to this and other injurious effects upon our citizens, which I do not mention, it may be stated that large numbers of men who are employed in the mills in the manufacture of lumber, will, by this construction, be thrown out of employment.

Appended hereto, is a list of the persons whom we represent, which is being added to from day to day as the ruling of the Crown Lands Department comes to be more widely understood.

The temporary organization had prepared a circular to all directly or remotely interested upon this subject, which, under our advice, has been withheld from publication or circulation in the hope that relief might be had, without further spreading the evil results of the construction complained of, or the irritation engendered by it.

We are quite aware that the ordinary rule is, before application can be made to your Department for relief through diplomatic representations, citizens should be able to show that they have applied for relief without effect to the authorities of the Government complained against.

In this case, however, the Act complained of is the Act of the Government itself, which has replied, upon application, that the construction complained of will be enforced, and it seems to be clear that the jurisprudence of the Dominion or of the provinces furnishes no way of relief against such executive action of the Government itself.

We venture to hope, because of the need of immediate relief, that steps may be taken as early as may be, to secure a suspension of the injurious construction of the Act of the Ontario Legislature of December, 1897, pending the negotiations between the United States and Great Britain, for the appointment of a Commissioner to adjust differences between the Governments and pending the Report of such Commission.

We have, &c.

(Signed) DON M. DICKENSON,
ROBERT LANSING,

*Of Counsel for the Firms, Corporations, and individuals
named in the Appendix hereto.*

Inclosure 3 in No. 18.

Appendix.

List of Members of Temporary Organization.

(Represented by Don M. Dickenson and Robert Lansing.)

Wilson Cressy } Estate of Brooks.
 Mrs. W. D. Morton }
 Skillings, Whitneys, and Barnes.
 Holland, Graves, and Montgomery.
 Cutler and Savidge.
 Brownlee and Co.
 Delta Lumber Company.
 Edmund Hall.
 Salliotte and Ferguson.
 David Whitney, Junr.
 Alger Smith and Co.
 Pelton and Reed.
 W. and A. McArthur and Co. (Limited).
 Swift and Clark
 Thompson Smith and Sons.

Albert Pack.
 General N. Fletcher and Sons.
 F. W. Gilchrist.
 Comstock Bros.
 W. L. and H. D. Churchill.
 McEwen Bros. and Co.
 South End Salt and Lumber Company.
 Pitts and Co.
 Turner and Fisher.
 Michigan Log Towing Company.
 Saginaw Bay Towing Company.
 Loveland, Royce and White.
 Saginaw Salt and Lumber Company.
 Mrs. E. J. H. Richardson (Estate).

Inclosure 4 in No. 18.

Messrs. Dickenson, Lansing and others to Mr Day.

Sir,

Detroit, Michigan, June 13, 1898.

WE desire to supplement our communication to you of the 11th instant by the following very important statement:—

By the Act of the Imperial Parliament of 1866, creating the Confederation of the Dominion of Canada, it is provided that all laws passed by the Legislatures of the provinces in the Confederation must be submitted for approval to the Dominion Government; and thus there is conferred upon the Governor-General in Council of the Dominion a power equivalent to our veto power. Under the Imperial Act mentioned, the laws of each Legislative Session of the provinces are transmitted to the Government at Ottawa, and the action of the latter, as above indicated, may be taken at any time within one year.

In the Dominion Government, too, is reposed the power of dealing with all questions affecting commerce—a power equivalent to the provision of our written Constitution conferring upon the Federal Congress the exclusive power to regulate commerce.

Up to this time the Dominion Government has not approved or disapproved of the Act of December, 1897, the construction of which by the provincial authorities of Ontario is the subject of this complaint.

You will observe, therefore, that the Governor-General of the Dominion in Council may now intervene either by disapproving of the Act of December 1897, and thus rendering it nugatory, or by disapproving the disastrous construction of the law by the Ontario Government.

We desire to correct one statement of fact in our communication of the 11th instant, on p. 2. Mr. Charlton, whose speech is quoted, was not a Member of the Government, though one of the staunch supporters of the Government in the Legislature.

We have, &c.

(Signed) DON M. DICKENSON.
ROBERT LANSING.

No. 19.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 116.)

(Telegraphic.) P.

Foreign Office, June 27, 1898.

JOINT Commission on pending questions: Your despatch No. 198 of the 9th June.

We cannot take objection to General Foster's appointment, in view of explanations now given by United States' Government.

No. 20.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 117.)

(Telegraphic.) P.

Foreign Office, June 29, 1898.

JOINT Commission.

Following the precedent of 1871, Lord Herschell and the Canadian members will be appointed High Commissioners. Their names will be published in to-morrow's paper.

No. 21.

Question asked in the House of Commons, July 1, 1898.

Mr. Davitt,—To ask the Under-Secretary of State for Foreign Affairs whether he can now state the names of the members of the Commission appointed to settle matters of dispute pending between the United States and Canada, and lay upon the Table of the House the terms of said Commission:

And whether the draft of the Commission has yet been submitted for approval to the United States' Senate.

Answer.

The names of the members of the Commission appointed by the Queen were notified in the press yesterday. According to the latest information received from Her Majesty's Ambassador at Washington, the names of the American members have not yet been finally settled.

As regards the draft of the Commission, the honourable Member probably refers to the Protocol which was signed at Washington on the 30th May, providing for the appointment of the Joint Commission.

We have no information as regards its submission to the Senate. There will probably be no objection to its presentation to Parliament with other Papers in due course.

No. 22.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 4.)

(No. 213.)

My Lord,

Washington, June 21, 1898.

IN my despatch No. 211, of the 17th instant, I had the honour to transmit to your Lordship copy of a note from the United States' Government, transmitting a complaint of certain American limit-holders in the forests of Ontario against the recent legislation of that province, forbidding the export of logs from those limits unless manufactured into lumber in Canada.

There can be little or no doubt that the legislation in question is of a retaliatory character, and on that point I would draw your Lordship's attention to a speech delivered by the Honourable Mr. Boulton in the Canadian Senate on the 10th March last, in which he explains the Canadian grievance in the matter of lumber, and foreshadows the remedy.

On that occasion Mr. Boulten said:—

“We have two classes of limit-holders in this country. The limit-holders of the United States, who take logs across free into the United States’ territory, and manufacture them there, and distribute the products in their own country. We have, on the other hand, the limit-holders of Canada, who manufacture the logs into lumber in Canada, and distribute it in Canada and the markets of the world. The logs that are cut by the United States’ limit-holders in the Canadian woods go to the United States free, while the United States’ Government impose a duty of 2 dollars per thousand on boards manufactured in this country. The consequence is, that the United States’ limit-holders are benefited by a discrimination of 2 dollars per thousand, while the Canadian limit-holder is placed at that disadvantage so far as the United States’ market is concerned. The tendency of that legislation is to give a monopoly of Canadian timber-limits to American holders, and gradually drive the Canadian lumber-man out of his own country.”

Mr. Boulten added:—

“The only way that could be stopped is not to allow the logs to go out of the country.”

The remedy of the American limit-holders would therefore seem to be in the hands of their own Legislature, who should be urged by them to repeal the import duty of 2 dollars per thousand on Canadian planks.

This solution will probably commend itself to the Joint Commission if the alleged grievance should be submitted, as proposed, to its consideration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 23.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 5, 1898.

I AM directed by the Marquess of Salisbury to transmit to you a copy of a despatch from Her Majesty’s Ambassador at Washington,* inclosing a note from the United States’ Government respecting an Act, passed by the Legislature of Ontario in December 1897, which provides that licences hereafter granted to cut timber on the Crown lands of that province shall require the manufacture of the lumber in Canada.

The United States’ Secretary of State requests that no decision may be taken as to the construction of this Act pending the appointment of the Joint Commission, which is to meet shortly at Quebec, and which may take cognizance of all controversies between the United States and Canada.

Lord Salisbury desires to be informed as to the answer which Mr. Secretary Chamberlain would wish to be returned to the communication from the United States’ Government.

Copies of the correspondence have been forwarded by Sir J. Pauncefote to the Governor-General of Canada.

I am, &c.

(Signed) F. H. VILLIERS.

No. 24.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 6, 1898.

WITH reference to your letter of the 21st ultimo, I am directed by the Marquess of Salisbury to state, for Mr. Secretary Chamberlain’s information, that the Queen has been graciously pleased to appoint the following gentlemen to be Her Majesty’s High Commissioners on the Joint Commission for the adjustment of questions in difference between the United States and Great Britain in respect to the relations of the former with the Dominion of Canada:—

The Lord Herschell, G.C.B., a Member of Her Majesty’s Privy Council.

The Right Honourable Sir Wilfred Laurier, G.C.M.G., Member of the House of Commons of Canada, and President of the Privy Council of Canada.

The Honourable Sir Richard J. Cartwright, G.C.M.G., Member of the House of Commons of Canada and Minister of Trade and Commerce for Canada.

The Honourable Sir Louis H. Davies, K.C.M.G., Member of the House of Commons of Canada and Minister of Marine and Fisheries for Canada; and

John Charlton, Esq., Member of the House of Commons of Canada.

I am to add that Mr. W. Chauncy Cartwright, of this Office, has been appointed Secretary to the High Commission.

The Royal Commission as well as instructions to the High Commissioners are being prepared.

I am, &c.
(Signed) F. H. VILLIERS.

No. 25.

Colonial Office to Foreign Office.—(Received July 7.)

(Confidential.)

Sir,

Downing Street, July 6, 1898.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquess of Salisbury, with reference to the letter from this Department of the 21st ultimo, marked Confidential, a copy of a telegram from the Governor-General of Canada on the subject of the views of the Canadian Government on the questions which will be discussed by the Joint Commission.

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

Inclosure in No. 25.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.)

[Undated.]

REFERRING to your telegram of 21st June: I have now received Minute of Council, of which copy goes by post to you to-morrow from New York per steam-ship "Britannic," containing full statement of considerations and objects which Ministers suggest Commissioners should have in view.

No. 26.

Colonial Office to Foreign Office.—(Received July 8.)

Sir,

Downing Street, July 7, 1898.

WITH reference to your letter of the 8th November, 1897, and to recent correspondence respecting the Joint Commission for the settlement of questions at issue between the United States and Canada, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Salisbury, a copy of a letter from the Newfoundland Delegates at present in this country, protesting against a negotiation on the subject of the Atlantic fisheries, on which they are not represented.

2. There are obvious objections to enlarging the Commission, which has been agreed upon, and also to giving a Newfoundland Representative a voice in the discussion of the many questions referred to the Commission in which Newfoundland is in no way interested.

3. In these circumstances, it appears to Mr. Chamberlain that the best course would be to allow a separate negotiation on behalf of Newfoundland if the United States are prepared to agree to that course.

4. But before suggesting that the United States' Government should be approached in the matter, he proposes, if Lord Salisbury concurs, to telegraph for the views of the Dominion Government in the terms of the accompanying draft.

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

Inclosure 1 in No. 26.

Messrs. Winter and Morine to Mr. Chamberlain.

Sir,

Westminster Palace Hotel, July 2, 1898.

YOU will doubtless remember that in the year 1890, a Member of the Government of Newfoundland was permitted to visit Washington for the purpose of ascertaining what arrangements, if any, could be made between the United States of America and Newfoundland, concerning trade and fishery relations.

After a draft Arrangement had been prepared, the Government of Canada, through the High Commissioner, and later, through the Governor-General, protested against the conclusion of any arrangement with the United States, touching the trade and (especially) the fisheries of any part of British North America, to which Canada was not a party. The keynote of that protest is contained in a letter to Lord Knutsford from the High Commissioner, dated the 27th October, 1890: "Her Majesty's Government," he says, "has hitherto invariably recognized the importance of obtaining unity of action, as far as possible, on the part of all the Colonies interested." In consequence of this protest, the approval of this arrangement was withheld by Her Majesty's Government, and has ever since been withheld, because it was considered that one Colony should not be allowed to make a separate arrangement which might affect the trade or fisheries of another, and it appeared that Canada's position with relation to the United States might be injuriously affected by a prior arrangement between that country and Newfoundland. Much discontent has been felt and expressed in Newfoundland in consequence—a state of feeling modified only by the belief that Canada, on the other hand, would not at any time be allowed a privilege withheld from Newfoundland, and that the latter, therefore, would never be placed in a position of disadvantage as compared with that of Canada. When, therefore, it was mooted that a Commission was to be appointed to settle questions pending between the United States and Canada (including, as we presume, trade and fishery question), it was taken for granted that Newfoundland would be invited to be represented upon that Commission. It is, therefore, with great surprise, a feeling which we are confident will be universally felt in the Colony, that we have seen the announcement that a Commission has been appointed in which the Colony has no representation.

Having regard to the principles contended for by the Canadian Government in 1890, as above stated, and conceded by Her Majesty's Government, we are unable to understand how a departure from that principle in the appointment of the present Commission can be justified, or how Her Majesty's Government could ratify any arrangement made by that Commission, if Newfoundland were to protest against it upon the same grounds as were held to be good as against her, in 1890. The fisheries of Newfoundland, and fishing privileges relating thereto, would be of more importance to the United States than those of Canada. Newfoundland might, if not prejudiced by a prior arrangement between the United States and Canada, make a better arrangement with the United States separately, than in connection with Canada, but she has been forbidden to do so, and it would, therefore, we submit, be manifestly unjust to permit Canada to make a separate arrangement with the United States, or any arrangement, without the concurrence of Newfoundland.

After the work of the present Committee is done, we beg to ask, what will be the position of Newfoundland? Will she be included absolutely in such arrangements as may have been concluded, or will she be permitted to elect for herself whether she will become a consenting party to the arrangement? And even if such a right to elect be left to her, is it not obvious her position may be greatly prejudiced, inasmuch as she will be obliged either to accept *in toto* an arrangement in the making of which she has had no part, or incur the damaging consequences of refusal. The injustice of placing the Colony in such a position needs no elaboration.

As regards the claim which we feel it to be our duty to urge on behalf of the Colony, we have to say that if the material interests of the Colony were alone to be considered, they might be best served by a separate arrangement for trade relations with the United States, inasmuch as we believe that more advantageous terms for the Colony might thereby be obtained. On the other hand, we recognize the desirability of unity of action and interest between the Colonies in such matters, wherever practicable; and we respectfully submit that upon this basis the rights and interests of the Colony cannot be adequately secured by any course short of a representation of the Colony upon the present Commission, and the assent of the Colony to the terms of any arrangement whereby her interests may be affected.

We take the liberty of pointing out that if Newfoundland is not directly represented, the Commission will not have power to deal conclusively with fishing privileges, to which the people of the United States have hitherto attached great importance, and the control, or a share in the control of which belongs to Newfoundland; and the Commission might, on that account, be prevented from offering to the United States concessions which would be potent in procuring in return concessions of importance both to Newfoundland and Canada. The exclusion of Newfoundland, therefore, while it will possibly, and even probably, be detrimental to the interests of Canada in the event just suggested, can hardly fail to be injurious to Newfoundland, so far as regards those terms of the arrangement, in the negotiation of which she has had no part, and which affect her.

It may be objected that the Commission will deal with subjects in which Newfoundland is not concerned. Our answer is that upon any such matters, in which there would be no conflict of interest between Canada and Newfoundland, the Newfoundland Commissioner would be guided by his colleagues. On the other hand, the existence of other questions, the settlement of which might afford a good reason for the making by Canada of valuable concessions in relation to the fisheries, in return for other concessions from the United States, which would be of value to Canada only, is, in itself, a strong reason for the representation of Newfoundland, whose position in relation to the United States might be prejudicially affected by concessions made by Canada, and in the compensation for which Newfoundland had no share.

For these reasons, therefore, we beg respectfully to claim on behalf of the Colony, either a representation of the Colony upon the Commission now about to sit, or permission to the Colony to negotiate and conclude a separate arrangement for trade and fishing relations with the United States.

We have, &c.
(Signed) J. S. WINTER.
ALFRED B. MORINE.

Inclosure 2 in No. 26.

Draft of Telegram from Mr. Chamberlain to the Earl of Aberdeen.

NEWFOUNDLAND Delegates now here protest against negotiation on subject of Atlantic fisheries on which they are not represented.

In view of the position taken up by Canadian Government and by Her Majesty's Government at their instance, in regard to Bond Blaine negotiations, it is difficult to reply to this protest.

They claim either representation on Commission or permission to negotiate and conclude separate arrangement in regard to trade and fishing relations with the United States.

Telegraph at once views of your Minister on these proposals.

No. 27.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 9, 1898.

I LAID before the Marquess of Salisbury your letter of the 7th instant respecting the protest made by the Newfoundland Delegates against negotiations being carried on with the United States in regard to the Atlantic Fisheries by a Commission on which the Government of Newfoundland is not represented.

I am directed by the Marquess of Salisbury to state that he concurs in the views expressed by Mr. Secretary Chamberlain on this subject, and in the telegram which it is proposed to address to the Governor-General of Canada.

I am, &c.
(Signed) F. H. VILLIERS.

No. 28.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 15.)

(No. 221.)

My Lord,

Washington, July 4, 1898.

I HAVE the honour to report that upon receipt of your Lordship's telegram No. 115 of the 26th ultimo, I addressed a note to the United States' Secretary of State, informing him that Her Majesty's Government approved the Protocol of Conferences signed on the 30th May last, embodying the result of the recent discussion at Washington for the settlement of the questions pending between the United States and Canada. I have received an acknowledgment of that communication from the Acting Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 29.

Foreign Office to Treasury.

Sir,

Foreign Office, July 15, 1898.

IN pursuance of an agreement with the United States' Government, which was recorded in a Protocol signed at Washington on the 30th May, it has been decided to constitute a Joint Commission, to meet at Quebec, for the settlement of questions pending between the United States and Canada.

Of the five Representatives who have been appointed on behalf of Great Britain, and who have been given the rank of High Commissioners, four have been nominated by the Governor-General of Canada; the Queen has been pleased to appoint the Canadian gentlemen whose names have been submitted to Her Majesty, and also to select Lord Herschell to proceed at once to Quebec as one of Her Majesty's High Commissioners.

I am directed by the Marquess of Salisbury to request that the sanction of the Lords Commissioners of the Treasury may be given for the expenses of Lord Herschell's special mission to Canada on this important occasion.

Lord Herschell will be accompanied by Mr. Cartwright, of this Office, who will be Secretary to the High Commission, and by the Honourable R. F. Herschell as Private Secretary. He will also take with him a courier or official servant, and a private servant.

I am to propose that Lord Herschell should be authorized to charge to public funds, under the sub-head for "Special Missions of the Diplomatic Vote," the cost of travelling, hotels, and out-of-pocket expenses of himself and his staff.

Lord Salisbury considers that the sum of 200*l.* should be granted to Mr. Cartwright to cover the expenses of his outfit and as a gratuity for his employment on the special mission, and that the wages of the official servant, at the rate of 5*l.* a-month, should be charged in the Accounts.

The questions to be dealt with by the Commission are numerous, and include many old-standing disputes of considerable intricacy. It is, therefore, difficult to calculate the period over which the sittings will extend, but Lord Salisbury trusts that three or four months will suffice to arrive at a settlement, at any rate in principle, of the various subjects.

His Lordship will be happy to furnish any further information which their Lordships may require. He is, however, unable to frame at the present moment any estimate of the probable cost of Lord Herschell's mission.

I am, &c.

(Signed) F. H. VILLIERS.

No. 30.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 121.)

(Telegraphic.) P.

Foreign Office, July 17, 1898.

JOINT Commission.

The United States' Government will probably be glad to take this opportunity of effecting a general settlement, and it would be a great advantage if Newfoundland were represented on the Commission, as two of the heads to be discussed, viz., Tariffs and Fisheries, especially affect that Colony.

If they agree, Sir James Winter, the present Premier, would be appointed as sixth Commissioner.

The Canadian Government concur in the courses proposed.

No. 31.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 122.)

(Telegraphic.) P.

Foreign Office, July 18, 1898.

JOINT Commission.

Referring to your telegram No. 94 of 17th July, Lord Herschell will start, as arranged, on the 20th instant, but there would be no objection to postponement for a few days of meeting of Commission.

In pursuance of Agreement recorded in Protocol that each Government should communicate its views to the other before the meeting of the Commission, the instructions to Her Majesty's Commissioners will be forwarded to you for communication to the United States' Government.

No. 32.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 123. Confidential.)

(Telegraphic.) P.

Foreign Office, July 18, 1898.

REFERRING to my telegram No. 121 of 17th July.

You may confidentially inform United States' Government that, if appointed, it would be understood that the Newfoundland Commissioner would only deal with the two matters indicated. He would recognize the other subjects to be dealt with as being exclusively of Canadian interest.

Of course, Her Majesty's Government would agree to a sixth United States' Commissioner being appointed, if desired.

No. 33.

Colonial Office to Foreign Office.—(Received July 19.)

(Confidential.)

Sir,

Downing Street, July 18, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 15th instant, stating that the Dominion Government has objected to the terms in which the United States' Government has intimated its assent to the proposed provisional boundary-line at the head of the Lynn Inlet.

2. Mr. Chamberlain has not yet received the Minute of Council referred to by Sir J. Pauncefote, but he gathers that the intention of the Dominion Government in their proposal of April last was simply to secure the maintenance of the *status quo* at the head of the Lynn Canal in view of the demand which had been made by the United States' officer at Dyea that the Canadian officials should cease to exercise jurisdiction at the summits of the passes and at Lake Lindeman; and not that they proposed to accept the watershed there as a provisional frontier pending a final delimitation of the boundary.

3. As Lord Salisbury will see on reference to the map, the Lynn Canal extends inland for some 80 miles, and as the Treaty lays down that the frontier is never to be more than 30 miles from the ocean, the Canadian Government can hardly be expected to agree to accept for an indefinite period the watershed in question as a provisional line, and in the Memorandum which they have furnished as to the subjects to be discussed by the International Commission, it will be seen that they suggest that that body should fix a provisional line. This suggestion agrees substantially with that of Sir J. Pauncefote, and Mr. Chamberlain would suggest that he should be instructed to propose to the United States that the officers on both sides at the head of the canal should be instructed not to advance beyond the positions they now hold, and that the question of fixing a provisional boundary should be left to the Joint Commission.

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

No. 34.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 19.)

(No. 95.)

(Telegraphic.) P.

New London, Connecticut, July 19, 1898.

WITH reference to your Lordship's telegram No. 121 of the 17th instant, suggesting that Newfoundland should be represented on the Joint Commission about to assemble at Quebec, I have the honour to inform your Lordship that the United States' Government agree to your Lordship's proposal.

I subsequently received your Lordship's telegram No. 123 on the same subject, but under the above circumstances I decided to take no further action.

No. 35.

The Marquess of Salisbury to the High Commissioners.

My Lord and Gentlemen,

Foreign Office, July 19, 1898.

THE Queen having been graciously pleased to appoint you to be Her Majesty's High Commissioners for the purpose of discussing with Commissioners to be appointed by the Government of the United States various questions at issue between Great Britain and that country, in respect to the relations of the latter with the Dominion of Canada, and of treating for an Agreement as to the mode of their amicable settlement, I transmit to you herewith the necessary full powers for the purpose.

The principal subjects to be discussed will be found enumerated in the accompanying copy of a Protocol, which was signed at Washington on the 30th May last by Sir Julian Pauncefote, Her Majesty's Ambassador to the United States, and the Honourable Sir Louis Davies, Minister of Marine and Fisheries of Canada, on behalf of Great Britain; and by the Honourable John Kasson and the Honourable J. W. Foster, on behalf of the United States.

The Protocol further provides that any other unsettled difference, in addition to those specifically mentioned, may be considered and dealt with by mutual agreement of the Commissioners representing the two countries.

Her Majesty's Government desire to leave you full discretion as to the manner in which the various questions should be discussed and dealt with, and it is therefore unnecessary that I should furnish you with specific instructions in regard to them; but I have the honour to convey to you the following observations for your general guidance:—

1.—*The Fur-Seal Fishery.*

By a Treaty concluded at Washington on the 29th February, 1892,* it was agreed that the questions which had arisen between the Governments of the two countries concerning the jurisdictional rights of the United States in the waters of Behring Sea, the preservation of the fur-seals, and the rights of the subjects and citizens of either country as regards the taking of fur-seals in those waters, should be referred to a

* "Treaty Series No. 8 (1892)."

Tribunal of Arbitration, to be composed of seven Arbitrators, two to be named by each of the Contracting Parties, and the remaining three by the President of the French Republic, the King of Italy, and the King of Sweden and Norway respectively.

It was further agreed by Article VII of the Treaty that "if the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations, outside the jurisdictional limits of the respective Governments, are necessary, and over what waters such Regulations should extend."

The Tribunal met at Paris, under the Presidency of the French Arbitrator, Baron de Courcel, and delivered its Award on the 15th August, 1893. ("United States No. 10: 1893.")

The decision of the Tribunal was to the effect that the United States did not possess any exclusive jurisdiction in Behring Sea nor any right of protection or property in the fur-seals frequenting the islands of the United States in that sea when such seals are found outside the ordinary 3-mile limit.

The Tribunal accordingly agreed upon certain Regulations as necessary for the proper prosecution of the fishery, of which the most important were the following:—

1. That no seals should be taken at any time and in any manner within a zone of 60 miles round the Pribyloff Islands, inclusive of the territorial waters.

2. That there should be a close season, extending each year from the 1st May to the 31st July, both inclusive, during which no seals should be killed in that part of the Pacific Ocean, inclusive of Behring Sea, which is situated to the north of the 35th parallel of north latitude, and eastward of the 180th degree of longitude from Greenwich, till it strikes the water boundary described in Article I of the Treaty of 1867 between the United States and Russia, and following that line up to Behring Straits.

3. That only sailing-vessels should be permitted to carry on seal fishery operations.

4. That the use of nets, fire-arms, and explosives should be forbidden, though this restriction was not to apply to shot-guns when the fishing takes place outside of Behring Sea during the season when it may be lawfully carried on.

Minor Regulations referred to the special licence to be provided for each vessel, as well as a distinguishing flag, entries by the Master in the official log-book of the date and place of each fur-seal fishing operation, the number and sex of the seals captured, &c.

The Regulations were to remain in force until they had been, in whole or in part, abolished or modified by common agreement between the two Governments, but they were to be submitted every five years to fresh examination, so as to enable both Parties to consider whether, in the light of past experience, any occasion existed for their modification.

The Regulations came into force in 1894, and the fishery has since been conducted strictly in accordance with them.

Strong efforts have, however, been made in the United States ever since their adoption to reopen the whole question, on the ground that they had entirely failed in their object, namely, the preservation of the fur-seal species, and that unless a speedy change was brought about, extermination of the herd must follow.

Various proposals have from time to time been put forward, such as the appointment of a Joint Commission who would visit the islands and report as to the effects of pelagic sealing upon the herd, and that during its deliberations the respective Governments should agree upon a *modus vivendi* in accordance with which sealing would be absolutely prohibited pending the report of such Commission.

To these proposals Her Majesty's Government have found themselves unable to agree. They have contended that no sufficient evidence had been adduced to show that the Regulations have failed in their effect, or that there existed such urgent danger of total extinction of the seals as to call for a departure from the Arbitral Award, by which the two nations had solemnly bound themselves to abide.

The correspondence which has passed between the two Governments on the subject during the years 1895-97 will be found in the Parliamentary Paper, "United States No. 4 (1897)," to which your attention is invited.

Her Majesty's Government, however, fully shared the desire so strongly and so often expressed by the Government of the United States, that all necessary and practicable measures should be taken for the proper preservation of the seals; and in 1896, after communication with the United States' Government, they arranged for the

conduct of an independent inquiry on the Pribyloff Islands into the state of the herd by an Agent sent from this country, with a view to investigate more completely the question of the necessity of further restrictions in future years.

The Agent selected was Professor D'Arcy Thompson, of University College, Dundee, who visited the islands during the season of 1896, and again in 1897. His Reports, which have been laid before Parliament, "United States No. 3 (1897)," and No. 1 (1898), are inclosed. Mr. J. Macoun was also present in the islands during both seasons on behalf of the Canadian Government.

Similar Missions were sent to the islands by the United States' Government under Dr. David Starr Jordan, President of the Leland Stanford University. Copies of Dr. Jordan's Reports are likewise annexed.

In the opinion of Her Majesty's Government these Reports do not bear out the alarming statements which have been made as to the great decrease of recent years in the herd, and the imminence of its extinction, though they indicate clearly, and more especially those for 1897, the necessity for watchfulness and prudence in regard to the future.

It is the earnest desire of Her Majesty's Government that some solution of the question may be found which, while adequately providing for the interests of Canada, will insure the preservation and increase of the herd.

The solution that would present the greatest advantages to both parties would probably be that, in consideration of some equivalent commercial concession by the United States under some one or other of the other subjects in dispute, Great Britain should agree to forego for a time the exercise of her right of pelagic sealing; the owners of vessels now engaged in it being compensated by the United States' Government, to which, or its lessees, would accrue the entire benefit of the suppression for the time of pelagic sealing.

2.—*Fisheries off the Atlantic and Pacific Coasts, &c.*

The fishery rights of the United States in British North America are regulated by Article I of the Convention between Great Britain and the United States of the 20th October, 1818, which is as follows:—

"Article I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to, and through, the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, here above described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, for ever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included in the above-mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

It will be seen that United States' vessels are enabled to enter the bays or harbours of the British possessions in North America, where they have no Treaty right of fishery, for the purpose of shelter, and of repairing damages, of purchasing wood or water, and for no other purpose whatever.

American fishermen are thus precluded from purchasing bait, ice, and supplies, from transshipping their fish or shipping crews, or otherwise making use of Canadian harbours as a base for their fishing operations; all of which are of great importance for the successful prosecution of their industry.

Numerous seizures of United States' fishing-vessels by the Canadian authorities have occurred in past years both for fishing in British waters and for frequenting Canadian ports for objects not permitted by the Convention.

Strong protests have in many cases been made by the Government of the United States, who contend that the words "and for no other purpose whatever" must be read according to their spirit, and not according to the letter; and, moreover, hold that the denial of ordinary commercial facilities is an unfriendly act.

Attempts have been made from time to time to arrive at a settlement of the question by negotiation, which have not, however, so far led to any result.

On the 15th February, 1888, a Treaty was signed at Washington by Plenipotentiaries appointed by the two Governments,* which provided for the removal of the restrictions imposed upon American fishermen by the Convention of 1818 in consideration of certain commercial concessions to be made to Canada by the United States.

A Protocol was signed at the same time for establishing a *modus vivendi* by which the occurrence of disputes might be avoided pending the ratification of the Treaty. By the terms of the *modus vivendi* the United States' fishermen obtained, by payment of a small tonnage fee, all the concessions referred to above with regard to the purchase of ice, bait, the transshipping cargoes, and shipping of crews.

The Treaty was approved by the Canadian Parliament, and ratified by the Queen, but was rejected by the United States' Senate.

The *modus vivendi*, however, notwithstanding the rejection of the Treaty by the American Senate, has been practically continued by the Canadian Parliament up to the present time.

Her Majesty's Government are of opinion that the Treaty of 1888 affords a general basis on which the question might now again be dealt with, though some of the provisions of that Treaty will require reconsideration.

The matter of the fisheries, so far as the inland waters of the two countries are concerned, relates to a long-standing question between the Canadians and the United States.

In the Great Lakes, and in all the contiguous waters, the laws which are universally admitted to be necessary for the protection of fish life, viz., the establishment of a close season and the prohibition of certain means of taking fish, have been rigidly enforced on the Canadian side, whereas on Lake Erie and Lake Huron, and most of the other contiguous waters, no such Regulations are enforced on American fishermen, who are able to fish throughout the year, and to make use of any appliances. The absence of Regulations on one side and their enforcement on the other have operated unfairly to Canadian fishermen, while at the same time the absence of such Regulations threatened the entire extinction of some of the more valuable fisheries.

A few years ago a Joint International Commission, consisting of Professor Rathbun and Commander Wakeham, was appointed to consider and report upon the subject, and to recommend such joint Regulations and restrictions as might properly be mutually adopted by the United States and by Canada for the control of these contiguous inland fisheries. This Commission commenced its inquiries in the spring of 1893, and presented its final Report on the 31st December, 1896.

The recommendations and suggestions of this Commission the Government of Canada are willing to accept as providing a fair and reasonable solution of the difficulties, on condition that the United States' Government are able to provide for the enforcement of the proposed restrictions, and to overcome the difficulty hitherto experienced in dealing with the matter owing to the claim of the State Governments to the exclusive control of the fisheries within their respective jurisdictions.

It is desirable that these important subjects should be regulated by the Treaty, and that provision should be made for the adoption and enforcement in these contiguous waters of similar fishery laws and Regulations on both sides.

* "United States No. 1 (1888)."

3.—The Alaska Boundary.

The Treaty with Russia of 1825 dealt with the boundary in two sections:—

1. The part south of Mount Elias, separating south-east Alaska from Canada.
2. The northern portion, which follows the 141st meridian from Mount Elias to the Arctic Ocean.

The northern section presents comparatively little difficulty, the difference between the surveys made by either side varying only from 600 to 6 feet. It was agreed by a Convention of the 31st January, 1897, that certain points should be fixed midway between the two surveys, and that joint surveys should be carried out as occasion might require, to connect these points, until the entire line should, in time, be laid down.

With regard to the southern portion, however, wide divergence exists between the views of the two Governments. From Portland Channel to Glacier Bay there is no such continuous range of mountains running parallel to the coast, as the terms of the Treaty of 1825 appear to contemplate. That Treaty, again, provides that the line should be parallel to the sinuosities of the coast, and that it should never exceed the distance of ten leagues from the Pacific Ocean. Considering the number and size of the projections and indentations along the coast, it would be difficult to trace the boundary according to the Treaty.

The Convention with the United States' Government of 1892 provided for the appointment of a Joint Commission to ascertain the facts and data necessary for the permanent delimitation of the boundary-line, and the High Contracting Parties agreed to proceed to consider and establish the line as soon as practicable after the Report of the Commission should have been received. The period fixed for the completion of the surveys and the presentation of the final Reports was extended by a supplementary Convention in 1894, and the Commissioners submitted a Joint Report with Maps on the 31st December, 1895. This Report contained no recommendations for the determination of an equitable settlement, and no further discussions have taken place as contemplated in the Convention of 1892.

Proposals for a reference of the question to an Arbitration Commission of legal experts were recently made by Her Majesty's Government, but were not definitely accepted by the United States' Government, though the United States' Secretary of State authorized Her Majesty's Ambassador in April last to state that the question of arbitration was under the consideration of the two Governments.

About the same time difficulties were apprehended in consequence of the action of an United States' officer at Dyea, who requested the Canadian officials to cease exercising jurisdiction at the summits of the passes at the head of the Lynn Canal and at Lake Lindeman, and it was suggested that, pending the discussion of the question, the watershed at the summits of the passes should be adopted as a provisional line, and to this the United States' Government have agreed.

This arrangement was, in fact, a temporary recognition of the *status quo*, and was only suggested with a view of avoiding the risk of conflict, which the rash action of an over-zealous officer on either side might have provoked. But, as the line thus adopted is more than 100 miles from the ocean, Her Majesty's Government cannot reasonably be expected to continue to accord it provisional recognition for an indefinite period, and, pending a definite settlement of the question, a provisional line more in accordance with the Treaty stipulations should be adopted, which will allow the occupation by Canada of one at least of the ports on this inlet.

There are two special reasons for an early delimitation of this part of the boundary. In the first place, owing to the discovery of the Klondyke gold-fields, there has already been a large influx of miners and others into the territory to which access lies mainly through the strip. The necessity of establishing a Customs frontier on the inlets on the coast is therefore obvious. In addition to this consideration, there is the fact that the whole of the strip of Alaska bordering on the Pacific is believed to be auriferous. Prospectors are already at work in many places, and Companies have for some years been mining at Juneau and other places near the entrance to the Lynn Canal and on the adjacent islands. If gold should be found in large quantities at points in disputed territory serious difficulties may ensue, and Her Majesty's Government therefore consider that steps should be taken as early as possible for arriving at an agreement as to the intention of the Parties to the Treaty of 1825 as to how the boundary-line along the strip from Portland Canal to Mount St. Elias should be drawn.

Her Majesty's Government are content to leave it to the discretion and judgment

of the Commissioners to devise some machinery for this purpose, but, for the reasons above stated, they think it desirable that, if possible, the Joint Commission should in any case agree upon some provisional arrangement for fixing a temporary line on the various inlets and rivers traversing the strip, and also at any other point at which disputes may arise pending a final settlement of the question, and a complete delimitation of the frontier.

They have only to remark that the boundary-line must, in the first instance, be sought in the mountains which border the coast, and that the important condition that the line is nowhere to exceed 10 marine leagues from the ocean governs it throughout.

4 and 5.—Transit of Merchandise to and from either Country across intermediate Territory of the other.

These Articles refer to what is known in Canada and the United States as transportation in bond.

The contiguity of territory between the United States and the Dominion of Canada, and the fact that in some instances their possessions overlap, led many years ago to an Agreement, whereby the goods of one country can be shipped across the territory of the other without being subject to its Customs laws.

This system has proved of great advantage to the subjects and citizens of both nations, and it appears advisable to establish it on a permanent basis by Treaty, and to make it as broad and as effective as possible consistently with the necessary protection of the revenue.

6.—Alien Labour Laws.

This subject is one which has of late years assumed in Canada serious proportions. It arises from the fact, that some years ago the Congress of the United States adopted laws which prohibited the importation into the United States of labourers under contract.

It is generally admitted that the restrictions imposed by these laws were intended to apply only to the introduction of certain classes of European labourers working at low rates under contract. Unfortunately, however, they were applied in the great cities along the border in the State of New York, and also in other adjacent States, to Canadian subjects of Her Majesty seeking work in the territory of the United States.

In self-defence the Canadian Parliament found it necessary to enact, in the Session of 1897, similar legislation intended to apply to American citizens proceeding to Canada with the object of seeking work in the Dominion.

The Canadian Parliament came to this determination with much regret, and Her Majesty's Government would welcome an Agreement on this matter providing for the complete suspension of such laws in both countries as regards persons domiciled in either.

7.—Mining Rights.

This Article, which refers to the mining rights of citizens or subjects of either country within the territory of the other, calls for no special comment. In the view of Her Majesty's Government, the subjects or citizens of either country should enjoy in the territory of the other the same rights and privileges as are accorded to its own subjects or citizens; and they would be glad to see an Agreement concluded to that effect.

8.—Reciprocity.

It has always been the opinion of the party now in power in Canada that the geographical position of the United States and Canada makes a large measure of free trade between them most desirable. The fact, however, that each country has a high Customs Tariff, which is practically protective, renders mutual concessions somewhat difficult. Moreover, the fact should not be overlooked that Canada, while fully appreciating the advantage of the American markets, has in recent years, by the judicious subsidizing of freight steam-ships and the introduction of the cold storage

system, succeeded in finding a profitable market for a large portion of her surplus natural products in Great Britain; that this market is capable of indefinite expansion, and that in consequence the desirability of obtaining access to the markets of the United States has been appreciably diminished.

Notwithstanding this fact, it is considered that negotiations for the free interchange of a wide list of natural products, and for a mutual reduction of duties on a carefully-selected list of manufactured products, is still desirable and feasible, though it would, of course, be impossible for Canada to grant to the United States Tariff concessions without extending them also to such countries as are entitled by Treaty to most-favoured-nation treatment in Canada, and it is essential also that the Dominion should maintain unimpaired its right to grant preferential treatment to the mother country and other parts of the Empire of which it is a member.

9.—*Naval Vessels on the Great Lakes.*

On this subject, Her Majesty's Government are strongly of opinion that any modification of the restrictions placed upon the two countries with regard to naval armament on the lakes ought to be very carefully guarded, and they are not satisfied that any sufficient reason exists at the present time for any deviation from the restrictions imposed by the Agreement of 1817. The exercise by the United States of a Treaty right, if granted, to place a number of armed vessels on the lakes, might force Canada to incur very large and otherwise unnecessary expenditure in arming a similar number of vessels for the protection of her own shores and cities.

10.—*More complete Definition and Marking of Frontiers.*

This Article calls for no special remarks on the part of Her Majesty's Government. It is obviously in the interest of both countries that their frontiers should be defined in such a manner as to obviate any possibility of doubt or of disputes arising, and it is not anticipated that any difficulty will be experienced in making arrangements for the complete marking of the boundary where it is now insufficiently defined.

11.—*Conveyance of Persons in Custody of the Officers of one Country through the Territory of the other.*

In this case also, Her Majesty's Government have no special comments to make; but, in view of the manner in which the territories of the United States and of the Dominion are connected, and, as mentioned above, in some instances overlap, it is desirable in the interests of both that some arrangement should be made for this purpose.

The subject should be approached from the point of view of facilitating the punishment of offenders, and at the same time affording due protection to the subjects or citizens of either country.

A copy of this despatch will be communicated to the United States' Government in fulfilment of the engagement that each Government should communicate to the other a Memorandum dealing with the subjects mentioned in the Protocol.

The American Commissioners will, therefore, be in possession of the views entertained by Her Majesty's Government and the Government of Canada with regard to the treatment of the various matters which will engage your attention. It will no doubt be understood that the Commissioners will not be precluded from making any suggestions they may think proper, or from considering such other questions as after mutual agreement they may deem it useful and suitable to discuss.

Her Majesty's Government are firmly convinced that the Commissioners on either side will be animated with an earnest desire to arrive at an honourable and satisfactory solution, and that the result of your deliberations will exercise an enduring influence of a beneficent character on the relations of the two countries.

I am, &c.
(Signed) SALISBURY.

No. 36.

Colonial Office to Foreign Office.—(Received July 20.)

Sir,

Downing Street, July 19, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 5th instant, transmitting copy of a despatch from Her Majesty's Ambassador at Washington, inclosing copy of a note from the United States' Government respecting the recent Act of the Legislature of Ontario, which provides that licences hereafter granted to cut timber on the Crown lands of that province shall require the manufacture of the lumber in Canada.

2. I am to request that you will inform the Marquess of Salisbury that Mr. Chamberlain does not find in the Ontario Law on the subject any provision that a renewal of a licence on the original terms is a matter of right.

3. Judging from the speech of Mr. Charlton, cited by Mr. Day and the petitioners, the claim would appear to rest only on the alleged practice of the Provincial Government; and so far as the Statute Law is concerned, the Government does not appear to be under any obligation to grant a renewal of a licence or to refrain from attaching conditions to such renewal which were not in the original licence.

4. The matter, however, in so far as it is a question of the disallowance of a provincial law, is one for the consideration of the Dominion Government, and if they agree to its being referred to the Joint Commission, Mr. Chamberlain sees no objection to that course, and has telegraphed to the Governor-General to ascertain their views.

5. I am to add that the Dominion Government have not, as Messrs. Dickenson and Lansing appear to suppose, the power to interfere with the Government of Ontario as regards the construction of the Act, though they have the power to advise the Governor-General to disallow it.

I am, &c.

(Signed) H. BERTRAM COX.

No. 37.

Colonial Office to Foreign Office.—(Received July 20.)

Sir,

Downing Street, July 19, 1898.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquess of Salisbury, with reference to the letter from this Department of the 18th July, a copy of a despatch from Governor-General the Earl of Aberdeen on the subject of the Alaska boundary.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 37. ,

The Earl of Aberdeen to Mr. Chamberlain.

(Confidential.)

Sir,

Government House, Ottawa, April 4, 1898.

WITH reference to your cypher message of the 8th ultimo, communicating the proposals of the United States' Government for the demarcation of a provisional boundary-line at the head of the inlets by which access is gained to the Yukon District, I have the honour to inclose herewith copy of an approved Minute of the Privy Council setting forth the objections of my Ministers to the course proposed by the United States' Government.

You will observe, that, pending the final settlement of the Alaska boundary, my Government suggest a provisional arrangement with the United States' Government, under which each Government should remain in possession of the territory occupied by it.

I have, &c.

(Signed) ABERDEEN.

Inclosure 2 in No. 37.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 28th March, 1898.

THE Committee of the Privy Council have had under consideration a despatch, hereto annexed, dated the 6th March last, from the Right Honourable Mr. Chamberlain, marked Secret, in which the proposition is made that Commissioners should be appointed under Article I of the Convention of the 22nd July, 1892, to consider and establish the boundary-line between Alaska and British Columbia, the Commissioners to be instructed, in the first instance, to define a provisional boundary in the Lynn Canal region.

The Minister of the Interior, to whom the despatch was referred, submits that, in his judgment, such action would be open to grave objection, for the following reasons:—

1. Article I of the Convention of 1892 contemplates a permanent and final, not a provisional, delimitation of the boundary-line. The provisional line, when marked out, would acquire no validity from the fact that it had been marked out under the Convention, an agreement between the Governments would be necessary to make it valid. Nor would it have moral force towards securing such agreement as would a permanent line agreed upon by Commissioners acting under the same provisions of the Convention. An agreement between Her Majesty's Ambassador at Washington and the Government of the United States to adopt a temporary line for the purposes of administration would secure all that is necessary at the present juncture to avoid conflict of jurisdiction.

2. The assent of the Government of Canada to an arrangement whereby Commissioners, appointed under a Convention which purports to aim at establishing a permanent line in accordance with the Boundary Treaties in regard to it, should establish a provisional line, might be construed into an admission on the part of Canada that the line described in those Treaties is inconsistent with the topographical features of the region, and therefore impracticable. The Government of Canada, on the other hand, has always held that it is quite practicable to survey and mark out the boundary in strict accordance with the Treaty description.

3. In order to make plain the fact that the description of the line in the Treaties is not inconsistent with the topographical features of the region, and to resolve existing differences of interpretation of the Treaties, it appears essential that the line be considered as a whole. The determination of a part of it, in accordance with merely topographical conditions, may defeat this object.

The Committee, on the recommendation of the Minister of the Interior, advise that your Excellency be moved to inform the Right Honourable Her Majesty's Principal Secretary of State for the Colonies that the Government of Canada is unwilling, for the reasons stated, to agree to the determination of a provisional line under the Convention of 1892, but that this Government sees no objection to a provisional arrangement with the United States' Government whereby, pending the settlement of the boundary question, and as to the territory traversed by the mountain passes which lead from Taiya Inlet, each Government shall remain in possession of the territory now actually occupied by it, and that, for this purpose, a line drawn at the summit of the passes or the watershed between the rivers flowing into Taiya Inlet and the tributaries of the Yukon River would be satisfactory to Canada.

All of which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

No. 38.

Treasury to Foreign Office.—(Received July 20.)

Sir,

Treasury Chambers, July 19, 1898.

THE Lords Commissioners of Her Majesty's Treasury have had before them your letter of the 15th instant respecting the expenses of Lord Herschell's special mission to Canada as one of Her Majesty's High Commissioners for the settlement of questions pending between the United States and Canada.

As recommended by the Marquess of Salisbury, my Lords sanction the charge against public funds of all the actual expenses for travelling and subsistence of Lord Herschell and his suite (Secretary, Private Secretary, courier, and valet) whilst engaged on this mission.

They also sanction the payment of 200*l.* for outfit and special remuneration to Mr. Cartwright, of the Foreign Office, who will act as Secretary to the High Commission, as well as of the wages of the courier at 5*l.* a-month.

Their Lordships will be glad to receive an estimate of the total cost as soon as one can be framed.

I am, &c.
(Signed) FRANCIS MOWATT.

No. 39.

Colonial Office to Foreign Office.—(Received July 21.)

(Confidential.)

Sir, *Downing Street, July 16, 1898.*
WITH reference to the letter from this Department of the 14th instant, I am directed by Mr. Secretary Chamberlain to transmit to you, for the information of the Marquess of Salisbury, copy of a despatch from the Governor-General of Canada, covering copy of an approved Minute of the Dominion Privy Council, embodying the views of the Canadian Government on the questions to be discussed by the Joint Commission.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 39.

The Earl of Aberdeen to Mr. Chamberlain.

(Secret.)

Sir, *Government House, Ottawa, July 5, 1898.*
IN accordance with your telegram of the 21st June, I have the honour to inclose copy of an approved Minute of Council embodying the views of my Government upon the questions to be discussed by the proposed Joint Commission.

You will observe that the observations contained in the Minute were prepared by Sir Wilfrid Laurier, as President of the Council, and thereafter duly indorsed by his colleagues.

I have, &c.
(Signed) ABERDEEN.

Inclosure 2 in No. 39.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 4th July, 1898.

THE Committee of the Privy Council have had under consideration a despatch by cable, dated the 21st June, 1898, hereto annexed, from the Right Honourable Mr. Chamberlain, as follows: "Send home as early as possible a Memorandum of the views of your responsible advisers on the various questions to be discussed by the Joint Commission."

The President of the Council, to whom the said despatch was referred, offers the following observations as expressing the views and considerations which, in his opinion, ought to be confidentially communicated to the Imperial authorities for the guidance—if the same are approved—of the Commissioners of Her Majesty in the approaching negotiations, which are soon to take place at Quebec.

The Protocol lately adopted at Washington by Representatives of the two High Contracting Parties embraces twelve Articles, and contains all the subjects which have actually given cause, or may possibly at some time give cause of irritation between

the two nations, and which, if successfully disposed of, would in no small degree add to the ever-growing friendliness which ought to characterize their relations.

It may be advisable to revise seriatim these different subjects.

Article 1st relates to the "fur seals in Behring Sea, and the waters of the North Pacific Ocean."

In 1893, the International Tribunal appointed by the same High Contracting Parties had this subject of the fur seals in Behring Sea, and the waters of the North Pacific Ocean, under consideration. The exact question submitted to the International Tribunal was whether the subjects of Her Majesty had the right to kill seals in the above described waters. The affirmative of the question was emphatically determined by the Tribunal, but at the same time, with the view of protecting seal life, pelagic sealing, or in other words the killing of fur seals on the high seas, was submitted to certain Rules, then and there framed by the Tribunal, which restricted the exercise of this right in three important respects, viz., time, place, and weapons. The Rules then adopted provide that pelagic sealing should not take place during the months of May, June, and July; that at no time could it take place in a zone of 60 miles around the Pribyloff Islands and other seal rookeries, and that at no time should fire-arms be used in Behring Sea.

These Rules were made binding for all times, but subject to revision at the end of every successive five years.

The American authorities allege that the above Rules have entirely failed of the object for which they were devised, viz., the protection of seal life; they assert that even with the above restrictions, pelagic sealing causes the killing of a large number of gravid females, and that, as a consequence, the herds have been constantly diminishing, and are now very near complete extinction, and they ask that the Rules be revised for the purpose of still further adding to the restrictions under which pelagic sealing is now carried on.

On the other hand, Canadian sealers aver that the stringency of the existing Rules has made pelagic sealing a very precarious business, and that any addition to their severity would practically amount to a total prohibition of that industry. They demand relaxation of the Rules alike with regard to the extent of the prohibited zone, the close season, and the right of boarding and search.

These respective statements show a conflict of interests between pelagic sealers and land sealers, which it is extremely difficult, if not absolutely impossible, to reconcile.

There is some reason to expect that the American Commissioners will propose the total abrogation of pelagic sealing as the only means of preserving the herds.

In view of the undoubted fact that, even with the present Regulations, both pelagic sealing and land sealing have become less and less remunerative, it is suggested that the abrogation of the former might be considered, provided adequate compensation be given to those who are now engaged in the business, and provided, likewise, that some fair equivalent be given to Great Britain for the renunciation by her of the exercise of an undoubted right.

The Dominion Government is of the opinion that, as the suppression of pelagic sealing would involve the practical confiscation of the fifty-four Canadian sealing-schooners, with their tackle and appurtenances, at present engaged in the industry, and as such suppression would enure entirely to the benefit of the United States and their lessees on the Pribyloff Islands, full and ample compensation should be awarded the owners of these sealing-vessels by the Government of that country. The equivalent that should be given to Great Britain for the renunciation by her of the rights of her subjects to carry on pelagic sealing in future might well, it is considered, take the form of some trade concessions to Canada, whose citizens would be chiefly affected by the proposed prohibition.

The second Article of the Protocol refers to the fisheries of the Atlantic and Pacific coasts, and of the inland waters contiguous to their common frontier.

This Article involves two subjects, which are absolutely disassociated, and which ought to be treated from a different standpoint. In the Atlantic fisheries there is an alleged grievance on the part of the Americans; in the inland waters, a grievance on the part of the Canadians.

The grievance which is complained of by American fishermen on the Atlantic is not one which may be said to be of the creation either of the British or Canadian authorities. It simply results from the Convention of 1818, which was freely agreed to both by Great Britain and the United States.

The gist of this Convention, in so far as it relates to the subject in hand, is that

the American fishermen have not the right of access to the harbours of the British possessions on the Atlantic coast, except for shelter, repairs, wood, and water, and that the express prohibitions of that Convention preclude them for purchasing bait, ice, and supplies, from transshipping their fish, or from shipping crew, or otherwise making Canadian harbours the base of their fishing operations.

The restrictions thus imposed upon American fishermen have often been the subject of representations on their part. The British Government has always been ready to consider the representations thus made, and in 1888 a Treaty was agreed to between Plenipotentiaries appointed by the two nations. The British Plenipotentiaries at that time were the Right Hon. Mr. Joseph Chamberlain and Sir Charles Tupper.

The restrictions above mentioned, imposed upon American fishermen by the Convention of 1818, were removed in consideration of some trade concessions to be made to Canada by the United States. The Treaty was ratified by the Imperial and Canadian Parliaments, but rejected by the American Senate.

It is suggested that the proposed Treaty of 1888 affords a fair basis upon which the same subject may again be approached.

The *modus vivendi* offered by the British Commissioners at the time of the signing of the Treaty of 1888, under which United States' fishermen might obtain, on payment of a small tonnage fee, all of the concessions or privileges they seek with respect to the purchasing of bait, ice, and supplies, transshipping cargoes, and shipping crews, was cordially accepted by the American Commissioners, and, notwithstanding the rejection of the Treaty, has been continued by the Parliament of Canada to this day. While its privileges are accepted in the terms offered by a large number of the United States' fishing fleet, an almost equally large number of that fleet neglect or decline to take out their licences under this *modus vivendi*, but seek afterwards illegally to enjoy the privileges they could secure if they paid the small tonnage fee exacted for the licence.

The consequences have been irritation, expense, and international disputes, all of which, it is thought, is avoidable if the substance of the Treaty of 1888 should be incorporated in a new Treaty, with the exception, however, of the provisions of that proposed Treaty which treated land-locked bays having an entrance of more than 10 miles wide as part of the open sea. That provision seems objectionable, though it is not advisable here now to point out the objections.

The question of the fisheries so far as inland waters of the two countries are concerned relates to a long-standing grievance of Canadians against the United States. In the Great Lakes, and in all the contiguous waters between the two countries, the laws which all civilized nations admit as necessary for the protection of fish life, viz., the establishment of a close season and the prohibition of some weapons of destruction, have been rigidly enforced on the Canadian side, whereas on Lake Erie and Lake Huron and most of the other contiguous waters no such regulations are enforced, and American fishermen can fish all the year round and use the most destructive appliances. The absence of regulations on one side and their enforcement on the other have operated most unjustly upon the Canadian fishermen, while at the same time the former have threatened the entire extinction of some of the more valuable fisheries.

A few years ago a Joint International Commission, consisting of Professor Rathbun and Commander Wakeham, was appointed to consider and report upon the subject, and to recommend such joint regulations and restrictions as might properly be mutually adopted by the United States and Canada for the control of those inland contiguous fishing waters. This Commission commenced its inquiries in the spring of 1893, and presented its Final Report on the 31st December, 1896.

The recommendations and suggestions of these Commissioners the Government of Canada is willing to accept as providing a fair and reasonable solution of the difficulties, provided the United States' Government is able to provide for the enforcement of the proposed restrictions; the State Governments, it having been heretofore understood, claiming the exclusive control of the fisheries within their respective jurisdictions.

It is suggested that these important subjects should be regulated by the Treaty, and that these contiguous waters should be regulated by similar laws on both sides.

The 3rd Article of the Protocol refers to the delimitation and establishment of the Alaska-Canadian boundary.

In view of the great discoveries of gold which have of late years been made in the

peninsula which includes Alaska on the American side and the Yukon on the Canadian side, this subject is one of the most important that the Commissioners will have to deal with.

It is to be remarked that the boundary between British and American territories in that section has been determined by the Treaty of 1825 between Great Britain and Russia, and to some extent also by the Treaty of Washington (1871). It is suggested that the object of the Commissioners should be strictly to organize a Tribunal of legal experts to determine the exact location of that boundary, and, in the meantime, to agree upon a conventional line embracing the concession to Canada of one of the ports on the shores of the Lynn Inlet.

In view, however, of the fact that the subject is one surrounded with considerable difficulties, resulting from the fact that in 1825 the geography of that distant locality was but little known, and that there were very few accurate maps, a proposition may be made to fix and determine the boundary by agreement. It is submitted that this aspect of the question ought to be left entirely to the judgment and discretion of the Commissioners.

Articles 4 and 5 of the Protocol relate to the transit of merchandize to and from either country across intermediate territory of the other, or, in other words, to what is known in Canada and the United States as transportation in bond.

The contiguity of territory between the two countries, and, in some instances, their interlapping, brought an agreement many years ago between the two countries, whereby the goods of one country can be shipped across the territory of the other, without being subject to its Customs laws.

This system has proved of great advantage to the subjects and citizens of both nations.

There is no particular suggestion to offer upon it, except that it is advisable to make it permanent by Treaty, and to make it as broad and as effective as can be allowed consistently with the necessary protection of the revenue.

The 6th Article refers to the question of Alien Labour Laws. This subject is one which of late years has assumed in Canada dangerous proportions. It arises from the fact that some years ago the Congress of the United States adopted laws which prohibited the importation into the United States of labourers under contract.

It is generally admitted here that the object of these laws was intended to apply only to certain classes of pauper populations in Europe, but unfortunately they were applied in the great cities along the border in the State of New York and other adjacent States, to Canadian subjects of Her Majesty, who sought labour in the United States.

In self-defence the Canadian Parliament had to adopt in the session of 1897 a law largely similar and intended to apply to American citizens seeking labour in Canada.

The Canadian Parliament came to this determination with much regret, and the object of this Article is to provide for the abrogation of all such laws, in so far as the two countries are concerned.

The 7th Article refers to the mining rights of citizens or subjects of each country within the territory of the other. This Article requires no special comment; it is submitted that the subjects and the citizens of each country should have in the territory of the other the same privileges which are granted to its citizens or subjects.

Article 8 refers to reciprocity between the two countries.

It has always been the opinion of the party now in power in Canada that the relative position of the United States and Canada made a large measure of free trade most desirable between them. The fact, however, that each country has a high Customs Tariff, which is practically protective, makes mutual concessions somewhat difficult.

Neither should it be overlooked that Canada, while fully appreciating the advantages of the United States' markets, has in recent years, by the judicious subsidizing of freight steam-ships, and the introduction of the cold storage system, succeeding in finding a profitable market for a large portion of her surplus natural products in Great Britain; that this market is capable of indefinite expansion, and that in consequence the desirability of obtaining access to the markets of the United States has been appreciably minimized.

Even in the face of this undoubted fact, the proposition is still maintained that negotiations on and for a wide list of natural products and a carefully selected list of manufactured products are still desirable and possible, though, it is important to

remark, concessions to be made by Canada should in no wise conflict with the preferential Tariff given to Great Britain by the legislation of 1897.

The 9th Article provides for the revision of the Agreement of 1817 respecting naval vessels on the lakes.

The only observation to be offered on this subject is that any modification of the restrictions placed upon the two countries with regard to armament on the lakes ought to be very carefully guarded, and, in fact, that no reason at this time seems to exist for any deviation from the severity of the restrictions imposed by the Agreement of 1817. The exercise by the United States of a Treaty right, if granted, to place a number of armed vessels on the lakes might force Canada to incur very large and otherwise unnecessary expenditure in arming a similar number of vessels for the protection of her own shores and cities.

The three last Articles are not of serious importance, with the exception of the provision for the conveyance, trial, or punishment of persons in lawful custody of officers of one country through the territory of the other.

This subject ought to be approached with the view of facilitating the punishment of offenders without sacrificing the protection of the subjects or citizens of either country, but does not seem to invite any special comment at this moment.

The Committee, on the recommendation of the President of Council, advise that your Excellency be moved to transmit a certified copy of this Minute to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies.

All of which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

No. 40.

Colonial Office to Foreign Office.—(Received July 21.)

Sir,

Downing Street, July 21, 1898.

WITH reference to your letters of the 9th and the 19th instant respecting the proposed representation of Newfoundland on the Joint Commission, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Salisbury, paraphrases of telegrams on the subject which have been addressed to the Governor-General of Canada and the Governor of Newfoundland.

As the United States' Government entertain no objection to the proposal in question, and as Lord Salisbury is aware from unofficial communication with this Department, that the Government of Canada has also acceded to it, Mr. Chamberlain presumes that his Lordship will cause a commission to be prepared appointing the Honourable Sir James Spearman Winter, Q.C., K.C.M.G., Prime Minister and Attorney-General of Newfoundland, to be a member of the Commission, and that he will issue a supplement to the instructions to the Commissioners, directing them to include in their deliberations the whole question of the Atlantic fisheries as affecting Newfoundland as well as Canada, and also the commercial relations between the United States and Newfoundland, and expressing the hope of Her Majesty's Government that a comprehensive arrangement may be arrived at which will apply to the whole of Her Majesty's Dominions in North America.

I am, &c.

(Signed)

EDWARD WINGFIELD.

Inclosure 1 in No. 40.

Mr. Chamberlain to Governor Sir H. Murray.

(Telegraphic.) P.

Downing Street, July 19, 1898, 6:18 p.m.

UNITED STATES and Canada have agreed to Newfoundland being represented on Commission by Premier, who will accordingly be appointed.

Inclosure 2 in No. 40.

Mr. Chamberlain to the Earl of Aberdeen.

(Telegraphic.) P.

Downing Street, July 19, 1898, 6.33 P.M.

REFERRING to my telegram of the 11th instant: As I understood that representation of Newfoundland on Commission by the Premier would not be objected to by your Government, this course was proposed to the United States, and has been agreed to by them. Winter will accordingly be appointed, and he may be expected at Quebec about the middle of next month. On all points not affecting Newfoundland he will be instructed to support Canadian views.

No. 41.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 21.)

(No. 96.)

(Telegraphic.) P.

New London, Connecticut, July 21, 1898.

WITH reference to your Lordship's telegrams Nos. 121 and 122: Joint Commission.

I am in receipt of a note from the United States Secretary of State, suggesting the 10th August as the date for the first meeting at Quebec.

Mr. Day informs me that the Hon. Jefferson Coolidge, of Boston, Massachusetts, formerly United States' Minister in Paris, has been appointed by the President to be an additional Commissioner.

Under these circumstances, is it still considered advisable that any limitation should be placed on the functions to be exercised by the Commissioner from Newfoundland?

No. 42.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 21, 1898.

WITH reference to my letter of the 19th instant, I am directed by the Marquess of Salisbury to transmit, for the information of the Secretary of State for the Colonies, copy of a telegram from Her Majesty's Ambassador at Washington,* announcing the appointment of the Honourable Jefferson Coolidge as a sixth member of the Joint Commission on behalf of the United States.

Sir J. Pauncefote inquires whether it is still desired to place any limit on the functions of the Newfoundland Commissioner.

Lord Salisbury is of opinion that, in the circumstances of the case, it is unnecessary that the functions of the Newfoundland Commissioner should be in any way limited, and proposes, with Mr. Secretary Chamberlain's concurrence, to inform Sir Julian Pauncefote accordingly.

I am, &c.

(Signed) F. H. VILLIERS.

No. 43.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 22.)

(No. 98.)

(Telegraphic.) P.

New London, Connecticut, July 22, 1898.

JOINT Commission.

At the suggestion of the American Commissioners the United States' Government desire to publish the list of subjects to be discussed, and wish to know whether Her Majesty's Government have any objection?

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 191.)

Sir,

Foreign Office, July 22, 1898.

WITH reference to recent correspondence relative to the appointment of a Joint Commission for the adjustment of all questions in dispute between the United States and the Dominion of Canada, I transmit to your Excellency herewith, for your information, a copy of the instructions which I have addressed to Her Majesty's High Commissioners.*

Further copies are also inclosed for communication to the United States' Government in fulfilment of the engagement that each Government should communicate to the other a Memorandum dealing with the subjects mentioned in the Protocol of the 30th May.

In transmitting these copies to the Secretary of State your Excellency should state that Her Majesty's Government will be glad to receive, as soon as possible, the corresponding instructions given to the United States' Commissioners, or a Memorandum containing the views of the United States' Government on the various questions to be discussed.

I am, &c.
(Signed) SALISBURY.

No. 45.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 22, 1898.

WITH reference to recent correspondence respecting the appointment of a Joint Commission for the adjustment of all matters in dispute between the United States and the Dominion of Canada, I am directed by the Marquess of Salisbury to transmit to you, for the use of your Department, copies of the instructions which have been addressed by his Lordship to Her Majesty's High Commissioners.*

These instructions were settled in communication with your Department, and have been approved by Mr. Secretary Chamberlain.

I am to add that copies will be forwarded to Her Majesty's Ambassador at Washington, for communication to the Government of the United States, in fulfilment of the engagement contained in the Protocol signed at Washington on the 30th May, that each Government should communicate to the other a Memorandum dealing with the subjects to be discussed.

I am, &c.
(Signed) F. H. VILLIERS.

No. 46.

Foreign Office to Treasury.

Sir,

Foreign Office, July 23, 1898.

WITH reference to your letter of the 19th instant sanctioning the charge against public funds of all the actual expenses for travelling and subsistence of Lord Herschell and his suite during his Lordship's special Mission to Canada, I am directed by the Marquess of Salisbury to request that you will inform the Lords Commissioners of the Treasury that a telegram has been received from Her Majesty's Ambassador at Washington suggesting that a Secretary from Her Majesty's Embassy shall be attached to Lord Herschell in addition to Mr. Cartwright.

A member of Her Majesty's Embassy would, no doubt, be in a position to render useful services to the High Commissioners. He would be able to furnish information and would undertake the duty of communicating regularly with Her Majesty's Ambassador.

Lord Salisbury therefore concurs in Sir J. Pauncefote's suggestion, and hopes that the Lords Commissioners of the Treasury will sanction the additional charge

against public funds of the travelling and subsistence expenses of one of the Secretaries of the Embassy during the sittings of the Joint Commission.

I am, &c.
(Signed) F. H. VILLIERS.

No. 47.

Colonial Office to Foreign Office.—(Received July 25.)

Sir,

Downing Street, July 23, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 21st instant, inclosing a copy of a telegram from Her Majesty's Ambassador at Washington announcing the appointment of the Honourable Jefferson Coolidge as a sixth member of the Joint Commission on behalf of the United States.

In reply, I am to state that Mr. Chamberlain concurs in the answer which Lord Salisbury proposes to return to Sir J. Pouncefote, that it is unnecessary in view of his appointment to place any limitation on the functions of the Newfoundland Member of the Commission.

Mr. Chamberlain considers it desirable, however, that in the instructions which are to be sent to Sir J. Winter, he should be directed to support the views of the British and Canadian Commissioners on all questions other than those in which Newfoundland is directly interested.

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

No. 48.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received July 25.)

(No. 99.)

(Telegraphic.) P.

New London, Connecticut, July 25, 1898.

JOINT Commission.

With reference to your Lordship's telegram No. 128, am I authorized to inform the United States' Government that Her Majesty's Government agree to the date suggested by them for the first sitting, viz., the 10th August?

No. 49.

The Marquess of Salisbury to Sir J. Pouncefote.

(No. 128. Confidential.)

(Telegraphic.) P.

Foreign Office, July 25, 1898.

REFERRING to your telegram No. 96 of the 20th July.

It is not desired, in the circumstances, to place any limitation on the functions of the Newfoundland member of the Joint Commission.

(Confidential.)

On all questions in which Newfoundland is not directly interested he will be directed to support British and Canadian Commissioners.

No. 50.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 25, 1898.

WITH reference to your letter of the 23rd instant, I am directed by the Marquess of Salisbury to state that an inquiry has been addressed to Her Majesty's Ambassador at Washington by the United States' Government as to whether Her Majesty's Government would object to the publication of the list of subjects to be discussed by the Joint Commission, which is to meet at Quebec next month for the discussion and adjustment of questions now pending between Canada and the United States.

Sir J. Pouncefote adds that publication is desired by the American Commissioners.

Lord Salisbury would be glad to be favoured with Mr. Secretary Chamberlain's opinion as to the answer which should be returned to the United States' Government on the subject.

I am, &c.
(Signed) F. H. VILLIERS.

No. 51.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 27.)

(No. 100.)

(Telegraphic.) P.

New London, Connecticut, July 27, 1898.

JOINT Commission.

With reference to my telegram No. 99 of the 25th instant, I am in receipt this day of a telegram from the Governor-General of Canada stating that the Premier of Newfoundland finds it impossible to arrive before the 14th August, and at his Excellency's request I have informed the United States' Secretary of State of the above, and have asked whether the 20th August will be convenient to the United States' Commissioners for the first sitting.

No. 52.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 131.)

(Telegraphic.) P.

Foreign Office, July 27, 1898.

JOINT Commission.

Referring to your telegram No. 98 of the 23rd instant.

There is no objection to the list of subjects being published.

No. 53.

Colonial Office to Foreign Office.—(Received July 28.)

Sir,

Downing Street, July 27, 1898.

WITH reference to your letter of the 25th instant marked "Immediate," I am directed by Mr. Secretary Chamberlain to request you to inform the Marquess of Salisbury that he has no objection to offer to the publication of the list of subjects to be discussed by the Joint Commission at Quebec.

I am, &c.
(Signed) H. BERTRAM COX.

No. 54.

Treasury to Foreign Office.—(Received July 28.)

Sir,

Treasury Chambers, July 27, 1898.

AS recommended by the Marquess of Salisbury in your letter of the 23rd instant, the Lords Commissioners of Her Majesty's Treasury consent to the inclusion amongst the expenses of Lord Herschell's Mission to Canada, chargeable to the Diplomatic and Consular Vote, of the travelling and subsistence of one of the Secretaries of Her Majesty's Embassy at Washington, during the sittings of the Joint Commission.

I am, &c.
(Signed) FRANCIS MOWATT.

The Marquess of Salisbury to Her Majesty's High Commissioners.

My Lords and Gentlemen,

Foreign Office, July 28, 1898.

WITH reference to my despatch No. 1 of the 19th instant, I have the honour to inform you that it has been agreed between Her Majesty's Government and the Government of the United States, with the concurrence of the Canadian Government, that Newfoundland should be represented on the Joint Commission, inasmuch as two of the subjects to be discussed especially affect that Colony.

These subjects are the Atlantic Fisheries, and the question of the readjustment on a mutually advantageous basis of the customs tariffs applicable in each country to the products of the soil or industry of the other.

They are dealt with under headings 2 and 8 respectively in my despatch above referred to.

The Queen has accordingly been graciously pleased to appoint the Honourable Sir James S. Winter, K.C.M.G., Prime Minister and Attorney-General of Newfoundland, to be a member of the Commission, and the necessary full power to enable him to act is inclosed herewith.

The Honourable Jefferson Coolidge, formerly American Minister at Paris, has been appointed by the President as sixth Commissioner on behalf of the United States.

You should therefore include in your deliberations the whole question of the Atlantic Fisheries as affecting Newfoundland as well as Canada, and also the commercial relations between the United States and Newfoundland.

By Article I of the Convention of the 20th October, 1818, which is quoted textually in my despatch of the 19th July, United States' fishermen are placed under the same disabilities in Newfoundland waters as in those of Canada; on the other hand the Government of Newfoundland desire to secure reciprocal free trade with the United States in fish and fish-oil, including seal and whale-oil, and also in minerals; and Her Majesty's Government trust that a comprehensive arrangement may be arrived at which will apply to the whole of Her Majesty's Dominions in North America.

I am, &c.
(Signed) SALISBURY.

No. 56.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received July 29.)

(No. 230.)

My Lord,

New London, Connecticut, July 18, 1898.

WITH reference to my telegram No. 93 of the 17th instant, I have the honour to transmit herewith copy of a note from the United States' Secretary of State, giving the names of the United States' Commissioners, appointed by the President, to represent the United States' Government on the Joint Commission.

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

Inclosure in No. 56.

Mr. Day to Sir J. Pauncefote.

Excellency,

Department of State, Washington, July 16, 1898.

I HAVE the honour to inform you that the following gentlemen have been named by the President to represent this Government on the Canadian Commission:—

Honourable Charles W. Fairbanks, United States' Senator, from Indiana.

Honourable George Gray, United States' Senator, from Delaware.

Honourable Nelson Dingley, Member of Congress, from Maine.

Honourable John W. Foster, of the district of Columbia.

Honourable John A. Kasson, of Iowa.

I have, &c.
(Signed) W. R. DAY.

No. 57.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 132.)

(Telegraphic.) P.

Foreign Office, July 29, 1898.

JOINT Commission.

The sanction of the Treasury given for charging to Lord Herschell's mission the subsistence and travelling expenses of a Secretary from the Embassy has been received.

No. 58.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 30, 1898.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your letter of the 21st instant as to the representation of Newfoundland on the Joint Commission, and I am to transmit, for the information of the Secretary of State for the Colonies, a copy of the supplementary instructions which have been addressed to the High Commissioners on the subject.*

These instructions were drawn up in consultation with your Department.

I am to add that the full power for Sir James Winter is in course of preparation.

I am, &c.

(Signed) F. H. VILLIERS.

No. 59.

Colonial Office to Foreign Office.—(Received August 6.)

Sir

Downing Street, August 5, 1898.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquess of Salisbury, with reference to the letter from your Department of the 21st ultimo and to previous communications, a copy of correspondence on the subject of the meeting of the Joint Commission at Quebec.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 59.

Colonial Office to Sir J. Winter.

Sir,

Downing Street, July 29, 1898.

I AM directed by Mr. Secretary Chamberlain to acquaint you that Her Majesty's Ambassador at Washington has, at the request of the Canadian Government, informed the United States' Government that you cannot arrive at Quebec to take up your duties on the Joint Commission before the 14th August, and inquired whether it will suit the United States' Commissioners to meet on the 20th of that month.

You will be informed of the reply of the United States' Government to this communication as soon as it is received.

I am, &c.

(Signed) H. BERTRAM COX.

Inclosure 2 in No. 59.

The Earl of Aberdeen to Mr. Chamberlain.(Confidential.)
(Telegraphic.)

[Undated.]

I AM requested by my Ministers to ask if you would send official credentials to the Canadian members of the Commission, so that any question may be avoided.

It has now been decided by mutual agreement to meet on the 23rd. Herschell is, in the meantime, making a trip to the Pacific Coast.

Inclosure 3 in No. 59.

Mr. Chamberlain to the Earl of Aberdeen.

(Telegraphic.)

Downing Street, August 2, 1898, 4:30 P.M.

IN reply to your telegram of 2nd. Necessary full powers forwarded by mail of 29th ultimo.

No. 60.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received August 8.)

(No. 104.)

(Telegraphic.) P.

New London, August 8, 1898.

WITH reference to your telegram No. 132 of the 29th July.

Meeting of Joint Commission takes place 23rd August. Lord Herschell gone to Pacific and returns 18th August. He approves of Secretary of this Embassy being adjoined to him. I have arranged that Mr. Tower should go.

No. 61.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received August 13.)

(No. 247.)

My Lord,

New London, Connecticut, August 2, 1898.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 191 of the 22nd ultimo, inclosing copies of the instructions addressed by your Lordship to Her Majesty's High Commissioners on the Joint Commission for the adjustment of all questions in dispute between the United States and the Dominion of Canada.

I have communicated copies, in accordance with your Lordship's desire, to the United States' Government, and have stated that Her Majesty's Government will be glad to receive as soon as possible the corresponding instructions given to the United States' High Commissioners or a Memorandum containing the views of the United States' Government on the various questions to be discussed.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 62.

Colonial Office to Foreign Office.—(Received August 17.)

Sir,

Downing Street, August 17, 1898.

I AM directed by Mr. Secretary Chamberlain to transmit to you, for the consideration of the Secretary of State for Foreign Affairs, with reference to previous correspondence, copy of a telegram from the Governor-General of Canada submitting the name of Mr. J. H. N. Bourassa, Member of the Dominion Parliament, as Secretary to the Canadian Commissioners at the Quebec Conference.

Mr. Chamberlain proposes, should the Secretary of State concur, to inform the Governor-General that Her Majesty's Government approve this recommendation.

I am, &c.
(Signed) C. P. LUCAS.

Inclosure in No. 62.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.)

[Undated.]

DOMINION Government desire to submit [to] approval of Her Majesty's Government the name of J. Henri N. Bourassa, Member of Parliament, as Secretary to Commissioners at Conference at Quebec. Dominion Government consider that he possesses in the highest degree the qualifications for position, and they hope that the recommendation may meet with approval of Imperial Government.

No. 63.

Foreign Office to Colonial Office.

Sir,

Foreign Office, August 18, 1898.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your letter of the 17th instant, inclosing copy of a telegram from the Governor-General of Canada recommending, Mr. J. H. N. Bourassa, Member of the Dominion Parliament, for appointment as Secretary to the Canadian Commissioners at the Quebec Conference.

In reply, I am to inform you that Lord Salisbury concurs in Mr. Chamberlain's proposal to approve this recommendation.

I am, &c.
(Signed) F. H. VILLIERS.

No. 64.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received August 19.)

(No. 250.)

My Lord,

New London, Connecticut, August 9, 1898.

ON the receipt of your Lordship's despatch No. 191 of the 22nd ultimo, I communicated to the United States' Government, in compliance with your Lordship's directions, copies of the instructions issued by Her Majesty's Government to Her Majesty's High Commissioners in the Joint Commission for the adjustment of questions at issue between Canada and the United States; stating that Her Majesty's Government would be glad to receive as soon as possible the corresponding instructions given to the United States' High Commissioners, or a Memorandum containing the views of the United States' Government on the various questions to be discussed.

I have now the honour to transmit to your Lordship copies of a Memorandum which has been communicated to me by the United States' Secretary of State containing, in compliance with the stipulations of the Protocol of the 30th May last, the views of the United States' Government on the various subjects set forth in that Protocol. In forwarding this Memorandum to me Mr. Day stated that it would constitute the instructions given to the American Commissioners respecting the subjects to come before the Joint Commission.

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

Inclosure in No. 64.

Memorandum on the part of the Government of the United States, containing its views on the subjects set forth in the Protocol signed May 30, 1898, between the Representatives of the United States and Great Britain.

I.—*The Questions in respect to the Fur-seals.*

THE Government of the United States, at the end of the first year the Regulations of the Paris Tribunal were put in operation and continuously since that date, has contended that these Regulations were inadequate for the announced purpose for which they were adopted—"the proper protection and preservation of the fur-seal; and it has sought each successive year to have the Regulations so amended as to attain the purpose announced by the Tribunal. It now claims that the joint conclusions of the American, British, and Canadian experts fully sustain its contention. It believes that the only adequate and effective measure to attain the end had in view by the Tribunal of Arbitration is the total prohibition of pelagic sealing. It is hoped that the Joint High Commission will be able to agree upon a reasonable and equitable basis to secure this measure of protection.

II.—*The Fisheries off the Atlantic and Pacific Coasts and in the Inland Waters of the Frontier.*

The north-east fisheries have been so long a source of misunderstanding and irritation that it would be desirable in the interests of both countries to have the questions connected with them satisfactorily adjusted by the Joint High Commission. The claim of the United States has been that the two Governments, in dealing with the Convention of 1818, should take into consideration the subsequent development between the United States and Canada, by a series of reciprocal legislative and executive acts, of a system of liberal and friendly intercourse with which the restrictions of that ancient instrument are incompatible, and that American fishing-vessels should be admitted to the same privileges in Canadian ports as are extended to other American vessels, and as are extended in American ports to Canadian vessels without distinction. It is hoped that some reciprocal arrangement may be agreed upon which will recognize the just claim of the United States.

In the Agreement of 1892 to create a Joint Commission to report upon the preservation of the fisheries in waters contiguous to the United States and Canada, the Government of the United States recognized the propriety of taking the subject up for settlement by means of some international arrangement. The American Commissioners will be instructed to take the Report of the Joint Commission as a basis upon which to formulate such an arrangement, having in view the respective powers of the Federal and State Governments in its enforcement.

III.—*The Delimitation and Establishment of the Alaskan Boundary.*

This topic has already been the subject of conventional arrangements, and the Report of the Joint Commission is now available, and has made it possible for the two Governments to carry out the stipulation of the last clause of Article I of the Treaty of the 22nd July, 1892, to "proceed to consider and establish the boundary in question." The Government of the United States will expect the Joint High Commission to seek to execute this stipulation by an agreement as to the boundary as fixed by the Anglo-Russian Treaty of 1825, and by the American-Russian Treaty of 1867, and, as far as possible, to delineate the same upon proper maps; and, further, to provide for the fixing of boundary marks by a Joint Commission to be hereafter appointed. This Government has no reason to anticipate any other than a definite and satisfactory settlement of this important question by the Joint High Commission.

IV and V.—*Transit of Merchandize to and from either country and across intermediate Territory.*

The Government of the United States favours the free transit of merchandize, as indicated in paragraphs 4 and 5. It deems it, however, important that the present

uncertainty respecting the authority under which the bonded system, as now practised is maintained, should be removed. This should be done by equitable conventional stipulations which will subserve the necessities of the two countries, without injuring the competing interests of the transportation routes.

VI.—*The Question of the Alien Labour Laws.*

The laws of the United States respecting contract alien labour were enacted with a view to the regulation of immigration from countries beyond the seas. Any equitable reciprocal arrangement which may be concerted by the Joint High Commission with respect to intercourse between the United States and Canada which does not expose the United States to abuse of its existing laws will be heartily approved by this Government.

VII.—*Mining Rights of the Citizens or Subjects of each Country within the Territory of the other.*

The recent discoveries of extensive deposits of the precious metals in the adjacent territories of the two countries in the north-west, makes some reciprocal arrangement on this subject highly desirable, and the American Commissioners will be instructed to favour such an arrangement.

VIII.—*Commercial Reciprocity.*

The Government of the United States is heartily committed to the policy of commercial reciprocity, and trusts that the labours of the Commission will result in some such arrangement with Canada on the basis indicated in this paragraph of the Protocol. The United States has found no inconvenience in seeking broad reciprocity, for the reason that it has always claimed that the most-favoured-nation clause does not apply to reciprocal concessions granted for a specific consideration, and has inserted this principle in many of its Treaties with foreign Governments.

IX.—*A Revision of the Agreement of 1817 respecting Naval Vessels on the Lakes.*

There is no disposition on the part of the United States to change the spirit of the Agreement of 1817. The practice of both Governments shows that its provisions have become obsolete with the changed conditions of the Lakes and of naval architecture. While not enlarging the naval armament, it is believed that a revision of the arrangement can be made to conform to these changed conditions, without menace to the interests or safety of either country, and afford ship-builders on both sides an opportunity to compete for the construction of naval vessels designed for ocean service.

X.—*More complete Definition and Marking of the Frontier Line.*

It is believed that there can be no difference of opinion as to the desirability of taking measures to bring this about, and that the Commission will readily agree to an arrangement to that end.

XI.—*Conveyance of Prisoners in custody of Officers of one Country through the Territory of the other.*

Experience has shown that some arrangement for this purpose is desirable, and it will only remain for the Commission to so draft the arrangement as to prevent abuse of the privilege and properly respect the laws of the country of transit.

XII.

The question of reciprocity in wrecking and salvage, which it was agreed in the Protocol, should be included in the subjects to be considered by the Commission, is now provided for as to the Great Lakes by concurrent legislation. There would seem to be no objection to applying the same practice to the contiguous waters of the ocean frontier. It will be for the Commission to determine whether the existing legislation is sufficient for that purpose, or whether a conventional Agreement should be made respecting it.

No. 65.

Mr. Balfour to the British High Commissioners.

(No. 3.)

Gentlemen,

Foreign Office, August 19, 1898.

I TRANSMIT herewith, for your information, copy of a document,* being a Memorial of Canadian sealers respecting their interests and the Quebec International Conference.

I am, &c.

(Signed) A. J. BALFOUR.

No. 66.

Colonial Office to Foreign Office.—(Received August 24.)

Sir,

Downing Street, August 23, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 15th instant respecting the suggestion of the United States' Government that the question of the branding of cattle on the border between the United States and Canada should be referred to the Joint High Commission; and I am to transmit to you, for the information of the Secretary of State for Foreign Affairs, a paraphrase of a telegram on the subject which has been addressed to the Governor-General of Canada.

I am to observe that the difficulty in referring this question to the Commission lies in the fact that the branding of cattle is a matter of provincial legislation in Canada, and probably also of State legislation in the United States. Mr. Chamberlain thinks, however, that the Commission may succeed in recommending suitable mutual legislation and action by the proper authorities.

The original inclosures in your letter under reply are returned herewith.

I am, &c.

(Signed) C. P. LUCAS.

Inclosure in No. 66.

Mr. Chamberlain to the Earl of Aberdeen.

(Telegraphic.) P.

Downing Street, August 20, 1898, 11.50 A.M.

IT is proposed by the United States' Government that the question of cattle branding, dealt with by Order in Council of 30th May, should be referred to Joint High Commission. If your Ministers concur, Her Majesty's Government have no objection. Reply by telegraph.

* In Colonial Office, August 15, 1898 (not printed).

No. 67.

Sir J. Pauncefote to Mr. Balfour.—(Received August 24.)

(No. 109.)

(Telegraphic.) P.

New London, Connecticut, August 24, 1898.

WITH reference to my despatch No. 211A of the 21st June last, I have the honour to report that a Minute of the Canadian Privy Council (979 K of the 3rd August), has been transmitted to me by the Governor-General. A copy of the above Minute was sent to the Colonial Office.

I have been pressed by the United States' Secretary of State for an answer to his request that, pending further discussion, the application of the Ontario Act to prior contracts should be suspended.

He is also anxious to learn whether any decision as to the reference of the question to the Joint Commission has been reached by Her Majesty's Government.

No. 68.

Mr. Balfour to Sir J. Pauncefote.

(No. 144.)

(Telegraphic.) P.

Foreign Office, August 25, 1898, 3.30 P.M.

YOUR telegram No. 109.

The Colonial Office have not yet received the Minute. What is the purport of it?

No. 69.

Colonial Office to Foreign Office.—(Received August 27.)

Sir,

Downing Street, August 26, 1898.

I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Salisbury, with reference to the letter from this Department of the 23rd instant, a paraphrase of a telegram from the Governor-General of Canada in regard to the consideration of the question as to cattle branding by the Joint Commission, sitting at Quebec.

The Dominion Government having no objection to the proposal of the United States' Government, Mr. Chamberlain would suggest that Sir Julian Pauncefote should be instructed by telegraph that Her Majesty's Government are willing that this matter should be referred to the Joint Commission, as proposed by the Government of the United States.

I am, &c.
(Signed) C. P. LUCAS.

Inclosure in No. 69.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.) P.

[Undated.]

YOUR telegram of the 20th.

Ministers are quite willing that the Commission should consider the subject of cattle branding.

No. 70.

The Marquess of Salisbury to Sir J. Pouncefote.

(No. 145.)

(Telegraphic.) P.

Foreign Office, August 27, 1898.

WITH reference to your despatch No. 104, Commercial, of the 28th July respecting the branding of cattle on the border of Canada and the United States, Her Majesty's Government are willing that, as desired by the United States' Government, the question should be referred to the Joint Commission.

No. 71.

Foreign Office to Colonial Office.

Sir,

Foreign Office, August 31, 1898.

WITH reference to your letter of the 19th ultimo relative to the recent Act passed by the Government of Ontario with regard to the cutting of timber on Canadian lumber lands, I am directed by Mr. Balfour to transmit to you, to be laid before the Secretary of State for the Colonies, copies of telegrams which have passed between this Office and Her Majesty's Ambassador at Washington on the subject.*

I am to inquire whether, considering the contents of the Minute of the Canadian Privy Council, Mr. Chamberlain is of opinion that it should be communicated to the United States' Government.

No reply is given to the proposal that the question should be referred to the Joint Commission, a point on which the United States' Government are pressing for an answer.

I am, &c.

(Signed) FRANCIS BERTIE.

No. 72.

Lord Herschell to the Marquess of Salisbury.—(Received September 2.)

(No. 1. Secret.)

My Lord,

Quebec, August 22, 1898.

A CAREFUL study of the papers relating to the 9th of the questions to be discussed by the International Commission, viz. : Naval vessels on the Great Lakes, which I have been able to make since my arrival in this country, induces me to submit the following views:—

The Agreement of 1817, after the stipulation relating to the vessels to be maintained on the several lakes, contains the following provision: "No other vessels of war shall be there built or armed."

On the subject of naval vessels on the Great Lakes, the instructions to the High Commissioners state that Her Majesty's Government are strongly of opinion that any modification of the restrictions placed on the two countries, with regard to naval armament on the lakes, ought to be very carefully guarded, and that they are not satisfied that any sufficient argument exists at the present time for any deviation from the restrictions imposed by the Agreement of 1817.

In the Memorandum submitted on the part of the Government of the United States it is stated, when dealing with the subject under consideration, that there is no disposition on the part of the United States to change the spirit of the Agreement of 1817, but that the practice of both Governments shows that its provisions have become obsolete with the change of conditions on the lake and naval architecture. The belief is then expressed that, while not enlarging the naval armaments, a revision of the arrangement can be made, to conform to these conditions without menace to the safety or convenience of either country, and afford shipbuilders on both sides an opportunity to compete for the construction of naval vessels designed for ocean service.

This obviously points to a desire to remove what for many years has been felt by the lake shipbuilders of the west to be a serious grievance. They have long complained that

* Nos. 51, 67, and 68.

the construction of vessels of war is always entrusted to western shipbuilders to the exclusion of the shipbuilding yards on the lakes. The answer of the United States' Government hitherto has been that the Arrangement of 1817 precludes that Government from giving the work to the lake shipbuilders. Down to the present time, owing, it may be presumed, to the influence of the eastern shipbuilders, the Government have been able to maintain this position. It was pointed out by Major Barter in 1892 that the growth of political influence in the west would in all probability render it impossible for the United States permanently to do so.

If such was the state of things in 1892, the difficulty of adhering to the Arrangement on the part of the United States is certainly greater to-day than it was then. The influence of the west has not been diminishing, and with the considerable increase in shipbuilding, which is certain to result from the events of the recent war, the clamour of the lake shipbuilders for the abrogation of the Arrangement of 1817 by giving the six months' notice required for its termination, will, I believe, prove irresistible unless the Arrangement can be so modified as to meet, to some extent, the complaints of the lake shipbuilders. The modification suggested in 1892 appears to have been that they might be allowed to build war vessels in sections, which could be taken separately through the canals to the sea.

Major Barter, in his note of 1892, expresses the opinion that, if this point were conceded, Great Britain would be placed at a greater disadvantage than if the Treaty of 1817 were to be wholly abrogated. "In the case of complete abrogation of the Treaty," he says, "Great Britain could, at any rate, adopt, during peace time, what measures she might deem fit for the maintenance of her naval preponderance on lake waters."

Inasmuch as, in my opinion, we have to face now the question whether the Arrangement of 1817 should be abrogated, or whether it should be so modified as to afford the lake shipbuilders "an opportunity to compete for the construction of naval vessels designed for ocean service," I have been driven to consider whether the view is correct that we should be better off without any Arrangement at all, than if we were to agree to such modification as that desired.

The only measures we could adopt in time of peace to maintain naval preponderance in the lake waters, in case the Arrangement were abrogated, which would not be open to us if an Arrangement existed, would be to add to the number and strength of our vessels of war on the lakes. But I think it a matter of absolute certainty that, whatever addition we made to our naval force there, would be immediately followed by a corresponding addition to the United States' naval force. Such a competition would, in my opinion, involve great evils, both financial and political. We should be involved in constantly increasing expenditure without any corresponding advantage. Whether each Power were to maintain one vessel on the lakes or twenty, their relative position would be precisely the same, and whatever the number maintained, the United States would, in the absence of Treaty arrangement, inevitably have in reserve the whole resources of their lake shipbuilding yards with some vessels, it might be, even completely equipped and armed.

In addition to the financial waste which, I think, would ensue if there were no arrangement, there seem to me to be grave political objections to such a state of things. Each addition that either side made to its naval force on the lakes would give rise in the other country to an outcry for a similar increase. Irritation and excitement would certainly be engendered, and acts not so intended would sure to be represented as indications of hostility.

If the Arrangement of 1817 were modified by continuing a restriction on the number of vessels of war, to be maintained on the lakes, but making concessions as to construction in the shipbuilding yards, the evils to which I have adverted would be prevented, and I cannot see that our position would be at all prejudiced. In so far as any restrictions were imposed upon equipping and arming the vessels constructed in the lake shipbuilding yards, from which the United States would be free if there were no arrangement, it would be so much to the good for Great Britain, though I admit the advantage would not be very considerable.

The considerations which I have briefly indicated, satisfy me that, if the choice has to be made between an arrangement modified in the direction desired and no arrangement at all, the former is the better choice to make in our interests.

I have had an opportunity of consulting Major-General Leach, R.E., Colonel Dalton, R.A., and Captain White, R.N., who happened to be here for the purpose of the mission intrusted to them; and have communicated to them the views above expressed. I have their authority for stating that they entirely concur with them.

I should be glad to be favoured at the earliest possible moment (though I cannot

say when this question will come up for discussion : it may be necessary to communicate with me by telegraph) with the observations of any naval or military authorities to whom it may be thought expedient to refer the question.

I asked General Leach and his colleagues if they had any suggestions to make as to the restrictions upon the shipbuilding which might be demanded in case of the event of negotiations for a modified arrangement. None occurred to them beyond a prohibition of equipping the vessels with their armaments on the lakes. To this might, perhaps, be added a stipulation for the speedy removal to the ocean of vessels constructed on the lakes when they are ready to receive their armaments.

I should be glad to know if there are any further restrictions which would be practicable which occur to the naval or military authorities at home, and, further, to be informed whether, in case a modified arrangement be agreed to, there would be any advantage to Great Britain in either extending or diminishing the term of notice for abrogation, which, under the present arrangement, is six months.

I have read this despatch to my Canadian colleagues, and find that they take the same view as myself of the situation and of the course which it would be well to pursue.

I have, &c.
(Signed) HERSCHELL.

No. 73.

Colonial Office to Foreign Office.—(Received September 3.)

Sir,

Downing Street, September 3, 1898.

I AM directed by the Secretary of State for the Colonies to acknowledge the receipt of your letter of the 31st ultimo relative to the recent Act passed by the Legislature of Ontario with regard to licences for cutting timber in that province.

2. A copy of the Canadian Minute of Council, to which Sir J. Pauncefote refers in the telegrams which accompany your letter, has been obtained unofficially from the High Commissioner for Canada, and is inclosed for Mr. Balfour's information, and it will be seen that the Dominion Government is of opinion that it cannot constitutionally interfere with the operation of the Act, which deals with a matter entirely within the competence of the Provincial Legislature.

3. In these circumstances, the only course appears to be to suggest to the Dominion Government that the Government of Ontario should be invited to send a Representative to discuss the question with the Joint Commission, in order to see whether some arrangement can be arrived at.

4. If Mr. Balfour concurs, the Secretary of State will suggest this course to the Dominion Government, and, in the meantime, he thinks that Sir J. Pauncefote should be instructed to communicate to the United States' Government the purport of the Minute of the Canadian Privy Council, and to add that Her Majesty's Government are in correspondence with the Dominion Government on the subject.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure in No. 73.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 3rd August, 1898.

THE Committee of the Privy Council have had under consideration a despatch, hereto annexed, dated the 17th June, 1898, from Her Majesty's Ambassador to the United States, transmitting a communication from the Honourable the Secretary of State at Washington, in which he calls attention to the action of the Ontario Government in adopting certain Crown Timber Regulations, dated the 17th December, 1897, requiring that every licence to cut pine timber on lands of the Crown issued after the 30th day of April, 1893, shall contain and be subject to the condition that all pine which may be cut into logs shall be manufactured into sawn lumber in Canada.

The Secretary of State, to whom the despatch was referred, observes that the Honourable Mr. Day represents that this condition is not consistent with the terms and Regulations in force at the time the timber berths were sold, and that the enforcement of the conditions will inflict an injury on the licensees who are citizens of the United States amounting to a virtual confiscation of their large investments in Canada, and practical destruction of their equally large investments in the United States.

The complaint of the licensees is fully set forth in a statement prepared by their counsel, the Honourable Don M. Dickenson and Mr. Robert Lansing, and addressed to the Honourable Mr. Day.

The Minister further observes that in the communication from the Honourable Mr. Day to Her Majesty's Ambassador to the United States he assumes that the question so raised would necessarily fall in the class of pending matters cognizable by the Joint Commission to settle amicably all controversies between the United States and Great Britain, and he requests that steps may be taken to bring about a suspension of the Ontario Act confirming the Crown Timber Regulations passed in the Session held in January, 1898.

The Minister states that as the public lands and the timber thereon belong absolutely to the province, and are entirely beyond the jurisdiction or control of the Federal authority, he caused a copy of the despatch and of the letter from the Honourable Mr. Day, together with the statement of the case of the licensees, as prepared by their counsel, to be forwarded to the Government of Ontario for such action or explanation as that Government might consider proper to decide on. A reply has been received from the Honourable Mr. Hardy, the Attorney-General and Premier of the Government of the Province, in which it will be observed he combats the charge that there has been any violation of the conditions under which the timber berths were originally sold by the Crown, pointing out that the licences to cut timber always terminated within a year, and that when the licence for the subsequent year was issued it was subject to such Regulations as might in the interim be adopted, and quoting from the Regulations of 1851, he points out that for some years double rates were imposed on logs cut for export, it is obvious that if the Regulations permitted a penalty to be imposed for exporting the logs, the rate might be raised to so high a figure that it would necessarily involve the manufacture of the logs in Canada, and it is therefore apparent that the recent Regulation is not altogether new in principle.

The Minister further states that Mr. Hardy's Memorandum also deals with the right of the Federal Government to disallow an Act of the Provincial Legislature on a subject-matter which is clearly within its jurisdiction, and under its exclusive control, and he refers to the British North America Act in support of the contention in his Memorandum that the power of disallowance vested in the Federal Government is not constitutionally applicable where the rights of the provinces are so clear.

Section 92 of the British North America Act reads as follows:—

“In each province the Legislature may exclusively make laws in relation to matters within the classes of subjects next hereinafter enumerated, *i.e.* :—

“5. The management and sale of the public lands belonging to the province, and of the timber and wood thereon.

“13. Property and civil rights in the province.”

The Committee, having regard to the constitutional power of the Legislature of the province to enact the Statute in question, and as, in the exercise of that power, the Legislature was clearly within its rights, yet cannot advise the disallowance of the Statute approving of the Regulations.

The Committee advise that your Excellency be moved to forward a certified copy of this Minute, together with a copy of the Memorandum from the Honourable the Premier of Ontario to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies, and also copies to Her Majesty's Ambassador to the United States, for transmission to the Honourable Mr. Day, United States' Secretary of State, for the information of the parties interested.

All which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

The High Commissioner for Canada, London.

Memorandum of the Attorney-General.

With reference to the despatch of the Honourable the Secretary of State of the United States to Sir Julian Pauncefote, Her Majesty's Ambassador at Washington, forwarding a letter from Messrs. Dickenson and Lansing, of Detroit, in behalf of certain persons, firms, and Corporations engaged in lumbering operations in Ontario, the Undersigned has the honour to report as follows :—

The provisions referred to in the said despatch are the Ontario Act, 61 Vict., cap. 9, and the Crown Timber Regulations appended thereto.

These provisions require that every licence or permit to cut pine timber on the ungranted lands of the Crown, issued on or after the 30th day of April, 1898, shall contain and be subject to the condition that all pine which may be cut into logs or otherwise under the authority or permission of such licence or permit shall, except as is therein provided, be manufactured into sawn lumber in Canada.

The despatch claims that the condition so imposed will work grievous hardship to the persons, firms, and Corporations represented by Messrs. Dickenson and Lansing and to other citizens of the United States, and will destroy rights acquired under the policy heretofore followed by the Department of Crown Lands of this province in dealing with timber licences; that the injuries so done will amount to a virtual confiscation of large investments in Canada, and the practical destruction of equally large investments in the United States, which are wholly dependent on the Canadian operations of American lumbermen; that these consequences result from the virtual substitution, for the original contract between the Crown and the purchaser of timber lands, of a new contract entirely variant in purpose and effect from that original contract, and not from any condition or interpretation contained in or fairly deducible from the original contract; that the annual renewal of timber licences is a matter of right, and the tenure thereunder is a vested interest; that the Act in question, if enforced, would impair the validity of existing contracts, and would impeach the good faith under which they were entered into.

The Secretary of State further submits that the questions raised by Messrs. Dickenson and Lansing will necessarily fall within the class of pending matters cognizable by the Joint Commission for the settlement of all controversies between the United States and Great Britain in regard to the Dominion of Canada, for the establishment of which negotiations are pending; and a request is made that steps may be taken to bring about the suspension of the construction of the Ontario Act pending the negotiations for the appointment of such Joint Commission and the final determination of the matters which are to come before it.

The letter of Messrs. Donald M. Dickenson and Robert Lansing to the Honourable the Secretary of State, bearing date the 11th June last, deals with this matter in greater detail, but the grounds of complaint are substantially those contained in the said despatch, and the same requests are made.

In a subsequent letter to the Secretary of State, dated the 13th June last, Messrs. Dickenson and Lansing refer to the power of disallowance of Provincial Acts vested in the Governor-General and the Council, and they add that the power of dealing with all questions affecting commerce is reposed in the Federal Government, and it is suggested that the said Act be disallowed, or that the construction placed thereon by the Government of the province be disapproved by the Government of the Dominion.

In reply to the several statements and arguments contained in the said State despatch and the letters of Messrs. Dickenson and Lansing forwarded therewith, the Undersigned begs to submit the following :—

The timber licences principally affected by the Act and Regulations in question are those covering territory or timber limits situate on the north shore of the Georgian Bay in this province, and were sold by auction in the year 1872 under the Act then in force, entitled "An Act respecting the Sale and Management of Timber on Public Lands" (Consolidated Statutes of Canada, 22 Vict., cap. 31), and the amendments and additions thereto.

Section 1 of the said Consolidated Act enacted :—

"The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licences to cut timber on the ungranted lands of the Crown at such rates and subject to such conditions, Regulations, and restrictions as may from time to time be submitted by the Governor in Council, and of which notice shall be given in the Canada Gazette."

The form of timber licence issued under the said Act and the Regulations made in pursuance thereof contained the following:—

“Further, under condition that the said licensee or his representative shall comply with all Regulations that are or may be imposed by Order in Council.”

The said sale was made subject to this Statute, and to the Crown Timber Regulations then in force, being those dated the 16th April, 1869, which provided, amongst other things, “that the berths or limits . . . shall be offered for sale by public auction . . . at such time and place and on such conditions as the Commissioner of Crown Lands shall direct.”

The conditions of sale contained the following clause:—

“The berths sold to be subject to the Crown Timber Regulations, except in so far as such Regulations may be inconsistent with any conditions herein specified, and also to such Orders in Council as now exist or may hereafter be passed affecting timber or territory under timber licences from the Crown.”

“Licences for berths sold will be issued one month after date of sale and payment of bonus and ground rent for the current season, subject to the existing Crown Timber Regulations, and to such Regulations as may hereafter be established by Order in Council, and also to all Orders in Council now existing or hereafter to be adopted affecting licensed territory.”

The Crown Timber Regulations of the 8th August, 1851, which had been superseded by those in force at the time of the said sale, contained the following paragraph:—

“All saw logs cut in future upon public lands, if exported from the province, shall be paid for at double the rates mentioned above respectively”—a measure obviously intended to encourage the manufacture in Canada of timber cut upon the Crown lands of Ontario.

It is not necessary to discuss the question as to whether the licensees are entitled by law to a yearly renewal of their licences, or to what extent they may be said to have a vested interest therein, as there have been no refusals to issue renewals of licences; but it is claimed by the Commissioner of Crown Lands that they shall be so issued subject to the Act (61 Vict., cap. 9) and the Regulations set out in the Schedule thereto.

By the British North America Act (30 and 31 Vict., cap. 3, sec. 92, Imperial) it is provided that:—

“In each province the Legislature may exclusively make Laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

“5. Management and sale of the public lands belonging to the province, and of the timber and wood thereon.

“13. Property and civil rights in the province.

“16. Generally, all matters of a merely local or private nature in the Province.”

The public lands situate in the Province of Ontario were and are the lands of Her Majesty as representing the said province. Timber situate upon the lands aforesaid, and in respect to which licences to take and cut timber have been issued by the province, has been one of the principal sources of provincial revenue since the establishment of the Provincial Government in 1867 under the Act of Confederation. During the first ten years, 1867–77, the average receipts from timber and ground rent amounted to 475,335 dol. 57 c. per annum; during the next ten years to 613,311 dol. 14 c.; and from date until and including 1897 to 1,223,834 dol. 80 c. per annum. The average expenditure for all ordinary purposes of government, known as “Ordinary Expenditure,” during the entire period, was 2,642,561 dol. 5 c. per annum.

The moneys received from the sale of timber berths and dues on timber cut thereon are paid into and form part of the Consolidated Revenue of the province, and are appropriated for the purposes of carrying on government, legislation, administration of justice, education, maintaining public and charitable institutions, prisons, the assisting and building of railways and public roads, and otherwise developing new sections of the province, and for other purposes equally important.

The firms, Corporations, and individuals represented by Messrs. Dickenson and Lansing have no other right or claim than that conferred by the Statute and Regulations and the licences issued thereunder from year to year. The accompanying Bill, No. 60, is the Act (61 Vict., cap. 9), passed at the last Session of the Ontario Legislature, and which is the subject of complaint in the despatch of the

Honourable the Secretary of State and the letters of Messrs. Dickenson and Lansing.

The Undersigned submits that the Lieutenant-Governor in Council had authority under the Statute and by the terms and conditions of the sale and the Regulations then in force and the terms and conditions of the contract, and of the licence to make the Regulations of 1897, contained in Schedule (A) to the Act now in question, and the Legislature of the said province had authority to pass the said Act, and that both the Act and the Regulations are effective and binding upon the licences, that neither the Act nor the Regulations are such a variation of the original contract as to constitute a violation thereof and a breach of faith on the part of the Legislature. From the Statute, Regulations, advertisement and conditions of sale hereinbefore set out and from the licences issued thereunder, it appears that the right to make new conditions, Regulations, and restrictions was expressly reserved to the Lieutenant-Governor in Council, and it is submitted that the Regulations in question do not go beyond his powers nor beyond the rights so reserved or the terms of the original contract.

The Undersigned further contends that the Lieutenant-Governor in Council had power to impose the manufacturing condition without being specially authorized by the said Act of the Legislature of 1898, or the said condition might have been imposed by a Statute or by both Statute and Order in Council.

New Laws and legislation have from time to time been made, and new conditions have been imposed upon or in respect of timber licences and licensees, but the right of the Legislature to make such new Laws, or of the Lieutenant-Governor in Council to make new Regulations or to impose new conditions has not heretofore been challenged.

The Undersigned submits that the timber on the lands of the Crown, being the property of the Crown as representing the province as before mentioned, and the right to make bargains or Regulations for the sale thereof, and to impose restrictions or conditions rests not with the Government of Canada, but with the province as such owner under the powers and rights conferred by the British North America Act; that the question is one of the administration of the assets of the province, and seriously affects its revenue and the condition of its people, and that it was, and is, open to the Legislature to make such laws in relation thereto, as may be deemed to be in the public interest, and for the Lieutenant-Governor in Council to make such Regulations in respect thereto as he may be advised, and that the Legislature and Government of Canada have not the right to supervise the same nor to intervene as between the province and its timber licensees.

With reference to the suggestion contained in the despatch that the Act (61 Vict., cap. 9) should be disallowed, the Undersigned respectfully submits that the power of disallowance should not be exercised except in the case of Acts which are illegal or unconstitutional or which affect the interests of the Dominion generally, and that this is now the well-understood rule or principle upon which the Federal Government acts in relation to disallowance of provincial legislation.

The Act now in question does not come within the meaning of the words "regulation of trade and commerce" in the 91st section of the British North America Act as interpreted by the Courts in the *Citizens Insurance Company v. Parsons*, 1 Cartwright, p. 265. The Judicial Committee of the Privy Council, in dealing with the construction of these words, declared that "they would include political arrangements in regard to trade requiring the sanction of Parliament, regulation of trade in matters of inter-provincial concern, and it may be that they would include general regulations of trade affecting the whole Dominion. . . . Authority to legislate for the regulation of trade and commerce does not comprehend the power to regulate by legislation the contracts of a particular business or trade."

This doctrine has been repeatedly reaffirmed, see for example *Bank of Toronto v. Lambe*, 4 Cartwright, at p. 21.

Even in cases where there has been an expression of doubt on the part of the Dominion authorities as to the constitutionality of a particular Act or section of an Act, the Minister of Justice has again and again advised that the matter should be left to the decision of the Courts should the question be raised in litigation.

The justice or otherwise of the Act in question is not to be determined by the Dominion Government. There is scarcely a general Law affecting civil rights in this province now upon the Statute books which has not at its introduction been objected to on the ground that it worked injustice or hardship to some class affected by it. Sir O. Mowat, late Minister of Justice, and when Premier and Attorney-General of Ontario, in the course of a correspondence with the Federal Government upon the

question of the disallowance of the Act relating to Niagara Falls Park, 55 Vict., cap. 8, said (see despatch of the 12th April, 1893) :—

“I repudiate the notion of the petitioners that it is the office of the Dominion Government to sit in judgment on the right and justice of an Act of the Ontario Legislature relating to property and civil rights. That is a question for the exclusive judgment of the Provincial Legislature.”

In October 1875 the Honourable Edward Blake, the Minister of Justice, in his report to Council upon a Petition for the disallowance of an Act respecting the union of certain Presbyterian churches, 38 Vict., cap. 75, said :—

“The Undersigned does not conceive that he is called upon to express an opinion upon the allegations of the Petition as to the injustice alleged to be effected by the Act. This was a matter for the Local Legislature.”

The late Sir John S. D. Thompson, in his Report to Council dated the 14th April, 1885, upon “An Act in respect of certain sums of money ordered by the Legislative Assembly to be impounded in the hands of the Speaker,” 48 Vict., cap. 5, to which objection had been taken on the ground that it was an interference with the private rights of a creditor, said :—

“Without expressing any opinion as to whether the Act is a just measure or not, the Undersigned is of opinion that it is within the undoubted legislative authority of the Legislature of that province, and therefore respectfully recommends that it be left to its operation.”

In the case of the Nova Scotia Act, 55 Vict., cap. 1, “An Act to amend and consolidate the Act relating to Mines and Minerals,” which, it was alleged, affected the rights of lessees of mineral lands, and changed the terms upon which they held, upon numerous Petitions being presented by capitalists who were lessees of coal areas in Nova Scotia, asking that the Act be disallowed, the Dominion Government declined to interfere, upon the ground that the matters dealt with were clearly within the legislative authority of the province (see Report of Minister of Justice, 18th May, 1893).

The Undersigned submits that the disallowance of such an Act as the one now in question would be contrary to all precedent, would be an unconstitutional exercise of the power of the Governor-General in Council, and would be an unwarrantable interference with a matter of purely provincial concern.

Respectfully submitted.

(Signed) ARTHUR S. HARDY,
Attorney-General.

*Department of the Attorney-General,
Ontario, [undated].*

No. 74.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, September 5, 1893.

I AM directed by the Marquess of Salisbury to transmit to you, to be laid before the Secretary of State for the Colonies, copy of a despatch from the Senior British Delegate on the Joint Commission now sitting at Quebec,* relative to the question of naval vessels on the Great Lakes.

I am to state that his Lordship would be glad to be furnished at the earliest possible date with any observations which Mr. Secretary Chamberlain may have to offer on Lord Herschell's despatch, of which copies have also been sent to the Intelligence Division (War Office) and the Admiralty.

I am, &c.
(Signed) FRANCIS BERTIE.

No. 75.

The Marquess of Salisbury to Sir J. Pouncefote.

(No. 151.)

(Telegraphic.) P.

Foreign Office, September 6, 1898.

WITH reference to your telegram No. 109 of the 24th August respecting Canadian lumber Laws, inform United States' Government that Her Majesty's Government are in correspondence with the Canadian Government on the subject, and you may communicate to them substance of Canadian Privy Council Minute.

No. 76.

Foreign Office to Colonial Office.

Sir,

Foreign Office, September 7, 1898.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your letter of the 3rd instant, with regard to licences for cutting timber in the Province of Ontario, and I am to state that his Lordship concurs in the proposed suggestion to the Dominion Government that the Government of Ontario should be invited to send a Representative to discuss the question with the Joint Commission, in order to see whether some arrangement can be arrived at.

I am to add that a telegram has been dispatched to Her Majesty's Ambassador at Washington in the sense of the concluding paragraph of your letter under reply.

I am, &c.

(Signed) FRANCIS BERTIE.

No. 77.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received September 8.)

(No. 258.)

My Lord,

New London, Connecticut, August 29, 1898.

WITH reference to previous correspondence relative to the cases of the British sealing schooners "Wanderer," "Favourite," and "Kate," I have the honour to report that the United States' Secretary of State has addressed me a note acknowledging the receipt of my communication of the 9th instant, a copy of which I inclosed to your Lordship in my despatch No. 251 of the same date.

Mr. Day states that he has taken pleasure in causing a copy of my note, together with copies of the correspondence which has passed between the two Governments to be transmitted to the United States' Commissioners in the Joint Commission at Quebec "for their consideration, and such action thereon as after studying the matters the Commission may deem competent."

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 78.

Lord Herschell to the Marquess of Salisbury.—(Received September 8.)

(No. 2.)

My Lord,

Quebec, August 29, 1898.

I HAVE the honour to transmit a copy of the Protocol recording the proceedings at the first meeting of the Commission, which was held on the 23rd instant.

The second meeting took place on the 25th. After adopting the inclosed Report of the Committee appointed to consider the order of procedure and other arrangements, the Commission proceeded to discuss the question of the Alien Labour Laws.

It was made clear by the United States' Commissioners that the American legislation was not directed against natives or naturalized subjects belonging to the Dominion of Canada, and, although it was suggested that the Canadian Government should enact laws similar to those passed by Congress, which I stated did not seem feasible, there seemed to be a disposition to come to an arrangement, and the subject

was referred to a Committee consisting of Senator Gray, Mr. Dingley, Sir R. Cartwright, and Sir Louis Davies.

On the question of Mining Regulations, which was also referred to a Committee (consisting of two: Mr. Kasson and Mr. Charlton), both sides were willing to adopt a reciprocal basis, but it was not decided whether this should be attained by means of identical regulations observed in either country, or whether each country should grant to the citizens or subjects of the other the facilities enjoyed by each in their own country.

I propose to address a separate despatch to your Lordship respecting war vessels on the Great Lakes, which was the next subject for consideration.

With regard to the conveyance of prisoners in custody across intervening territory, the American Commissioners seemed disposed to limit the privilege to cases of extraditable offences. Sir Louis Davies demurred to this restriction, and said that a proposed enactment had already been drawn up in Canada and submitted to the Home Government, which he thought would meet the requirements. The Committee named to report on this question consists of Mr. Kasson and Mr. Charlton.

Senator Gray proposed that the fresh delimitation of the frontier, at various points where uncertainty existed, should be dealt with by experts except in the case of Passamaquoddy Bay, the only one in which any doubt existed as to the Treaty Boundary. The difficulty which had arisen with regard to a small island in the bay might be settled out of hand by the Commission. It was agreed that this matter should stand over for the present.

A short discussion followed respecting Reciprocity as to Wrecking and Salvage Rights. General Foster said that the privilege granted on the Lakes of assisting vessels in the waters of the opposite country applied also to contiguous waters on the sea-board. A difficulty had arisen as to how the phrase "contiguous waters" should be construed. This might be settled by Treaty and corresponding legislation. I suggested that the arrangement should be made to apply universally to the saving of life, if not to the salvage of property. General Foster and Mr. Dingley were against extending the privilege to the whole sea-board of the United States. It was settled that this question should be dealt with by a Committee of four, viz.: General Foster, Mr. Dingley, Sir L. Davies, and Mr. Charlton.

The Commission adjourned till Monday next the 29th instant, when the fur-seal question will be taken up. Some of the American Commissioners will be obliged to absent themselves at the beginning of next month, and it has been found necessary to agree to an adjournment from the 2nd to the 20th September, during which time no full meetings will be held, although, it is hoped, at all events, some of the Committees will be able to meet.

Our relations with the United States' Commissioners are very cordial, and, so far as I can judge, they are animated by a sincere desire to arrive at a fair settlement of all the points of difference.

I had to-day an informal conversation with Senator Fairbanks, Chairman of the American Commissioners. It arose out of the discussion which had just taken place as to whether there should be a revision of the Sealing Regulations, or an agreement for the cessation of pelagic sealing upon terms. He told me that he regarded the latter as the only satisfactory solution, inasmuch as it was the only one which could permanently remove all causes of difference. He proceeded to say that, when he saw the President before coming here, the President impressed upon him that his great desire was to secure a settlement of all questions between the two countries which was likely to be permanent, to remove all causes of friction, and to insure the maintenance of friendly relations. He added that he had since received several communications from the President in the same sense.

I replied that I was sure all the British Commissioners would be animated by the same desire. Inasmuch as he gave me this opening, I thought it well to point out that changed conditions, resulting from the acquisition of ports at a distance from their mainland might, if these ports were to be treated in all respects like the ports on the mainland, engender ill-feeling. I alluded in particular to one respect in which this might be the case. The restriction of the coasting trade to United States' vessels is secured by prohibition, excluding other vessels from trading between one United States' port and another. If such a provision were to be applied to ports in islands acquired by the United States, it would extend far beyond anything that could properly be called coasting trade, and it would prevent British vessels pursuing their accustomed course of trade by discharging at one of such ports, taking a cargo thence to New York or some other port on the coast of the mainland, and shipping a cargo

from that port for some part of the British dominions. I said that any such prohibition, interfering with what had been long an accustomed course of trade would involve hardship, and would be certain to cause irritation. I cited an instance in point, directly affecting Canada, at the same time pointing out that the question was one which did not concern the Dominion of Canada alone. Canadian vessels had been in the habit of taking a cargo of fish to Porto Rico, there loading a cargo of molasses and rum for New York, and then bringing a cargo shipped at that port to Canada.

Senator Fairbanks replied that the aspect of the case to which I had alluded had not escaped the notice of the United States' Government and of the Commissioners, and he repeated that the President's desire was that all questions which could involve difference or friction should now be settled in a friendly manner.

This conversation, although not official, may, I think, be taken as an indication of the President's intentions, and of the directions which the United States' Commissioners have received.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 78.

Protocol No. 1 of Proceedings of the Joint High Commission, August 23, 1898.

THE first meeting of the Joint High Commission appointed by the Governments of the United States and Great Britain, for the adjustment of questions at issue between the United States and Great Britain, in respect to the relations of the former with the Dominion of Canada and the Colony of Newfoundland, was held in the Parliament Buildings at Quebec on the 23rd day of August, 1898, at noon.

The following High Commissioners were present :—

Honourable Charles W. Fairbanks.	Lord Herschell.
Honourable George Gray.	Sir Wilfrid Laurier.
Honourable John W. Foster.	Sir Richard Cartwright.
Honourable John A. Kasson.	Sir Louis Davies.
Honourable T. Jefferson Coolidge.	Mr. Charlton.

The Honourable Nelson Dingley and Sir James Winter were not in attendance.

The full powers of the High Commissioners of the respective Governments were produced and read and laid on the table, and it was announced on the part of the United States that a supplemental full power would subsequently be submitted providing for the adjustment of differences in regard to the Colony of Newfoundland.

Mr. Chandler P. Anderson, on the part of the United States, and Mr. W. C. Cartwright and Mr. Henri Bourassa, on the part of Great Britain, were named as Joint Secretaries on the High Commission.

On motion of the Honourable Charles W. Fairbanks, Lord Herschell was unanimously chosen as President of the Commission.

The High Commissioners then referred the consideration of the order of procedure, and of other arrangements relating to the proceedings of the Joint High Commission, to a Committee consisting of—

Honourable George Gray.	Sir Richard Cartwright.
Honourable John W. Foster.	Sir Louis Davies.

The Joint High Commission thereupon adjourned until the 25th August, at 11 o'clock, in the forenoon.

Inclosure 2 in No. 78.

Report of Committee on Procedure.

THE Committee appointed by the Joint High Commission to consider the order of procedure and regulations to govern the deliberations of the Commission beg to report as follows:—

I. The subjects to be considered by the Joint High Commission shall be those set forth in the Protocol of Conferences at Washington of May 1898, which is as follows:—

[See inclosure in Sir J. Pauncefote's despatch No. 186 of May 31, 1898.]

II. The order of consideration of the subjects referred to in said Protocol shall be as follows:—

1. Alien Labour Laws.
2. Mining rights.
3. Revision of the Agreement of 1817, as to naval vessels on the Lakes.
4. Delimitation of frontier boundary.
5. Conveyance of prisoners.
6. Reciprocity as to wrecking and salvage.
7. The fur-seals.
8. The fisheries.
9. Alaska boundary.
10. Transit privileges.
11. Reciprocity, trade, and commerce.
12. Other unsettled differences.

III. The Sessions of the Joint High Commission shall begin each day at 11 o'clock in the forenoon, with no Sessions on Saturdays and Mondays, unless otherwise ordered.

IV. The proceedings of the Joint High Commission shall be strictly secret and confidential, and no disclosure thereof shall be made except through the Chairman of the respective Commissions.

V. A Protocol shall be made of each day's proceedings, and shall be submitted to the Commission at the next meeting thereof for approval, and when so approved shall be signed by the joint Secretaries.

(Signed)

R. I. CARTWRIGHT.
L. H. DAVIES.
GEO. GRAY.
JOHN W. FOSTER.

No. 79.

Lord Herschell to the Marquess of Salisbury.—(Received September 8.)

(No. 3.)

My Lord,

Quebec, August 29, 1898.

WITH reference to my despatch No. 1 of the 22nd instant, I have the honour to report that the subject of naval vessels on the Great Lakes was introduced at the meeting of the Commission on the 25th instant, by Senator Fairbanks, who, after observing that the Arrangement of 1817 was not a Treaty, proceeded to read the notes exchanged between the two Governments in that year. He pointed out that, although the naval force on each side was limited, both as to the number of vessels and their tonnage, vessels of a larger size had been sanctioned by usage. But, notwithstanding that the Agreement had been temporarily violated by both Governments for special reasons, it might be said, generally speaking, that they had scrupulously adhered to the Arrangement. Under the changed circumstances of the present day, a more modern armament might reasonably be adopted, but the United States' Commis-

sioners considered that it would be advantageous for many reasons that reciprocal rights should now be established on a peace footing, and that no armed vessels should be maintained by either Government on the Lakes, with the exception perhaps of one or two vessels to be used for purposes of instruction and drilling of the militia on either side.

With regard to building war-ships, he urged that it was desirable that the opportunities of the Lake ship-builders should be equalized with those on the sea-board, and that they should be allowed to construct vessels to be sent to the ocean for service there. Taking a large view of the Agreement, he maintained that the right of building already existed, but he proposed that the privilege should now be specifically granted to construct vessels of war, under proper regulations and restrictions, for use on the ocean. Some regulations and restrictions were obviously necessary to prevent abuse of such a privilege.

I said that I entirely agreed that it was desirable to avoid the evils of competition in the maintenance of armed forces, and alluded to the state of things existing in Europe, where each nation added to their naval forces in turn to counterbalance the additions made by others. I concurred in thinking that there would be great advantage in doing away with the maintenance of armed vessels, except, perhaps, the training-ships already mentioned. I quite appreciated the wish of the Lake ship-builders to share in the building trade, and that this was naturally becoming more acute as time went on. There must, of course, be restrictions upon the ship-building, otherwise Canada would be at a disadvantage, inasmuch as the ship-building resources of the United States on the Lakes were so much greater. At the same time, I stated that this expression of opinion must be taken under reserve until I had received further instructions on the subject from Her Majesty's Government.

The matter was referred to a Committee consisting of myself and Senator Fairbanks.

I have, &c.
(Signed) HERSCHELL.

No. 80.

Intelligence Division to Foreign Office.—(Received September 12.)

THE Director of Military Intelligence presents his compliments to the Under-Secretary of State for Foreign Affairs, and has the honour to acknowledge the receipt of Sir Martin Gosselin's letter, inclosing Lord Herschell's despatch No. 1 of the 22nd ultimo, relative to the question of naval vessels on the Great Lakes of Canada.

The Marquess of Salisbury is doubtless aware that this question was laid before the Colonial Defence Committee in March last, and that in their Memorandum, prepared for the consideration of Her Majesty's Government, the Committee expressed the opinion that it is of great importance, in the interests of peace and in the military interests of Canada in the event of war, that the original conditions of the Arrangement made between Great Britain and the United States in 1817 should be adhered to as closely as possible.

This Arrangement, however, is terminable by either side on giving six months' notice, and it would appear from Lord Herschell's despatch that the Government of the United States are pressing strongly for an amendment of the Arrangement, and that in default of Her Majesty's Government's acquiescence in such modification, it is probable that the United States will give notice to terminate the Agreement.

The alternative thus presented will in either case seriously influence the defence of Canada in time of war, and it is desirable that the question should be again considered in all its aspects with great care before any definite decision is given.

Sir John Ardagh ventures, therefore, to suggest that it is expedient that Lord Herschell's despatch should be referred to the Colonial Defence Committee for report; should this suggestion meet with Lord Salisbury's approval, it would be convenient if the Colonial Office were requested to instruct the Committee to consider the despatch.

18, *Queen Anne's Gate, S.W.*,
September 10, 1898.

No. 81.

Lord Herschell to the Marquess of Salisbury.—(Received September 16.)

(No. 4.)

My Lord,

Quebec, September 2, 1898.

I HAVE the honour to inclose copies of further Protocols recording the proceedings of the Commission.

At the meeting of the 29th ultimo General Foster reviewed the history of the fur-seal question from the date of the Paris Arbitration, and said he was happy to feel that the question had reached a stage which left very few points for discussion. The experts were practically in agreement on the issues which had been raised in regard to seal life. He considered that their Joint Report supported in the main all the contentions of the United States' Government, the chief of which was that pelagic sealing is inconsistent with the due protection and preservation of the herd. The United States' Government were still of opinion that the total and permanent abolition of pelagic sealing was the only satisfactory remedy, and they came before the Commission, fortified by expert opinion, to ask for that solution.

I made some inquiries as to the revenue derived from the Pribyloff Islands and the profits of the lessees.

General Foster replied that the United States' Government had received in royalties and duties over 11,000,000 dollars prior to the arbitration in 1893. The value of the fur-seal products was greater than that of all the other products of Alaska combined. It was estimated that, if pelagic sealing were abolished and the herd restored to its normal condition, the United States' Government would receive, including the duties on manufactured skins, about 1,500,000 dollars annually.

I observed that their revenue would no doubt be greatly increased, more especially as they would enjoy a practical monopoly. I proceeded to explain the views on which Her Majesty's Government had acted since the date of the arbitration. They had been willing to take steps, in conjunction with the United States' Government, to ascertain the real facts. The Reports of the experts showed that the fears expressed as to the extermination of the herd were excessive, whilst, on the other hand, there was more reason than had previously been supposed for the general contentions of the United States' Government as to the effect of pelagic sealing in diminishing the herd of seals. I laid some stress on the natural cause which had been discovered, accounting to a great extent for the mortality amongst the pups.

No doubt the retention of pelagic sealing, under strict regulations, was in several respects unsatisfactory. It gave rise to many complaints on the part of the sealers, and to much friction. The policing of the vicinity of the islands was a source of considerable expense and inconvenience to both Governments. The United States' Government estimated their annual expenditure for this purpose at 150,000 dollars, and had found it so inconvenient this year that they had left the patrol entirely in the hands of the British ships. The substitution of complete abolition of pelagic sealing would be additionally advantageous to the United States by relieving them of the cost and inconvenience of policing the seas. An agreement by Her Majesty's Government to prevent pelagic sealing, whether permanently or for a long term, would be the abandonment of an undoubted right, and some counter advantage would be in justice due in return for such abandonment. It had been said that the London fur trade would benefit by an increased supply of skins, but this was not a permanent interest like that of the United States, because it was not secured by any guarantee that the trade would remain in the hands of the London firms; their position might at any time be seriously affected by United States' legislation.

Her Majesty's Government were willing to negotiate for the suspension of pelagic sealing for a lengthened period on condition that the sealers were compensated, and that some concession were granted by the United States in return for such suspension. The duration of this prohibition was a matter of detail.

Sir Louis Davies gave expression to the views of the sealers themselves, and gave figures showing the extent of the interests involved. His own opinion, which was not accepted by the sealers, was that, if fresh regulations were agreed upon, the spring fishery should be abolished, and the period of the open season in Behring Sea extended. With regard to the abolition of pelagic sealing, he pointed out that the vessels would be useless for other purposes.

The surrender of the national right would, he hoped, be met by a relaxation of trade regulations in the United States as affecting Canada.

The discussion was continued by General Foster, and it was eventually agreed to refer the question to a Committee, with the understanding that they should in the first place consider the proposal for the cessation of pelagic sealing.

The names of the Committee, as subsequently announced, are: Senator Fairbanks, General Foster, Sir Louis Davies, and myself.

The fisheries question was next considered. The difficulty of overriding State legislation on the Pacific Coast, and on the borders of the Great Lakes, brought about a discussion on the Treaty-making power of the United States' Government, and it was decided to adjourn the meeting, because the United States' Commissioners could make no declaration on the subject.

On the following day the discussion was resumed, but no definite statement was elicited, and it was understood that the opinion of the United States' Attorney-General would be taken during the ensuing recess.

Mr. Coolidge then opened the question of the Atlantic fisheries. His main position was that the United States were content with the rights which they possessed, and needed no modification of them. This position rested, however, on the contention put forward by him that the restrictions on access to the Canadian shores, contained in the Treaty of 1818, were no longer in force, having been abrogated by the action of the two Governments in throwing open their ports to freedom of commerce. He relied specially on the President's Proclamation in 1830.

I maintained that the restrictions of the Treaty of 1818 were still in force, and gave my reasons for contending that his argument was not well founded.

I supplemented his brief sketch of the position by a more detailed account of the various attempts which had been made to settle the questions at issue. I showed, by the light of experience, that an Agreement, analogous to that of 1888, was essential to avoid constant irritation and recrimination.

It was recognised on both sides that the matter was of less importance than formerly, owing to the diminution of the number of American fishing-vessels resorting to waters in the neighbourhood of Canada.

Sir Louis Davies said that the Regulations had been administered with much indulgence, especially under the present Government of the Dominion. He hinted that it would be impossible to continue indefinitely the laxity now permitted. About one-third of the United States' vessels omitted to take out licences, and persisted in evading the law.

Mr. Dingley having inquired about the bounty given to Canadian fishermen, Sir L. Davies explained that this was taken from the proceeds of the Halifax Award, and that the greater part of the alleged bounty was distributed annually amongst the inshore vessels, only about 60,000 dollars being given to the deep sea fishermen.

Sir James Winter merely said that Newfoundland adhered to the position taken up by the Canadian Government.

The Committee, to whom this question was referred, consists of Senator Gray, Mr. Coolidge, Sir L. Davies, and Sir J. Winter.

The discussion of the Alaska boundary occupied the Commission during the whole of its sitting on the 30th, and was continued on the 31st.

In opening the question, I dealt with the first part of the line commencing from Cape Chacon, and said that it was absolutely unintelligible how any negotiators, with the maps said to be available in 1825 before them, could have used the words found in the Treaty to indicate a line which starts to the east and goes for a long distance in that direction before it reaches the Portland Channel.

I thought it well to put forward fully the contention which has found much favour in Canada that the boundary ascends to the north along the channel on the east side of Prince of Wales' Island, and not along the channel marked on Vancouver's Maps as Portland Canal, but I may as well observe that I regard the contention as hopelessly untenable.

With regard to the boundary along the coast, I showed that the English contention had originally been that the line should follow the base of the mountains, whilst the Russian Government insisted that the summits of the mountains would form a more satisfactory frontier. It was clear that, when this definition was adopted, the same range, namely, that nearest the coast was meant. Count Nesselrode's despatch, sending the ratification of the Treaty, indicated what the Russians had wished to obtain, and also what they had failed to obtain. They only got "la lisière de la côte."

My view was that the line should follow the mountains, crossing all narrow waters

which were of such width as to be within territorial jurisdiction. The Lynn Canal, though not at its mouth coming within this category, soon became so, and for 70 or 80 miles this channel extended as a narrow inlet to the interior of the country. I maintained that it could not be considered as part of the "océan" within the meaning of that part of the Treaty which prescribed that the 10 marine leagues should be measured therefrom. I pointed out, as a notable fact, that the word "océan" had been expressly inserted in the place of "mer," which was in the original projet, and which might be held to apply to salt water generally. The inlets were, moreover, treated in Article VII as separate and distinct from the ocean. I insisted that the term "sinuosities of the coast" must refer to the general coast-line, as it would be absurd and even impossible to draw a line inland, corresponding with all the indentations.

After reading and commenting upon Mr. Bayard's despatch of January 1886, I stated that great difficulty would be found in agreeing upon a boundary-line in literal accordance with the terms of the Treaty. The Commission could probably only arrive at a settlement on the basis of some mutual concessions; failing such a settlement, the question might be referred to arbitration. In the latter case, it would be necessary to determine whether the Arbitrator was to endeavour to interpret the Treaty as it stands, or should have latitude to make an equitable settlement. My own feeling was that every effort should be made by the Commissioners to settle the question themselves.

General Foster said that all the necessary information was now available. The Commission should take up the question as provided in the Convention of 1892, and fix the boundary by the aid of the maps, and of the expert advice which was at hand.

He proceeded to give a long explanation of the views of his Government. He maintained that the negotiators knew perfectly well where Portland channel was, and how far it extended, and that they had in general sufficiently accurate information about the coast for the purpose of describing the line in the Treaty. He quoted at length from the correspondence which led up to the Treaty, with the view of establishing this. As I have already stated, I think the United States' argument on this point irresistible, subject only to the question whether the true entrance to the Portland Canal is the channel north or south of Wales and Pearse Islands.

He referred to a book by Sir G. Simpson, and to Arrowsmith's Map, both of which had the authority of the Hudson Bay Company, as showing that the Company accepted the American interpretation of the Treaty.

I insisted that these documents were of no value whatever as evidence.

He referred to a statement by the Surveyor-General of Canada in 1874, as supporting the United States' contention.

It was not until 1884, he said, that any map was published, showing the line as now contended for by the British Government. He believed that there would be little difficulty in tracing the boundary with the help of the new maps, and of the experts, who had been over the ground.

I made a further statement, concluding with the remark that the most important point was how to draw the line where the inlets intervened.

General Foster observed, in conclusion, that this was the first occasion on which any official declaration had been made on behalf of Her Majesty's Government, showing their views on the subject. The position maintained in Mr. Bayard's despatch had remained unanswered, and no written statement had ever been delivered to the United States' Government.

The names of the Committee on the Alaska Boundary are: Senator Fairbanks, General Foster, Lord Herschell, and Sir Wilfrid Laurier.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 81.

Protocol No. 2 of Proceedings of the Joint High Commission, August 25, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, and Honourable Nelson Dingley and Sir James S. Winter having arrived, all the members were present.

The Protocol of the last meeting was read and approved.

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The Committee appointed to consider the order of procedure, recommended :
That the order of consideration of the subjects set forth in the Protocol of Conferences at Washington of May, 1898, be as follows :—

1. Alien Labour Laws.
2. Mining rights.
3. Revision of the Agreement of 1817 as to naval vessels on the Lakes.
4. Delimitation of frontier boundary.
5. Conveyance of prisoners.
6. Reciprocity as to wrecking and salvage.
7. The fur-seals.
8. The fisheries.
9. Alaska boundary.
10. Transit privileges.
11. Reciprocity, trade and commerce.
12. Other unsettled differences.

That the Joint High Commission begin each day of its session at 11 o'clock in the forenoon, with no sessions on Saturdays and Mondays, unless otherwise ordered.

That the proceedings of the Joint High Commission shall be strictly secret and confidential, and no disclosure thereof shall be made, except through the Chairmen of the respective Commissions.

That a Protocol be made of each day's proceedings, and submitted to the Commission at the next meeting thereof for approval, and when so approved be signed by the Joint Secretaries.

The Joint High Commission then took up for consideration the following subjects in the order named :—

"The question of the Alien Labour Laws applicable to the subjects or citizens of the United States and of Canada," which, after discussion, was referred to a Committee for consideration and report.

"Mining rights of the subjects or citizens of each country within the territory of the other," which, after discussion, was referred to a Committee for consideration and report.

"A revision of the Agreement of 1817 respecting naval vessels on the Lakes," which, after discussion, was referred to a Committee for consideration and report.

"Arrangements for the more complete definition and marking of any part of the frontier-line by land or water where the same is now so insufficiently defined or marked as to be liable to dispute," the consideration of which, after partial discussion, was postponed.

"Provisions for conveyance for trial or punishment of persons in the lawful custody of the officers of one country through the territory of the other," which, after discussion, was referred to a Committee for consideration and report.

"Reciprocity in wrecking and salvage rights," which, after discussion, was referred to a Committee for consideration and report.

It was agreed that on the 2nd September the Joint High Commission should take a recess until the 20th September.

The Joint High Commission thereupon adjourned until Monday, the 29th August, at 11 o'clock in the forenoon.

Inclosure 2 in No. 81.

Protocol No. 3 of Proceedings of the Joint High Commission, August 29, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, all the members being present except Sir Wilfrid Laurier, who came later, and Sir James S. Winter.

The Protocol of the last meeting was read and approved.

The Joint High Commission then took up for consideration the following subjects in the order named :—

"The question in respect to the fur-seals in the Behring Sea and the waters of the North Pacific Ocean," which, after discussion, was referred to a Committee for consideration and report.

“Provisions in respect to the fisheries off the Atlantic and Pacific coasts, and in the waters of their common frontier,” the consideration of which, after partial discussion, was postponed. The Joint High Commission thereupon adjourned until Tuesday, the 30th August, at 11 o'clock in the forenoon.

(Signed)

CHANDLER P. ANDERSON.
W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.

Inclosure 3 in No. 81.

Protocol No. 4 of Proceedings of the Joint High Commission, August 30, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, all the members being present.

The Protocol of the last session was read and approved.

The Joint High Commission then took up for consideration the following subjects in the order named:—

“Provisions in respect to the fisheries off the Atlantic and Pacific coasts, and in the waters of their common frontier,” which, after discussion, was referred to a Committee for consideration and report.

“Provisions for the delimitation and establishment of the Alaska-Canadian boundary by legal and scientific experts, if the Commission shall so decide, or otherwise,” the consideration of which was not completed.

The Joint High Commission thereupon adjourned until Wednesday, the 31st August, at 11 o'clock in the forenoon.

(Signed)

CHANDLER P. ANDERSON.
W. CHAUNCY CARTWRIGHT
HENRI BOURASSA.

Inclosure 4 in No. 81.

Protocol No. 5 of Proceedings of the Joint High Commission, August 31, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

Pursuant to the announcement heretofore made, the Commissioners on the part of the United States presented a supplemental full power, providing for the adjustment of differences in regard to the Colony of Newfoundland, which was read and laid on the table.

The British Commissioners announced that it was under consideration whether the full powers already presented on their part should not be supplemented by a more complete full power.

The Joint High Commission resumed the discussion on the Alaska-Canadian boundary, which was commenced at the last meeting. The question was referred to a Committee for consideration and report.

The Joint High Commission then took up the two following subjects, which were considered together:—

“Provisions for the transit of merchandize in transportation to or from either country, across intermediate territory of the other, whether by land or water, including natural and artificial waterways and intermediate transit by sea;” and

“Provisions relating to the transit of merchandize from one country, to be delivered at points in the other beyond the frontier.”

The discussion of these subjects was not completed.

The Joint High Commission thereupon adjourned until Thursday, the 1st September, at 2 o'clock in the afternoon.

(Signed)

CHANDLER P. ANDERSON.
W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.

Inclosure 5 in No. 81.

Protocol No. 6 of Proceedings of the Joint High Commission, September 1, 1898.

THE Joint High Commission assembled at 2 P.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

The discussion of the question of transit of merchandize in bond, which was commenced at the last session, was resumed, and after a full discussion the further consideration was postponed until after the recess.

The Joint High Commission thereupon adjourned until Friday the 2nd September, at 11 o'clock in the forenoon.

(Signed)

CHANDLER P. ANDERSON.
W. CHAUNCY CARTWRIGHT.
HENRY DOURASSA.

No. 82.

Colonial Office to Foreign Office.—(Received September 16.)

Sir,

Downing Street, September 14, 1898.

WITH reference to your letter of the 7th instant, as regards the objections of the United States to recent legislation in Ontario on the subject of licences for cutting timber, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Secretary of State for Foreign Affairs, a copy of a telegram from the Governor-General of Canada on the subject.

Though it is clear from this telegram that the Dominion Ministers do not wish the Representative of Ontario to be introduced to the Joint Commission, the Secretary of State does not read the telegram as precluding all possibility of a reference to the Joint Commission in some form.

I am to inclose, for Mr. Balfour's information, a copy of a despatch which he has addressed to the Governor-General on the subject.

I am, &c.

(Signed)

H. BERTRAM COX.

Inclosure 1 in No. 82.

The Earl of Aberdeen to Mr. Chamberlain.

(Telegraphic.)

September 10, 1898.

REFERRING to your telegram of 9th September, Dominion Government have already invited Prime Minister of Province of Ontario to discuss Ontario Lumber Act with British Commissioners; they do not favour inviting Representative of Ontario Government to have such discussion with Joint Commission.

Inclosure 2 in No. 82.

Mr. Chamberlain to the Earl of Aberdeen.

My Lord,

Downing Street, September 14, 1898.

I HAVE the honour to acknowledge the receipt of your despatch of the 17th August, transmitting a copy of a Minute of your Privy Council dealing with the objections of the United States' Government to the recently passed Ontario Act with regard to licences for cutting timber, and to inform you that Her Majesty's Ambassador at Washington has been authorized to communicate the purport of the Minute to the United States' Government.

2. This Minute, however, does not reply to the suggestion of the United States' Government referred to in my telegram of the 15th July last, that the question should be referred to the Joint Commission, a matter on which the United States' Government are desirous of a reply, and I sent you upon the 9th instant a telegram suggesting that your Ministers should invite a Representative of the Ontario Government to discuss the question with the Joint Commission.

3. Your telegraphic reply of the 10th instant states that your Ministers had already invited the Prime Minister of Ontario to discuss the question with the British Commissioners, which is perhaps a more suitable mode of dealing with the matter than that suggested by me.

I trust that the result of the discussion may be that the British Commissioners will be enabled to bring forward some satisfactory proposals for arranging the difficulty.

I have, &c.
(For the Secretary of State),
(Signed) FREDK. GRAHAM.

No. 83.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received September 19.)

(No. 261.)

My Lord,

New London, Connecticut, September 6, 1898.

REFERRING to your Lordship's telegram No. 151 of the 6th instant, and to previous correspondence respecting the effects on United States' interests of a recent Act of the Ontario Legislature relating to the manufacture of lumber, I have now the honour to transmit to your Lordship a copy of Mr. Day's note of the 22nd ultimo, to which reference is made in my telegram No. 109 of the 24th ultimo, pressing for a suspension of the application of the measure pending further discussion.

I have communicated to the United States' Government the Minute of the Canadian Privy Council approved the 3rd ultimo, and I have at the same time, in compliance with your Lordship's instructions, informed the United States' Acting Secretary of State that Her Majesty's Government are in correspondence on the subject with the Government of Canada.

I have, &c.
(For Sir J. Pauncefote),
(Signed) HUGH O'BEIRNE.

Inclosure in No. 83.

Mr. Day to Sir J. Pauncefote.

*Department of State, Washington,
August 22, 1898.*

Excellency,

BY my note of the 15th June last, I had the honour to communicate with you upon the matter of the effect of certain recent legislation of the Province of Ontario, Canada, upon certain large vested interests of citizens of the United States in timber lands in Canada, and to inclose to you a Memorial on the subject addressed to this Department in behalf of a portion only of the extensive interests involved. I also had the honour of having one or more interviews with you on the subject, in which it was mutually suggested, that in so far as the matter related to the policy of Canada of enforcing such legislation against licences originating in the future, it might properly be made a matter to be considered by the Joint High Commission, which was then in contemplation and is now about to begin its sessions. It is to be hoped that the general subject-matter may be so considered by the Joint High Commission, and some satisfactory conclusion reached.

As was pointed out in our interviews, however, and also in my note and in the Memorial referred to, the particular hardship which was being occasioned by the enactment, and of which those affected complained, was not the application of it to future contracts, as to which there can be no vested rights, but was the application of the enactment to contracts and licences or their renewals, which had originated, and

been made between the Province of Ontario and United States' citizens prior to the making of the enactment in question. The belief was expressed that it was not the intention of the Legislature of Ontario to have the Act so applied; the very serious and present consequences of such application to vested interests was pointed out, and a suspension of the application of the Act to prior contracts was suggested.

Without wishing to cause inconvenience in the matter, nevertheless, in view of the large interests which are involved and are being daily jeopardized, I am constrained to ask whether the suggested suspension of the application of the Act to prior contracts, pending further discussion of the matter, may have been favourably considered by Her Majesty's Government.

I have, &c.
(Signed) WILLIAM R. DAY.

No. 84.

Colonial Office to Foreign Office.—(Received September 19.)

(Secret.)

Sir,

Downing Street, September 19, 1898.

WITH reference to the letter from your Office of the 12th instant, I am directed by the Secretary of State for the Colonies to request you to inform Mr. Balfour that the Lords Commissioners of the Admiralty have expressed their concurrence in the Memorandum by the Colonial Defence Committee on the question of naval vessels on the Great Lakes of North America, a copy of which is inclosed, but that owing to the absence of the Marquess of Lansdowne his views on the proposals of the Colonial Defence Committee cannot be obtained before, at the earliest, the evening of the 20th instant.

It is understood that his Lordship concurs in principle with the views of Lord Herschell, but that he is of opinion that any revision of the Agreement of 1817 should be subject to distinctly defined Regulations.

In these circumstances, it will be for Mr. Balfour to decide what instructions should be conveyed to Lord Herschell pending the receipt of Lord Lansdowne's views on the proposals of the Colonial Defence Committee.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure in No. 84.

Memorandum by the Colonial Defence Committee.

(Secret.)

THE Colonial Office have referred to the Colonial Defence Committee two despatches, dated the 22nd and 29th August last, from Lord Herschell, Senior British Delegate on the Joint Commission now sitting at Quebec, relative to the question of naval vessels on the Great Lakes of North America.

2. The question was last dealt with by the Colonial Defence Committee in their Memorandum, dated the 8th March last, which, after setting forth the stipulations of the Arrangement of 1817, restricting the number, size, and armament of war vessels to be maintained or built by Great Britain and the United States on the lakes, and after discussing recent action by the United States which did not appear to be entirely in conformity with the spirit of this Arrangement, they recommended that when a favourable opportunity offered, "an amicable representation should be made to the United States' Government as to their apparent departure from the spirit of a Treaty which has worked beneficially for a period of eighty years."

Her Majesty's Government concurred in the terms of this Memorandum, and Her Majesty's Ambassador at Washington was authorized in a despatch, dated the 5th April last, to make to the United States' Government, at such time as seemed to him best, the representation recommended by the Colonial Defence Committee.

Sir Julian Pauncefote reported in a despatch, dated the 11th June last, that he had taken several opportunities of mentioning the matter to the Secretary of State at Washington, and had been assured of the desire of the United States' Government to maintain the spirit of the Arrangement of 1817, but with such modifications as may

appear to be to the advantage of both countries, and to be called for by the altered conditions of the present time.

Sir Julian Pauncefote suggested that the question should form one of the subjects referred for discussion to the proposed Joint Commission on Canadian Affairs. He added as an instance of the good-will shown by the United States in maintaining the Arrangement of 1817 as well as of the detriment it causes the United States' ship-building industry, that President Cleveland, in November 1895, confirmed a decision of the Secretary of the Navy, declining to receive a bid of the Detroit Ship-building Company for the construction of a war vessel on Lake Michigan, as being an infringement of the Arrangement with Great Britain.*

The matter has been, as was suggested by Sir Julian Pauncefote, put before the Joint Commission, which is now sitting, and was discussed generally by them on the 25th August, and referred to a Committee consisting of Lord Herschell and Mr. Fairbanks.

3. Lord Herschell is of opinion that, in view of the large and growing political influence of the West, and of the development of the navy of the United States, that country will not agree to continue the Arrangement as it now stands, precluding as it does the ship-building yards on the lakes from competing for the construction of naval vessels designed for ocean service. Between the two alternatives of (1) having the Arrangement of 1817 terminated, and all restrictions with regard to maintaining and building ships on the lakes thus removed, and (2) modifying the Arrangement by making concessions as to construction, under restrictions, of war vessels in the ship-building yards on the lakes, Lord Herschell would choose the latter; and he is supported in this view by his Canadian colleagues on the Joint Commission, and by Major-General Leach, R.E., Colonel Dalton, R.A., and Captain White, R.N. Before, however, committing Her Majesty's Government to a modification of the Treaty in this direction he has asked for instructions. If his proposal is agreed to, he will require to be informed as to the restrictions under which naval ship-building is to be permitted. He also wishes for instructions as to a modification in the Arrangement which has been proposed by Senator Fairbanks to the effect that no armed vessels should be maintained by either Government on the lakes, with the exception, perhaps, of one or two vessels to be used for the purposes of instruction and drilling the militia on either side. He would, further, be glad to be informed whether, in case a modified Arrangement be agreed to, there would be any advantage to Great Britain in either extending or diminishing the term of notice for abrogation, which, under the present Arrangement, is six months.

4. The Colonial Defence Committee recognize the fact, indicated in Lord Herschell's second letter, that the removal of the restriction to build war vessels on the lakes will have to be conceded to the Americans; this will result in their having an immense advantage over Great Britain in the course of any future war, due to their large ship-building industry on the lakes and to the habit they will then have of constructing war vessels there. In return for the concession with regard to building war vessels the Committee think that the British Delegate should endeavour to obtain an arrangement by which no actual war-ships should be maintained on the lakes at all; this will assist Great Britain in keeping her one advantage of being first on Lakes Ontario and Erie by passing her war ships through the canals on the outbreak of war. For this purpose it will be necessary not only to retain the old Arrangement as regards the number and location of armed vessels for Revenue service on the lakes, but also to prevent these vessels being built as men-of-war, as was recently done in the case of the "Gresham," which had torpedo-tubes, gun-positions, &c. It is also desirable that no actual war vessels should be used on the lakes as training-vessels for purposes of drilling militia. To prevent, as far as possible, actual war-ships built nominally for ocean service being ready for use on the lakes, at once on the outbreak of war it is necessary to secure that only the structure of the vessels, so far as is necessary to launch and navigate them to an Atlantic port, or even to Montreal, if in sections, shall be built on the lakes. If once the fitting of armaments is undertaken by the lake ship-builders, they will for ever after have everything at hand ready to turn out a complete war vessel at a moment's notice.

* The "Walter C. Gresham," launched at Cleveland in September 1896, and the "Algonquin" and "Onondaga," subsequently constructed on the lakes, are all war vessels, built in contravention of the 1817 Agreement.

It is true that these vessels have since been passed through the St. Lawrence canals to the sea, and are, it is understood, to be employed in Cuban waters; but we are informed that others have been ordered to replace them, and we should have the same grounds of remonstrance if these new vessels are of the type of vessels of war, instead of the simple armed vessels contemplated in the original Arrangement.

5. The Committee accordingly recommend that Lord Herschell should be informed—

(1.) That this proposal to assent to a modification of the 1817 Arrangement by making concessions as to construction, under restrictions, of war vessels in the ship-building yards on the lakes is concurred in.

(2.) That the main restriction to be asked for should be that proposed by the United States' Government in 1892, viz., that no vessel constructed on the lakes should be "there plated, armed, equipped, or rendered available as vessels of war." That the further restrictions to be pressed for are that war vessels built on the lakes, either whole or in sections, are to be passed through the canals within a reasonable period, a section for this purpose being considered as a whole vessel; and that no war vessel is to return to the lakes for repair or refit.

(3.) That as regards armed vessels to be maintained on the lakes, he should ask that—

(a.) No men-of-war proper should be kept on the lakes.

(b.) No actual war vessels should be used on the lakes as training vessels.

(c.) The number and location of armed vessels to be kept on the lakes for Revenue service should be as defined in the 1817 Agreement, but the maximum size should be increased to 300 tons displacement, and the maximum armament should be reduced to 1—6-pr. gun, which is sufficient for preventive service. The Revenue vessels not to be used as war vessels, for training, or any other purpose in peace time.

(4.) That, as regards the term of notice for the abrogation of the new Arrangement, it would be advantageous to make it one year.

(Signed)

M. NATHAN, *Secretary,*
Colonial Defence Committee.

September 16, 1898.

No. 85.

The Marquess of Salisbury to Lord Herschell.

(No. 1.)

(Telegraphic.) P.

Foreign Office, September 19, 1898.

AT a special meeting called to consider your despatches Nos. 1 and 3, the Colonial Defence Committee have recommended that you should be informed:—

1. That they concur in your proposal to assent to a modification of Arrangement come to in 1817 by making concessions as to the construction, under restrictions, of war vessels in the ship-building yards on the Lakes.

2. That as regards the main restriction to be asked for it should follow the proposal made by the United States' Government in 1892, viz., that no vessels constructed on the Lakes should be "there plated, armed, equipped, or rendered available as vessels of war." That it would further be desirable to secure that war vessels built on the Lakes, either whole or in sections, are to be passed within a reasonable period through the canals, a section for this purpose being considered as a whole vessel; and that no war vessel is to return for repair or refit to the Lakes.

3. That as regards the maintenance of armed vessels on the Lakes, you should ask that:—

(a.) There should not be kept on the Lakes any men-of-war proper.

(b.) No actual war vessels on the Lakes should be made use of for training purposes.

(c.) The number and location of armed vessels to be kept on the Lakes for revenue services should be as defined in the 1817 Agreement, but the maximum size should be increased to 300 tons displacement, and the maximum armament should be reduced to one 6-pr. gun, which is sufficient for preventive service. The revenue vessels not to be used as war vessels for training or any other purpose in time of peace.

4. That it would be advantageous as regards the term of notice for the abrogation of the new Arrangement to make it one year.

I concur in the above, and I authorize you to discuss the question on the lines indicated in the Committee's recommendations.

No. 86.

Colonial Office to Foreign Office.—(Received September 22.)

(Secret.)

Sir,

Downing Street, September 21, 1898.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of Mr. Balfour, with reference to the letter from this Department of the 19th instant, a copy of a letter from the War Office on the subject of the question of naval vessels on the Great Lakes of North America.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure in No. 86.

War Office to Colonial Office.

(Secret.)

Sir,

War Office, September 21, 1898.

I AM directed by the Secretary of State for War to acknowledge the receipt of your Secret letter of the 16th instant, inclosing a copy of the Colonial Defence Committee's Memorandum No. 155 M of the same date, on the subject of American war-ships on the Great Lakes, and to state in reply that the Marquess of Lansdowne, while regretting the necessity of modifying the Agreement of 1817, is of opinion that the course recommended by the Committee is, under the circumstances, the wisest to pursue.

I am, &c.

(Signed) G. FLEETWOOD WILSON.

No. 87.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received September 24.)

(No. 263.)

My Lord,

New London, Connecticut, September 16, 1898.

IN my despatch No. 104, Commercial, I had the honour to transmit to your Lordship a copy of a note from the United States' Government, making suggestions for an arrangement as to the brands used by border cattle-owners, with a view to the better identification of cattle belonging on either side of the Canadian frontier, and proposing that the question be referred to the Joint Commission.

I duly communicated to the United States' Government the approval by Her Majesty's Government of this latter proposal, contained in your Lordship's telegram No. 145 of the 27th ultimo. I have now the honour to transmit herewith copy of a Minute of the Canadian Privy Council, raising objections to the suggestions made by the United States, and stating that the Chief Veterinary Inspector of the Dominion has been commissioned to make a tour of inquiry.

It is expected that he will be thereby enabled to suggest a plan for the identification of border cattle, and that his Report will be of use to the Joint Commission.

I have communicated a copy of this Minute to the United States' Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 87.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 1st September, 1898.

THE Committee of the Privy Council have had under consideration a despatch, hereto annexed, dated the 28th July, 1898, from Her Majesty's Ambassador to the United States, transmitting copy of a note from the United States' Secretary of State, conveying the observations of the Acting Secretary of the Treasury upon the note

addressed to him by Her Majesty's Ambassador on the 13th June, 1898, inclosing copy of an approved Minute of the Privy Council of the 30th May, 1898, on the subject of the branding of cattle for the purpose of identification on either side of the international boundary-line, and intimating that the note had been communicated to the Most Honourable the Marquess of Salisbury.

The Acting Minister of Agriculture, to whom the said despatch was referred, observes that it is well understood that cattle grazing on the northern frontier of the United States and the southern frontier of Canada are already branded, and in some instances with identically the same brand, and it was in connection with these cattle that reference was made in the Minute of Council, referred to above, to the old proprietary recorded brands, which reads:—

“It is difficult, however, to know how to solve the matter in so far as the old proprietary recorded brands now in existence are concerned. Such brands in Canada are very largely, if not entirely, owned by responsible parties who do not dispose of them, nor are they likely to be found guilty of contravening the laws of either country.”

The Minister states that with a view to obtaining all the information possible on this important question the Chief Veterinary Inspector of the Dominion, who is now proceeding through the North-West Territories, has been instructed to make every inquiry and thoroughly post himself with the views of those residing in that country and who are interested in the cattle industry, and he thus enabled to suggest some plan by which Canadian and American cattle can be identified.

The Minister further states that as the subject has now been referred to the Joint High Commission, it is hoped the Chief Veterinary Inspector's Report may prove useful when the subject comes before the Conference for consideration.

The Committee advise that your Excellency be moved to transmit an answer in the sense of this Minute to Her Majesty's Ambassador to the United States.

All which is respectfully submitted for your Excellency's approval.

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

No. 88.

War Office to Foreign Office.—(Received September 24.)

(Secret.)

Sir,

War Office, September 23, 1898.

I AM directed by the Secretary of State for War to acknowledge the receipt of your letter of the 12th instant, inclosing copies of Lord Herschell's despatches Nos. 1 and 3 on the subject of the Arrangement of 1817 between this country and the United States as to maintenance of war-ships on the Great Lakes of America.

In reply, I am to state that Lord Lansdowne, while regretting the necessity for modifying the Agreement of 1817, has expressed his concurrence in a Memorandum which has been drawn up by the Colonial Defence Committee as to the lines on which a modified Agreement should now be drafted.

The Secretary of State for War presumes that a copy of this Memorandum will be forwarded by the Colonial Office for submission to Lord Salisbury.

I have, &c.
(Signed) R. H. KNOX.

No. 89.

Lord Herschell to the Marquess of Salisbury.—(Received October 3.)

(No. 5.)

My Lord,

Quebec, September 20, 1898.

THE Commission sat at 2 P.M. on the 31st August, and was again occupied with the questions relating to transit privileges which are numbered 4 and 5 in the Washington Protocol.

Senator Fairbanks dwelt almost exclusively upon the grievances of the American railroads against the Canadian Pacific Company, which, not being bound by the Interstate Commerce Law, is able to compete successfully with the other trans-continental lines by cutting rates, granting rebates to shippers, paying commissions to

agents, and by not publishing their charges for goods and passenger traffic. All these proceedings, he said, were offences against the United States' Law, and it was only by making use of the bonding privileges granted by the United States' Government that the Company were able to compete for what was in reality interstate traffic, *i.e.*, from one point of the United States' territory to another.

The Grand Trunk and other Canadian Railway Companies submitted to the provisions of the Interstate Commerce Act, and it would only be fair that the Canadian Pacific Company should do the same.

He gave several instances of unequal competition, and explained at some length, in reply to inquiries, the objects of the law, its working and application, and the evils which it had been designed to obviate. According to his information, the Canadian Pacific Company levied a large tribute (or black-mail) from the American Companies in consideration of not cutting rates on certain portions of the traffic. Protests had been made by six or eight of these Companies. The President had power to suspend the bonding privileges by Proclamation.

It may be explained that the bonding privileges here referred to consist in authorizing United States' customs' officers to seal up freights passing through Canadian territory, and to admit them free of duty when they re-enter the United States. The main bonding privilege in this case is really given by the Canadian Government, who allow the goods to pass through without levying customs.

Since the date of this discussion, it has been announced in the press that the Canadian Pacific Company have notified their readiness to abide by the conditions of the Interstate Law.

Senator Fairbanks added a few words on the subject of the tolls on the Welland Canal, his contention being that they should be abolished in view of the immunity offered by the Erie Canal and others in United States' territory.

Mr. Dingley called attention to the refusal of the Canadian authorities to admit the free entry of tea imported from abroad, which had been bonded at United States' ports *en route*. Under the Canadian Tariff tea is only imported free when coming from its place of production, or from a bonded warehouse in the United Kingdom.

No Committee has yet been appointed on these transit questions, and the subject will be resumed at a later stage.

At the meeting on the 2nd instant, Sir Wilfrid Laurier briefly introduced the important question of reciprocity in trade. He said that Canada could propose a pretty full free list for reductions of Tariff on raw materials. The principal items would be lumber, mining products, sea products, and the products of agriculture. A list of manufactured articles would be submitted later.

Senator Fairbanks expressed entire sympathy with the proposal to adopt a scheme based upon reciprocal reductions.

Sir Richard Cartwright then made a more detailed statement, laying some stress on the importance of arriving at a thoroughly equitable and permanent arrangement which would not require revision in the near future. He pointed out that the trade between the various States of the Union had reached an enormous aggregate, ten or twelve times as great as that of the foreign commerce of the United States. If there were no customs' barriers between the United States and Canada, or if anything approaching to free trade was in force, the interchange might amount to hundreds of millions of dollars annually. Even in present circumstances, Canada bought more, per head of her population, than any other customer of the United States, not excepting Great Britain.

Coal should be exempted from duty on either side. It was found in the Provinces of Nova Scotia and British Columbia, and in the States of Ohio and Pennsylvania. The States would gain by obtaining coal along the sea-board from the extreme east and west of the Dominion, whilst, in the centre of the continent, its admission would be greatly appreciated by the Canadian Provinces.

It must, however, be borne in mind that the high Tariffs had produced certain results. The system of farming had even been changed, and Canadian trade had been diverted to Great Britain. As time went on, it would become difficult to adopt free trade, on account of the industries which grew up under the protection of existing Tariffs.

In principle, however, the nearer the Canadian Provinces could be assimilated to the general system of interstate commerce, the more quickly trade would develop on both sides of the frontier.

Sir R. Cartwright concluded his remarks by speaking of the large mineral resources of British Columbia, and of the advantages which the United States might

derive from participating freely in the trade which was bound to spring up, and in the exchange of manufactured articles for mining products.

Mr. Kasson alluded to the question of the most-favoured-nation clauses of commercial Treaties, of which a different interpretation was adopted in Great Britain from that recognized in the United States.

In reference to some observations made by Mr. Dingley on the Preferential Tariff granted by Canada to Great Britain, I said that the present arrangement could not properly be described as a discrimination against the United States.

It was eventually decided to refer the whole question to a Committee of six, namely: Senator Fairbanks, Mr. Dingley, Mr. Kasson, Sir R. Cartwright, Sir L. Davies, and Mr. Charlton.

Before adjourning till the 20th instant, the Commission named Mr. Jefferson Coolidge and Sir R. Cartwright to form a Committee on the question of cattle branding along the frontier.

A copy of the seventh Protocol is inclosed.

I have, &c.
(Signed) HERSCHELL.

Inclosure in No. 89.

Protocol No. VII of Proceedings of Joint High Commission, September 2, 1898.

THE Joint High Commission assembled at 11 o'clock, A.M., pursuant to adjournment, all the members except the Honourable George Gray, and Sir James S. Winter, being present.

The Protocol of the last meeting was read and approved.

The Joint High Commission then took up for consideration "such readjustment and concessions as may be deemed mutually advantageous of customs duties applicable in each country to the products of the soil or industry of the other, upon the basis of reciprocal equivalents." This subject, after partial discussion, was referred to a Committee for consideration and report.

The question of cattle branding for the purpose of identification along the frontier between the United States and Canada was taken up as an additional subject for consideration, and after partial discussion was referred to a Committee for consideration and report.

The Joint High Commission thereupon adjourned, to reassemble at Quebec on Tuesday, the 20th September, 1898.

No. 90.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received October 3.)

(No. 265.)

My Lord,

New London, Connecticut, September 22, 1898.

IN my despatch No. 261 of the 6th instant I had the honour to inclose a copy of a note from the United States' Government pressing for a suspension of the Ontario Act regulating the export of lumber, and to report that I had informed the United States' Government that Her Majesty's Government were in correspondence with the Dominion Government on this subject.

I am now in receipt of a further note from Mr. Day to the effect that he notes this latter fact with pleasure, and awaits the result with interest. He adds that, in view of the large interests involved, and the lapse of time before any relief can be afforded by the Joint Commission, he desires again to invite the attention and action of Her Majesty's Government to the securing, as a temporary measure, of a suspension of this legislation for the present season and until the Joint Commission shall have come to some decision.

I have communicated the substance of this note to the Governor-General of Canada.

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

No. 91.

Lord Herschell to the Marquess of Salisbury.—(Received October 6.)

(No. 6.)

My Lord,

Quebec, September 23, 1898.

THE Commission reassembled on the 20th instant, and have held three meetings this week. As your Lordship is no doubt aware, Senator Gray has been appointed to serve on the Peace Commission. His place has been taken by Senator Charles J. Faulkner, who arrived yesterday and was present at to-day's meeting. A fresh full power was produced, associating Senator Faulkner with the other High Commissioners on the part of the United States. It is a matter of regret that Senator Gray should have been obliged to sever his connection with this Commission. My relations with him were most cordial, and he showed a disposition to deal with the various questions in a fair-minded and liberal spirit. I trust, however, that his successor will prove to be an equally agreeable colleague.

During the recess the United States' Commissioners have obtained the opinion of the Attorney-General as to the power of the Executive to enforce fishery Regulations on the Great Lakes and the Pacific coast. Senator Fairbanks made an informal statement to the effect that, although there is no decision bearing directly on this question, the better opinion is that the Treaty-making power of the Executive would have jurisdiction in such a case.

I mentioned the claims for the seizures of the "Wanderer" and "Favourite" and of the "Kate" in Behring Sea. Senator Fairbanks said that he had heard that this subject would be brought up for discussion. At the meeting of yesterday some fresh arrangements were made as regards the constitution of the Committees. A separate Committee was named to deal with the fisheries on the Great Lakes and on the Pacific coast, the Atlantic fisheries being left to the Committee already appointed.

The boundary questions were also distributed amongst two Committees whose names were agreed upon.

I have the honour to inclose copies of the 8th and 9th Protocols and a list of the Committees as now arranged.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 91.

Protocol No. 8 of Proceedings of Joint High Commission, September 20, 1898.

THE Joint High Commission met, pursuant to adjournment, at 11:30 o'clock A.M. Mr. Charlton and Sir James S. Winter were absent. It was announced the Honourable George Gray had resigned and that the Honourable Charles J. Faulkner had been appointed to fill the vacancy caused by that resignation, but had not yet arrived.

The Protocol of the last meeting was read and approved.

The general arrangements for the meetings of the various Committees heretofore appointed were then considered and agreed upon.

The Joint High Commission thereupon adjourned until Thursday, the 22nd September, at 10:30 o'clock in the forenoon.

Inclosure 2 in No. 91.

Protocol No. 9 of Proceedings of Joint High Commission, September 22, 1898.

THE Joint High Commission met, pursuant to adjournment, at 10:30 o'clock A.M., all the members being present except the Honourable Charles J. Faulkner.

The Protocol of the last meeting was read and approved.

The question of the boundaries, which was considered at the second meeting of the Commission on the 25th August, was again discussed. The subject was divided into two parts, one including the question of the boundary-line in Passamaquoddy Bay, and the other the boundary-line in and west of the Great Lakes. These were then referred to separate Committees for consideration and report.

At the suggestion of the Committee appointed on the 30th August to consider the fisheries question, that subject was also divided for convenience into two parts, one including the fisheries of the Great Lakes and Pacific coast, and the other the fisheries of the Atlantic coast, and the subject so divided was referred to two Committees for consideration and report.

The Joint High Commission thereupon adjourned until Friday, the 23rd September, at 11 o'clock in the forenoon.

Inclosure 3 in No. 91.

List of Committees.

Alien Labour Laws—

Senator Faulkner.
Mr. Dingley.
Sir R. Cartwright.
Sir L. H. Davies.

Mining Regulations—

Mr. Kasson.
Mr. Charlton.

Great Lakes—

Lord Herschell.
Sir W. Laurier.
Senator Fairbanks.
Senator Faulkner.

Conveyance of Prisoners—

Mr. Kasson.
Sir L. H. Davies.

Wrecking and Salvage—

General Foster.
Mr. Dingley.
Sir L. H. Davies.
Mr. Charlton.

Behring Sea—

Senator Fairbanks.
General Foster.
Lord Herschell.
Sir L. H. Davies.

North-east Fisheries—

Senator Faulkner.
Mr. Coolidge.
Sir L. H. Davies.
Sir J. Winter.

Inland and Pacific Fisheries—

General Foster.
Mr. Coolidge.
Sir R. Cartwright.
Sir L. H. Davies.

Alaska Boundary—

Senator Fairbanks.
General Foster.
Lord Herschell.
Sir W. Laurier.

Reciprocity—

Senator Fairbanks.
Mr. Dingley.
Mr. Kasson.
Sir R. Cartwright.
Sir L. H. Davies.
Mr. Charlton.

Cattle Branding—

Mr. Coolidge.
Sir R. Cartwright.

Passamaquoddy Bay—

Mr. Dingley.
Sir L. H. Davies.

Boundaries west of Lake Superior—

Mr. Kasson.
Sir R. Cartwright.

No. 92.

Colonial Office to Foreign Office.—(Received October 7.)

Sir,

Downing Street, October 6, 1898.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquess of Salisbury, with reference to the letter from this Department of the 15th ultimo, a copy of a despatch from the Governor-General of Canada on the subject of the Ontario Lumber Act.

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

Inclosure 1 in No. 92.

The Earl of Aberdeen to Mr. Chamberlain.

Sir,

The Citadel, Quebec, September 19, 1898.

WITH reference to my despatch of the 17th August last relative to representations made by the United States' Government in regard to the requirements of the Crown Timber Regulations of the Province of Ontario, dated the 17th December, 1897, I have the honour to inclose herewith copy of an approved Minute of the Privy Council, submitting a supplementary Memorandum of the Attorney-General of the province, in justification of the requirements referred to.

I have forwarded a copy of the Minute to Her Majesty's Ambassador to the United States.

I have, &c.
(Signed) ABERDEEN.

Inclosure 2 in No. 92.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 10th September, 1898.

ON a report, dated the 3rd September, 1898, from the Secretary of State, stating that he has had under consideration the annexed supplementary Memorandum of the Attorney-General of Ontario respecting representations made by the Government of the United States of America with regard to certain requirements of the Crown Timber Regulations of the 17th December, 1897:

The Committee, on the recommendation of the Secretary of State, advise that your Excellency be moved to forward a copy of the said Memorandum to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies, and also to forward copies to Her Majesty's Ambassador at Washington, for transmission to the Secretary of State of the United States, for the information of the parties interested.

All which is respectfully submitted for your Excellency's approval.

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

Supplementary Memorandum of the Attorney-General.

With further reference to the despatch of the Honourable the Secretary of State of the United States to Sir Julian Pauncefote, Her Majesty's Ambassador at Washington, forwarding a letter from Messrs. Dickenson and Lansing, of Detroit:

The Undersigned has the honour to submit the following additional considerations:—

1. The timber upon Crown lands in the Province of Ontario being, as already pointed out, one of the most valuable assets of the province, it is the paramount duty of the Legislature of the province to adopt such a policy as will best preserve the forests of the province, not merely for the purposes of present revenue, but for the use and to supply the wants of the people in the near and remote future; and if in carrying out this policy the Legislature and Government should deem it necessary to change their former policy in dealing with our forest reserves on account of the too rapid depletion of the forests, it is submitted that this course would be justified even if the change imposed a new condition upon the licensees not contemplated at the time of the original sale of the timber limits, or which, to some extent, might vary the terms or conditions imposed by the Act in force at the time of the original sale of the timber limits affected by the new Act or policy, or the terms or conditions otherwise imposed at the time of sale.

2. The timber of the State of Michigan was at one time heavier and more abundant than that of the Province of Ontario; but the policy adopted in that State was not calculated to preserve, and did not preserve, its timber, and now that the supply in that State is nearly exhausted, the lumbermen of Michigan are seeking supplies for their mills in the forests of this province. The alleged grievance respecting the saw-mills mentioned in the correspondence of Messrs. Dickenson and Lansing is not, it is submitted, one for which the Legislature or Government of this province is responsible, inasmuch as such mills were long ago erected for the purpose of cutting Michigan and other American logs, and long before American lumbermen became the purchasers of their lumber interests in Canada, and would necessarily remain upon the hands of their owners when the Michigan supply became exhausted. The timber resources of this province, however great, would not continue to meet the unrestrained inroads of American lumbermen to supply these large mills, while the adoption of a judicious policy of limitation in the cutting of timber, and of reforestation upon the cut-over land, and one requiring that Canadian logs should be sawn and manufactured in Canada, may preserve the pine forests of the province for centuries.

3. The Undersigned further submits that the Statute in question and the Regulations set out in the Schedule thereto do not discriminate against any one class of licence-holders, whether they are British or American subjects, but are applicable to all alike.

4. In this connection, it is worthy of note that large sums of money have been invested by English and American capitalists in both the United States and Canada in other kinds of business under laws which the Legislature has not hesitated from time to time to change as the public interests seemed to demand. Legislation affecting contracts of life insurance, of Loan Corporations, and relating to mines and mining, real and personal property, and other matters as well, furnish examples of this; yet it has never been contended, for instance, that an Insurance Company which has commenced operations and invested funds in its business under an Act regulating Insurance Companies had any just ground of complaint when the Legislature subsequently imposed conditions upon the carrying on of its business in Ontario, although such conditions might materially affect not only the profits and gain of the Company, but the contract entered into between the insurer and the insured. In the same manner, legislation has from time to time made changes in the Customs and Excise Tariffs under which industries in which home and foreign capital has been invested have been materially affected, or have possibly been forced to seek other markets. Attention is drawn to the Tariff legislation of the United States, which imposes a duty of 2 dollars per 1,000 feet upon sawn white pine lumber imported into the United States, which changed arrangements existing between the Governments of the United States and Canada, and which practically prohibited the importation into the United States of a large portion of the lumber manufactured at Canadian mills, and thereby undoubtedly inflicted heavy losses on the saw-milling industry of this province.

5. Further, the United States by the same Tariff provides for the admission to the United States of pine logs free from duty, and thus, while practically prohibiting the importation of certain classes of Canadian lumber sawn in Canada, it made it certain that Canadian logs should be sawn in the United States and not in Canada, when the sawn lumber was intended for the American market.

6. Again, the Tariff Laws of the United States provide that lumber made from pine logs produced in the State of Maine, but sawn in Canada, cannot be so sawn in Canada by Canadian workmen under the penalty of a duty of 2 dollars per thousand feet if again

sent into the United States. No provision is here made for the protection of Canadians who had erected mills in Canada, and provided men, plant, and machinery at great cost for the purpose of sawing these logs in Canada, as had been the practice before the adoption of this new feature of the Tariff Act of the United States. Yet no one can allege that Congress was not within its strict rights in enacting these clauses of its Tariff Laws, however hardly they may operate upon those who are adversely affected by them.

Respectfully submitted,

(Signed)

ARTHUR S. HARDY,

Attorney-General.

*Department of Attorney-General, Ontario,
Toronto, August 22, 1898.*

No. 93.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received October 10.)

(No. 269.)

My Lord,

New London, Connecticut, September 26, 1898.

WITH reference to my despatch No. 265 of the 22nd instant, communicating to your Lordship renewed representations by the United States' Government for the suspension of the Ontario Act regulating the manufacture of lumber, I have now the honour to transmit herewith copy of an approved Minute of the Privy Council for Canada,* which I have since received from the Governor-General for communication to the United States' Government.

This Minute submits a supplementary Memorandum of the Attorney-General of the Province of Ontario, in which he advances further considerations which he regards as justifying the requirements of the Act of which complaint is made.

I have communicated a copy of the Minute to the United States' Government as requested by the Governor-General.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

No. 94.

Foreign Office to Colonial Office.

Sir,

Foreign Office, October 10, 1898.

WITH reference to the letter from this Office of the 1st instant, I am directed by the Marquess of Salisbury to transmit to you, to be laid before the Secretary of State for the Colonies, copy of a further despatch from Her Majesty's Ambassador at Washington relative to the Ontario Act regulating the export of lumber.†

It will be seen that the Government of the United States again urge, as a temporary measure, and until the Joint Commission shall have come to some decision in the matter, the suspension of the operation of the Act during the present season.

Lord Salisbury would be glad to be informed in due course of the nature of the reply which should be returned to the United States' Government in regard to this proposal.

I am, &c.

(Signed)

F. H. VILLIERS.

No. 95.

Lord Herschell to the Marquess of Salisbury.—(Received October 15.)

(No. 7.)

My Lord,

Quebec, September 30, 1898.

THE question of the claims for seizures of vessels in Behring Sea was again raised at the meeting of the Commission on the 27th instant, and it was agreed that the British Commissioners should furnish statements of the amount of compensation demanded.

General Foster said that the matter was quite distinct from the questions hitherto discussed relative to pelagic sealing in general. He seemed to object to the presentation of the claims, and hinted that the American Commissioners might bring forward claims for improper seizures of vessels on the Atlantic Coast; but Senator Fairbanks did not pursue that line of argument, and merely asked for a statement of the claims referred to.

The Committee on the Conveyance of Prisoners through Intervening Territory presented a proposal on which they had agreed for dealing with the question. Senator Faulkner inquired whether any provision was made for the exclusion of political offences from the list. Mr. Kasson replied that the Extradition Treaty made no mention of such offences, and that it did not seem necessary to exclude them specifically. A copy of the proposed Article is inclosed.

It occurs to me that, in view of the difficulty as to political offences, it may be wiser to limit the Agreement to offences for which extradition can be obtained, because it is, no doubt, understood that political offences are excluded on both sides from the application of the Treaty; but the addition of provisions with regard to assaults might involve acts committed by persons who are implicated in offences of a political character, and I am informed by some of my colleagues that the Senate is so sensitive upon the point that if there were any doubt as to the absolute exclusion of political offenders from the arrangement, it might jeopardize the ratification of a Treaty.

Sir Louis Davies then read the Article drafted on the subject of wrecking and salvage rights, explaining that the British members of the Committee were unable to accept the last paragraph but one, which is underlined in the copy forwarded herewith. General Foster and Mr. Kasson spoke in favour of the disputed paragraph. They urged that large Steam-ship Companies which have wrecking appliances of their own should be allowed to send for them, instead of being forced to employ a local salvage vessel, which would be able to fix its own charges, and which would probably not perform the work so efficiently. Sir Louis Davies' reply to this was that a large Wrecking Company, like that which exists at San Francisco, might, under such an arrangement, purchase a share in every vessel trading along the coast of British Columbia, and thus become entitled to salvage any of those vessels in British waters. Mr. Charlton added that the Canadian Government had been willing to adopt an unlimited extension of the phrase "contiguous waters," and to permit the use of wrecking vessels along the whole length of the coasts without regard to their nationality, but that the United States' Government had refused that proposal, and should therefore accept the limitations agreed upon, without attempting to make exceptions to the rules laid down.

Sir Louis Davies tells me that his objection to the extension of wrecking and salvage rights to more than 30 miles on each side of the frontier, if it is not to be made as we proposed, universal, is based on the considerations that no wrecks take place in the American waters south of the line, such as Puget Sound and other inland seas, and that any rights granted to American wreckers along the coast of British Columbia would lead to the wrecked vessels being taken to American ports for repair. His objection to the clause not accepted by the British members of the Committee was based upon the same considerations.

The accompanying Memorandum on the Alaska boundary was handed in by General Foster, who said that it had been thought desirable to collect the principal documents in a convenient form, with translations from the French originals, and with extracts from those papers which did not exclusively concern the boundary question. When asked what the United States' Commissioners proposed in substance, he said that they wished to follow the wording of the Treaty of 1825, and to draw a line along the summits of the mountains, never more than 10 marine leagues from the coast.

At the next meeting Mr. Kasson read a proposal which he had prepared in conjunction with Mr. Charlton on the subject of mining rights. As, however, it was

found that the Committee had acted on the assumption that the mining rights in the Canadian Provinces (as well as the Territories) were under the control of the Dominion Government, the proposal was withdrawn. In the course of the discussion, the American Commissioners stated, in reply to Sir Wilfrid Laurier, that mining rights in the United States are the property of the Federal Government, and that a Treaty granting participation in such rights to British subjects could be enforced by the Executive.

Two members were added to the Committee, Senator Faulkner and myself being named to join Mr. Kasson and Mr. Charlton, but it was subsequently arranged that Senator Faulkner should not act, and the Committee therefore consists of only three persons.

On the 29th instant a Committee was appointed on the question of transit privileges. The members of this Committee are : Senator Fairbanks, Mr. Coolidge, Sir W. Laurier, and Sir R. Cartwright.

Copies of Protocols X to XIII are inclosed.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 95.

ARTICLE .

Conveyance of Prisoners.

ANY officer of the United States of America, or of any State or Territory thereof, having in his custody without the borders of Canada, by virtue of any warrant or other lawful process issued by authority of the United States or of any State or Territory thereof, any person charged with or convicted of a criminal offence committed within the jurisdiction of the United States or of any State or Territory thereof, may, in executing such warrant or process, convey such person through any part of Canada to a place in the United States, if such warrant or process is indorsed (or backed) by a Judge, Magistrate, or Justice of the Peace in Canada, or if the authority of the Minister of Justice of Canada for such conveyance is first obtained.

During such conveyance of such person through Canada, such officer may keep such person in his custody, and in case of escape may recapture him.

Any officer of the Dominion of Canada or of any Province or Territory thereof having in his custody, without the borders of the United States of America, by virtue of any warrant or other lawful process issued by authority of the law of the Dominion or of any Province or Territory thereof, any person charged with or convicted of a criminal offence committed in Canada, may, in executing such warrant or process, convey such person through any part of the United States to a place in Canada, if such warrant or process is indorsed (or backed) by a Judge, Magistrate, or Justice of the Peace in the United States, or if the authority of the Secretary of State of the United States for such conveyance is first obtained.

During such conveyance of such person through the United States, such officer may keep such person in his custody, and in case of escape may recapture him.

The foregoing provisions shall apply only to persons charged with or convicted of offences of the following descriptions:—

1. Offences for which extradition is at the time authorized by any Convention in force between the Governments of the United States and of Great Britain.
2. Assault with intent to commit grievous bodily harm.
3. Assault upon an officer of the law in the execution of his duty.

The two Governments may by common accord make further or other Regulations for certifying the warrant or process under which the person in custody is to be conveyed, as before provided.

Inclosure 2 in No. 95.

Wrecking and Salvage.

WHEREAS reciprocal legislation now exists in the United States of America and in Canada permitting the vessels of each country respectively to save any property wrecked, and to render aid and assistance to any vessels wrecked, disabled, or in distress in the waters of each of such countries contiguous to the other, and it is desirable that such legislation be made permanent and be made to define clearly the meaning of the terms in such legislation of "the waters of Canada contiguous to the United States" and "the waters of the United States contiguous to the Dominion of Canada."

It is, therefore, agreed and defined that vessels and wrecking appliances of the United States and of Canada may save any property wrecked, and may render aid and assistance to any vessels wrecked, disabled, or in distress—

1. In the waters or on the shores of the St. Lawrence River where the said river constitutes the international boundary.

2. In the waters and along the shores of Lake Ontario, Lake Erie, Lake Huron, and the waters connecting Lakes Erie and Huron, including Lake St. Claire.

3. In the St. Mary's River and Lake Superior.

4. And in the waters of the Atlantic and Pacific Oceans, along the coast-line and islands, in all the bays, sounds, straits, and open ocean lying or being within the distance of 30 miles from the international water boundary-line.

It is further agreed that such reciprocal wrecking privileges shall include all necessary towing incident thereto, and that nothing in the customs, coasting, or other laws or regulations of either country shall restrict in any manner the salvaging operations of such vessels or wrecking appliances.

It is further agreed that the owners or consignees of any disabled vessel or cargo in peril may employ their own vessels and appliances for the rescue of salvage of their own property, whether the same may be within or without the limits prescribed in the preceding clause of this Article.

Vessels employed as above stated shall, as soon as practicable afterwards, make full report at the nearest custom-house of the country in whose waters such salvaging takes place.

Inclosure 3 in No. 95.

Views of the United States' Commissioners on the Alaska Boundary, as defined by the Treaty of 1825.

IN view of the position assumed by the British Commissioners respecting the territory on the south-east coast of Alaska between 54° 40' north latitude and Mount St. Elias, it has been deemed necessary to make a more precise statement of the views of the Commissioners of the United States on this subject.

It is maintained by the latter that the Treaty of 1825 between Russia and Great Britain, which delimits the territory in question, is sufficiently explicit in its terms to determine with accuracy the southern line of boundary, and that the eastern line may likewise be determined and marked by the Joint High Commission, with the aid of the recent surveys made by the Joint Commission created by the Convention of the 22nd July, 1892.

The Commissioners, on the part of the United States, hold that by the terms of the Treaty of 1825 the south line of boundary, starting from the southernmost point of Prince of Wales Island, passes thence to the mouth of the Portland Channel or Canal, and northerly up that channel and the mainland to the 56° of latitude; and that the eastern boundary-line of the strip of territory, or "lisière,"* on the mainland or con-

* The term "lisière," as it occurs in Article IV and elsewhere in the Treaty of 1825, was referred to in the oral argument before the Fur-seal Arbitration at Paris. The following remarks are taken from the argument of Sir Richard Webster ("Fur-seal Arbitration Papers," vol. xiii, p. 450):—

"Mr. Justice Harlan.—What are the English words in Article VI corresponding to "lisière"?"

"Sir Richard Webster.—I will read it:

"*May cross the line of demarcation upon the line of coast.*

"The expression 'line of coast' is not the proper translation—it ought to be 'strip of coast.' 'Strip' is the correct translation of 'lisière,' if I may be permitted to say so, Mr. President, and no doubt if I am wrong you will correct me. 'Lisière' is 'selvage'—'strip'—like the edge of cloth—'border.'"

continent follows the crest of the mountains (but never more than 10 marine leagues from the coast), along the sinuosities of the coast, and always on the mainland, till it reaches the 141° of longitude, in the vicinity of Mount St. Elias.

While the United States' Commissioners maintain that no other construction can be given to the language of the Treaty, they maintain, further, that the negotiations which led up to the Treaty, and all the subsequent history relating to that territory, confirm the foregoing as the proper and only interpretation of that instrument.

The Negotiations.

The circumstance which initiated the negotiations resulting in the Treaty of 1825 was the promulgation, on the 4th September, 1821, by the Emperor of Russia of an Imperial Ukase, directing the exercise of jurisdiction for the protection of Russian trade and commerce over the Pacific Ocean 100 miles from the coasts of North America to the south as far as the 51° of north latitude, and from the coast of Asia to the 45° of latitude. On the 18th January, 1822 (Appendix 1, p. 1*), the British Secretary for Foreign Affairs addressed a note to the Russian Ambassador in London, protesting against the Ukase as unwarranted in the extent of its claim to the exercise of jurisdiction on the high sea, and expressing doubt as to the correctness of its territorial claim on the coast of North America. This step was followed by an effort on the part of the British Plenipotentiary at the Congress of Verona, the Duke of Wellington, October and November 1822 (p. 9), to secure a retraction of both the claim to jurisdiction as to 100 miles from the coast of the Pacific Ocean and of exclusive sovereignty of the coast to the 51° of latitude. The Russian Plenipotentiary manifested a disposition to satisfy the demands of Great Britain as to the ocean jurisdiction, and indicated that the territorial claim would not be pushed further south than the 55° of latitude, that being the limit fixed in the charter of the Russian-American Company by the Ukase of the Emperor Paul in 1799 (p. 12). It was, however, agreed that the negotiations should be adjourned to London or St. Petersburg (p. 12).

Under date of the 5th February, 1823 (p. 15) the British Secretary for Foreign Affairs, Mr. George Canning, sent instructions to the British Ambassador in St. Petersburg, Sir Charles Bagot, to open negotiations on the subject of the Ukase of the 4th September, 1823. Meanwhile the Government of the United States had received notice of the Ukase (p. 1), and having likewise protested against it, instructed its Minister in St. Petersburg to open negotiations on the same subject (pp. 17 to 26). Sir C. Bagot was directed to unite with the American Minister, Mr. Middleton, in the negotiations with the Russian Government (pp. 18 and 19); but when it was later ascertained that the United States might on its part advance some claim to the territory above the 51°, Sir C. Bagot was instructed by Mr. George Canning, 15th January, 1824 (p. 41), to discontinue his joint negotiations with the American Minister, and thenceforward the British negotiations were entirely independent of those on the part of the United States.

First Negotiations.

Soon after the receipt of Secretary Canning's instruction of the 15th January, 1824, Sir C. Bagot set on foot and pressed his negotiations to a definite issue, as is shown by his despatch to Secretary Canning of the 17th March, 1824 (p. 49). The Russian Government having practically agreed in 1822 that the jurisdiction over the high sea claimed in the Ukase of 1821 would not be enforced, the territorial question was to be adjusted with a view to enabling the Russian Government to withdraw the Ukase with as little loss of pride as possible (pp. 19 to 100); and hence the negotiations of February and March were confined to the question of the boundary to be fixed between the Russian and British possessions on the north-west coast of North America, and mainly to the determination of one point, viz., the boundary-line of latitude on the coast.

Sir C. Bagot presented to the Russian Plenipotentiaries successively three distinct propositions. The first of these, verbally made, as stated in his despatch, was "a line drawn through Chatham Strait to the head of Lynn Canal, thence north-west to the 140° of longitude." This was practically the line which had been suggested by Secretary Canning (p. 19), and in the informal Conferences during the joint negotiations with the

* All page references are to the Appendices which accompanied this paper, unless otherwise stated.

United States had been indicated by Sir C. Bagot (p. 27), except that the present proposal included Sitka in Russian territory.

The Russian Plenipotentiaries declined to accept this proposal, and at the request of Sir C. Bagot, submitted in writing a counter-proposal (p. 53), which was in effect the same as suggested by Count Nesselrode at Verona (p. 12) and by Baron Tuyl in October 1822 (p. 13). This counter-proposal indicated latitude 55° as the proper boundary, basing the claim on the Ukase of Paul of 1799; but "as the parallel of 55° cuts the southern extremity of Prince of Wales Island," the Plenipotentiaries suggested that the southernmost extremities be fixed as the boundary of Russian territory, and, they add, "to complete the line of demarcation and render it as distinct as possible, the Plenipotentiaries of Russia have expressed the desire to make it follow Portland Channel up to the mountains which border the coast" (p. 53). This line of the southern boundary of Russia, so distinctly indicated, was never varied from, but consistently maintained throughout all the subsequent negotiations by Russia.

After this specific proposition, Sir C. Bagot modified his first proposal by offering to accept "a line traced from the west toward the east along the middle of the channel which separates Prince of Wales and Duke of York Islands from all the islands situated to the north of the said islands until it touches the mainland" (p. 54).

In opposition to this (second proposal) the Russian Plenipotentiaries submitted a paper of some length sustaining the expediency and justice of their proposition to fix "as limits upon the coast of the continent, to the south, Portland Channel" (p. 56). Sir C. Bagot replied to this paper in a Memorandum of equal length by way of a refutation of the Russian observations, and concluded by submitting a third and final proposal, viz., "a line drawn from the southern extremity of the strait called "Duke of Clarence's Sound," through the middle of this strait to the middle of the strait which separates Prince of Wales and Duke of York Islands from all the islands lying north of those islands, thence toward the east through the middle of the same strait to the mainland" (p. 58)*. In submitting this proposal, Sir C. Bagot "gave it clearly to be understood that it contained his ultimate proposition" (p. 51).

This (third) proposal was laid before the Emperor, and within ten days the Russian Plenipotentiaries, under his orders, communicated "their final decision, and that they must continue to insist upon the demarcation as described by them in the first paper" (pp. 51, 59). Thereupon Sir C. Bagot stated to the Russian Plenipotentiaries "that I was sorry to say that I must now consider our negotiations as necessarily suspended, so far at least as the question of territorial demarcation was concerned" (p. 51); to which they replied:—

"His Imperial Majesty regrets to see them (the negotiations) terminated at the present time, but he is pleased to believe that the final decision of the London Cabinet will prevent these discussions from being barren of result" (p. 60).

It thus appears that the main point under discussion in this first negotiation was the attempt to agree upon the southern boundary of the Russian possessions, and that the territory in dispute was that lying in a triangle marked by the Duke of Clarence Strait, the Portland Channel, and a point on the mainland about latitude 56°. This is made perfectly clear by the note of Count Nesselrode of the 5th (17th) May, 1824, the Chief Russian Negotiator, to Count Lieven, Russian Ambassador in London (p. 63), a copy of which was delivered to the British Government (p. 67). Attention is called to the following language in that note:—

"Russia cannot stretch her concessions further. She will make no others, and she is authorized to expect some concessions on the part of England" (p. 65).

Second Negotiations.

The expectations of Russia were not to be disappointed, for in the month following Secretary Canning informed Count Lieven that Sir C. Bagot would be instructed "to admit, with certain qualifications, the terms last proposed by the Russian Government." The qualifications related not to the southern boundary, but to the "lisière," to the boundary near Mount St. Elias, and to the free use of the rivers, straits, and waters (p. 67). In his instruction to Sir C. Bagot, Secretary Canning said:—

"Her Majesty's Government have resolved to authorize your Excellency to consent to include the south points of Prince of Wales Island within the Russian frontiers, and

* It will be noted that this is substantially the same line as that indicated on the new Map laid before the Joint High Commission by the British Commissioners.

to take as the line of demarcation a line drawn from the southernmost point of Prince of Wales Island from south to north through Portland Channel, till it strikes the mainland in latitude 56° " (p. 72).

Henceforward the subject of the southern boundary disappears from the negotiations the claim of Russia to the line to and along the Portland Channel being granted. Secretary Canning informs Sir C. Bagot:

"There are two points which are left to be settled by your Excellency:—

"1. the eastern boundary of the strip of land to be occupied by Russia on the coast;" and

2. The right of resorting to the territory and waters conceded to Russia (p. 73).

The second negotiation appears to have been confined mainly to a discussion of this second point. Sir C. Bagot in again reporting the suspension of negotiations (p. 81), says:

"There are three points upon which the differences appear to be almost, if not altogether, irreconcilable." The first two points were the opening for ever to the commerce of British subjects of Novo Archangelsk (Sitka) and the coast of the "lisière," and, third, privilege to visit for a term of years the other parts of Russian America. See also the Russian statement of the differences (p. 92).

The Russian Plenipotentiaries were willing to grant the privileges described in the first two points for a period of ten years, but refused to permit any foreign commercial intercourse with its territory north of latitude 59° or 60° (pp. 81, 92). Secretary Canning, having failed in this second attempt to reach an agreement at St. Petersburg, proposed to transfer the negotiations to London (pp. 97, 98); but in the interim Mr. Stratford Canning returned from his mission at Washington, and he was sent as a Plenipotentiary to St. Petersburg, entrusted with the task which his predecessor had failed to accomplish.

Third Negotiations.

The instructions to Mr. S. Canning, contained in Secretary Canning's despatch of the 8th December, 1824 (p. 99), authorize him to accede to the Russian proposition to admit British commerce to the port of Sitka and the territorial waters of the "lisière" for a period of ten years, in the terms fixed in the Russian-American Treaty (pp. 101-2) which had already been concluded. This left only the eastern boundary of the "lisière" to be definitely fixed. The instruction to Mr. S. Canning on this point was to fix the line at "the summit of the mountains which run parallel to the coast," with the condition that the line should not extend beyond 10 leagues from the coast (p. 101). The Russian Plenipotentiaries desired, first, to make the "lisière" 10 leagues wide throughout the whole extent, and finally, to make the summit of the mountains the invariable line without any restriction as to width; but they finally yielded to the British proposition (pp. 115, 117). With this last point adjusted, the negotiations which had extended through three years were brought to a close by the signature of the Treaty of the 16th (28th) February, 1825.

The foregoing review, divided in three stages, developed three points of difference, viz. :—

1. The southern boundary;
2. The course and limit of the "lisière;" and
3. The period and extent of use of the disputed territory by British subjects.

The first two are the only ones which have given rise to discussion in the Joint High Commission.

The Portland Channel.

The American Commissioners hold, as stated, that under the terms of the Treaty of 1825 the southern boundary must be drawn from the southernmost point of Prince of Wales Island along the line of $54^{\circ} 40'$ to the mouth of the Portland Channel, and thence along that channel and mainland to the 56° latitude.

1. No other line can be drawn unless it can be shown that some other channel was known at the time of the negotiations as Portland Channel.

2. No other such body of water was ever described by navigators or existed on any map. The Portland Channel as it now appears on the British Admiralty Charts and United States' official Maps was named, surveyed, and chartered about 1794 by Vancouver, and all maps of the region (as far as known) up to the negotiation of the Treaty of 1825 followed his designation and location.

3. The negotiators of the Treaty on both sides were fully conversant with the geographical locations on the coast; although respecting the interior of the mainland accurate geographical knowledge did not then exist.* The documents relating to the negotiations show they were in intimate relation with the Companies competing for the control and trade of the region in dispute, the Russian-American Company on the one side, and the Hudson's Bay and North-west Companies on the other (pp. 3, 6, 8, 34, 42, 67); and they had in their possession, and consulted, the best and latest maps of the region (pp. 24, 27, 42, 59, 92).

4. The negotiators were accurately informed as to the location of Portland Channel. Baron Tuyll, in advising Count Nesselrode as to the line which should be adopted in the south, fixes it "at the southern point of the Archipelago of Prince of Wales and the Observatory Inlet (a branch of Portland Channel), which are situated almost under that parallel" (55°) (p. 14). Sir C. Bagot, in referring to the proposition of the Russian Plenipotentiaries, said of it:—

"A line of demarcation drawn from the southern extremity of Prince of Wales Island to the mouth of Portland Channel, thence up the middle of this channel until it touches the mainland, thence to the mountains bordering the coast, would deprive Her Britannic Majesty of sovereignty . . . over all the inlets and small bays lying between latitudes 56° and $54^{\circ} 45'$ " (p. 54).

Count Nesselrode, in reporting to Count Lieven the first negotiations with Sir C. Bagot, wrote:—

"In order not to cut Prince of Wales Island, which, according to this arrangement, would remain to Russia, we proposed to carry the southern frontier of our domains to latitude $54^{\circ} 40'$, and to make it abut upon the continent at the Portland Canal, of which the opening into the ocean is at the same latitude as Prince of Wales Island, and which has its origin inland between 55° and 56° of latitude" (p. 64).

5. The negotiators understood that the line was to be drawn from the southern extremity of Prince of Wales Island to the mouth of and up the Portland Channel, and not up the Duke of Clarence Strait. Sir C. Bagot, as already noticed, proposed to run the divisory line "from the southern extremity of the strait called 'Duke of Clarence Sound' through the middle of this strait" to the coast of the mainland at the latitude of 56° north (p. 58). In writing to Secretary Canning, he stated that his object in making this proposition was "to preserve uninterrupted our access to the Pacific Ocean, and secure to His Majesty the 56° of north latitude as the British boundary on the coast" (p. 51). His language quoted in paragraph 4 shows that he proposed the line of Clarence Strait, because the line to and up the Portland Channel, as proposed by the Russian Plenipotentiaries, would deprive Great Britain of sovereignty over the mainland and "over all the inlets and small bays lying between latitude 56° and $54^{\circ} 40'$." The quotation already made from Count Nesselrode shows that his proposition was to make the southern boundary "abut upon the continent at the Portland Canal, of which the opening into the ocean is at the same latitude as Prince of Wales Island." He proceeds:—

"After some discussion, the last counter-propositions of Sir Charles Bagot were to include all of Prince of Wales Island within the Russian territory, but to stipulate that our boundary-line, on leaving this island, should follow the pass called Duke of Clarence Sound, and should not strike the coast until above 56° north latitude.

"This difference, if regarded on the map, would appear insignificant at the first glance. It is nevertheless so essential to us that it is absolutely impossible for us to accept the plan of demarcation traced by the Plenipotentiary of His Britannic Majesty" (p. 64).

As has been shown, the proposition of Russia making the Portland Channel the boundary, was formally agreed to by Great Britain, and in all the subsequent correspondence and negotiations it is taken for granted as the southern boundary. See the four projects of Treaty submitted later (pp. 74, 85, 106, 111); Sir C. Bagot, p. 82; and Count Nesselrode, p. 94.

6. All the English and Russian maps issued immediately, and continuously for many years after, the Treaty was negotiated, indicate the Portland Channel or Canal as the

* The following names of locations, places, or parts of the territory in dispute are mentioned in the papers relating to the negotiations:—

Mount St. Elias, Cross Sound, Lynn Channel or Harbour, Chatham Strait, Norfolk Sound, Norfolk Island, Cook's Inlet, Admiralty Island, Novo Archangisk and Sitka, King George's Archipelago, King George's Island, Stephens Passage, Duke of York Island, Duke of Clarence Sound or Strait, Prince of Wales Island, Portland Channel or Canal, Observatory Inlet.

southern boundary of the Russian possessions on the mainland. Reference to some of these will be made hereafter.

The "Lisière."

Next to the fixation of the southern boundary, which marked in that direction the Russian possessions on the continent, the subject which created the most discussion with the negotiators was the extent towards the east which this territory should have. It is apparent from the documents that two conflicting interests had to be met and reconciled. First, the Russian-American Company, which by Imperial Charter had been granted powers both of government and exclusive trade in Russian America, had at the time of the negotiations occupied the islands along the North American continent as far as about latitude 57° and had established a trade in hunting and fishing several degrees further south (pp. 53, 64). On the other hand the Hudson's Bay and the North-west Companies (British) had established posts in the interior of the continent east of the Rocky Mountains and along the Mackenzie River, and were pushing their trade towards the Pacific Ocean; but from the statement of the Hudson's Bay Company to Secretary Canning, dated the 25th September, 1822, it appears that the nearest post of that Company to the Pacific Ocean north of latitude 54° was on Fraser Lake, at least 120 miles east of the nearest tide-water.

The Representatives of the respective Governments were, throughout the negotiations, keenly alive to the interests of the Companies above mentioned, and were seeking to acquire for them as much territory on the mainland as possible. In Baron Tuyll's letter to Count Nesselrode is found the earliest Russian suggestion "to make all possible attempts" in favour of their Company by securing a boundary on the continent as far south as possible, which he said should be at least at 55 degrees, as "any nearer neighbourhood of the English establishments could not fail to be injurious to that of" Sitka (p. 14). When the negotiations were about to be entered upon M. Poletica communicated and approved the views of the Russian-American Company which, in fixing the boundaries on the continent, "had mainly in view the establishment of a barrier at which would be stopped, once for all, to the north and to the west of the coast allotted to our American Company, the encroachments of the English agents of the amalgamated Hudson's Bay and North-west English Company" (p. 34).

At the same time the Hudson's Bay Company was pressing upon its Government its claim to open access to the ocean, as is seen by reference to the communication to Secretary Canning above cited, a claim which the latter brought to the attention of the Duke of Wellington, in view of the negotiation to be opened at Verona. Sir C. Bagot, in enumerating the chief objects to be attained by the negotiations he was carrying on, specially states "they were to secure the embouchures of such rivers as might afford an outlet for our fur trade into the Pacific" (p. 49). And in presenting the line of Clarence Strait in substitution of the Russian line along the Portland Channel, he states his object was to "preserve uninterrupted our access to the Pacific Ocean" (p. 51). And in further explanation he says the line of the Portland Channel "would deprive His Britannic Majesty of sovereignty over all the inlets and small bays lying between latitudes 56° and $54^{\circ} 45'$. . . of essential importance to its (Hudson's Bay) commerce" (p. 54).

The Russian Plenipotentiaries, in answer to these reasons, stated, in effect, that the object of proposing the line indicated by them was to reserve the coast of the mainland for the operations of their own Company, and to exclude its competitors (p. 53). The situation was described by Count Nesselrode to Count Lieven in the following terse and frank language: "Thus, we wish to keep, and the English Companies wish to obtain" (p. 65).

In further explanation, he said:—

"If Prince of Wales Island remains to us, it is necessary that it can be of some utility to us. Now, according to the plan of the British Ambassador, it would be for us only a burden, and perhaps an inconvenient one. That island, in fact, and the establishments which we might set up thereon, would find themselves entirely isolated, deprived of all support, surrounded by the domains of Great Britain, and at the mercy of the English establishments of the coast. We would exhaust ourselves in the cost of guarding and watching our part, without any compensation to alleviate the burden." And in this connection he made the positive declaration, already quoted, "Russia cannot stretch her concessions further. She will make no others" (p. 65).

It thus appears that the Russian Government was determined that a strip of territory should be secured on the coast for the purpose of protecting the trade of the Russian-American Company, and of excluding its competitors, and it has been shown that so far as the coast from $54^{\circ} 40'$ to 56° is concerned, this was conceded by Great Britain. It has also been seen that the eastern boundary was fixed as prescribed in the Treaty after an ineffectual attempt on the part of Russia to make the summit of the mountains the unvarying line.*

This line is to "follow the summit of the mountains situated parallel to the coast" (Article III), but when more than 10 leagues from the coast the boundary "shall be formed by a line parallel to the windings" (English Foreign Office translation for "sinuosités") "of the coast" (Article IV). The maps of that period indicate a continuous line or chain of mountains following the coast, around Lynn Canal, and up to Mount St. Elias, and the documents relating to the negotiations show that it was the belief of the Plenipotentiaries that such a chain of mountains existed, and that it would be found about 10 leagues from the coast. Secretary Canning thus describes this line: "The summit of the mountains which run parallel to the coast, and which appear, according to the map, to follow all its 'sinuosités'" (p. 101), and the word "sinuosités" is the term used by him elsewhere in describing the course of the mountains around the inlets of the coast" (p. 72).

It is plain that the Russian negotiators understood that Articles III and IV gave to Russia a continuous strip of territory ("lisière") around all the bays and inlets of the ocean up to longitude 141° . This is confirmed by Articles VI and VII, by the first of which the right of free navigation is given to British subjects of "all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the strip ('lisière') of coast," and by the second the privilege is given British subjects for a period of ten years to frequent, for the purposes of fishing and trading, "all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III." These grants are inconsistent with any other theory than the complete sovereignty of Russia over not only the "lisière" on the mainland, but also of the waters of all bays or inlets extending from the ocean into the mainland. This is the more manifest when the facts attending the Russian-American Treaty of 1824 are recalled. It was more than once stated during the British negotiations that the same privileges granted by Article IV of the American Treaty as to visiting the interior waters on the Russian-American coast would be granted to British subjects. The privilege was limited by the American Treaty to ten years, and at the expiration of that term notice was given to the Government of the United States by the Russian Minister in Washington that the privilege had expired (p. 134), and a notification to that effect was made in the public press of the United States (p. 135). The year following the notification an American vessel was seized for visiting the waters in question, and a lengthy diplomatic correspondence ensued, in which the Government of the United States sought to have the privilege extended for another period of ten years, but it was refused, and no satisfaction was given for the seizure of the vessel (pp. 135-37).

Other facts attending the history of the Treaty subsequent to its execution are in strong corroboration of the contention that Portland Channel constituted the southern boundary of the Russian territory, and that the "lisière" follows around the inlets or indentations of the coast. Soon after the conclusion of the Treaty an official map of North America was prepared by the Russian Government and published in 1827. In this map the boundary-line of the Russian territory in America begins at the southernmost extremity of Prince of Wales Island, proceeds thence to the mouth of Portland Channel, up that channel and the mainland to 56° of latitude, and thence at a distance of about 10 leagues from the coast, following its sinuosities, around Lynn Canal to Mount St. Elias. The original of this map will be produced to the Joint High Commission.

The Hudson's Bay Company.

On the British side there is equally strong official authority of a similar character to support the contention of the American Commissioners. It has been shown that the

* It is interesting to note that, while the British Government was very strenuous in requiring the eastern limit of the "lisière" to be kept within 10 leagues of the coast, Secretary Canning, in his first instruction to Sir C. Bagot, said it would be expedient to assign "a limit, say, of 50 or 100 miles from the coast beyond which the Russian posts should not be extended to the eastward" (p. 45).

British negotiators of the Treaty of 1825 were influenced almost entirely in their negotiations by the wishes and interests of the Hudson's Bay Company. The representatives of that Company were in constant communication with Secretary Canning by personal interviews and by letters (pp. 6, 7, 15, 42, 46); the boundary-line which they recommended was accepted and urged by the British Government (pp. 45, 47); and when negotiations were broken off they were not resumed till this Company was heard from, and its views were again adopted and pressed (pp. 66, 67).

In 1857 an investigation was had of the affairs of the Hudson's Bay Company by a Select Committee of the British House of Commons, and a lengthy printed Report of its proceedings was published. From that Report it appears that at the time of the negotiation of the Treaty of 1825, and for many years thereafter, this Company possessed all the powers of government in British territory in the vast extent of the north-western part of America, both executive and judicial, and was, in fact, the only British authority in that region (see Report, Appendix IV, pp. 138, 139, 140, 141). The Governor of the Company and of the Territory, Sir George Simpson, was examined before the Select Committee, and testified that he had been Governor for thirty-seven years, and, hence, held that position at the time of the negotiations. He says he was familiar with the disputed territory on the north-west coast, having travelled over it in the course of his duties as Governor (p. 138); and he stated that about the year 1839 his Company made an arrangement with the Russian-American Company, by which the former leased the "lisière" described in the negotiations and Treaty. On this point his testimony is as follows (p. 139):—

"1026. Besides your own territory, I think you administer a portion of the territory which belongs to Russia, under some arrangement with the Russian Company?—A. There is a margin of coast, marked yellow in the map, from 50° 40' up to Cross Sound which we have rented from the Russian-American Company for a term of years.

"1027. Is that the whole of that strip?—A. The strip goes on to Mount St. Elias.

"1028. Where does it begin?—A. Near Fort Simpson, in latitude 54°, it runs up to Mount St. Elias, which is farther north.

"1029. Is it the whole of that strip which is included between the British territory and the sea?—A. We have only rented the part between Fort Simpson and Cross Sound.

"1030. What is the date of that arrangement?—A. That arrangement, I think, was entered into about 1839.

"1031. What are the terms upon which it was made? Do you pay a rent for that land?—A. The British territory runs along inland from the coast about 30 miles; the Russian territory runs along the coast; we have the right of navigation through the rivers to hunt the interior country. A misunderstanding existed upon that point in the first instance; we were about to establish a post upon one of the rivers, which led to very serious difficulties between the Russian-American Company and ourselves. We had a long correspondence, and to guard against the recurrence of these difficulties it was agreed that we should lease this margin of coast and pay them a rent. The rent was, in the first instance, in otters. I think we gave 2,000 otters a-year; it is now converted into money. We give, I think, 1,500*l.* a-year."

On a subsequent day Sir George Simpson was recalled, and said (p. 140):—

"1732. *Chairman.*—I think you made an arrangement with the Russian Company by which you hold under lease a portion of their territory?—A. Yes.

"1733. I believe that arrangement is that you hold that strip of country which intervenes between your territory and the sea, and that you give them 1,500*l.* a-year for it?—Yes.

"1734. What were your objects in making that arrangement?—A. To prevent difficulties existing between the Russians and ourselves—as a peace offering.

"1735. What was the nature of those difficulties?—A. We were desirous of passing through their territory, which is inland from the coast about 30 miles. There is a margin of 30 miles of coast belonging to the Russians. We had the right of navigating the rivers falling into the ocean, and of settling the interior country. Difficulties arose between us in regard to the trade of the country, and to remove all those difficulties we agreed to give them an annual allowance: I think, in the first instance, 2,000 otter skins, and afterwards of 1,500 a-year.

"1738. During the late war which existed between Russia and England, I believe that some arrangement was made between you and the Russians by which you agreed not to molest one another?—A. Yes, such an arrangement was made.

"1739. By the two Companies?—A. Yes; and Government confirmed the arrangement.

"1740. You agreed that on neither side should there be any molestation or interference with the trade of the different parties?—A. Yes.

"1741. And I believe that that was strictly observed during the whole war?—A. Yes.

"1742. *Mr. Bell.*—Which Government confirmed the arrangement, the Russian or the English, or both?—A. Both Governments."

It thus appears that the rights of the Russian Government and its Representative, the Russian-American Company, were recognized in this formal manner as to the "lisière;" and the map to which Sir G. Simpson refers as describing the area of the Russian territory in question is appended to the Report of the Committee, and is the one of which a copy has been exhibited to the Joint High Commission. It describes the boundary in exact conformity with the contention of the United States' Commissioners. It is incredible that a British authority would at that period formally recognize the right of Russia to this territory, or that Sir G. Simpson would so accurately describe it, if any question had existed at that day as to the meaning of the Treaty of 1825.

Canadian Recognition.

It will be shown that all the official Canadian maps for many years after the Treaty delimit the "lisière" in accordance with the American view. In the Sessional Papers published by the Canadian Government will be found various documents and Acts tending to show that the territory in question belonged to the United States; for instance, in 1874 the Surveyor-General of the Dominion, in a communication to the Minister of the Interior, indicated that Portland Canal was on the boundary-line, and that this line was carried up and around Lynn Canal (p. 142); a statement of the Royal Geographical Society is inserted in the Sessional Papers of a similar purport (p. 143); a Judicial Officer of British Columbia concedes that the territorial line crosses the Stikine River at least 15 miles above its mouth (p. 143); and the celebrated case of Peter Martin is an evidence of the recognition of the territorial authority of the United States in the same region by both the Governments of Canada and Great Britain (p. 144).

Occupation by the United States.

"Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is, in the opinion of the most esteemed writers on public law, to be established only by practical use." (Secretary Canning to the Duke of Wellington, p. 8.)

The foregoing incontestable principle of international law was based upon the opinion of Lord Stowell (*British Case: Fur-seal Papers*, vol. iv, p. 376), and was constantly insisted on by the British negotiators in framing the Treaty of 1825. The territory in question has been in the continued occupation of Russia and the United States from the date of the Treaty up to the present time, a period of seventy-three years. If we follow the principle insisted upon by Great Britain in its pending arbitration with Venezuela, and recognized in the Treaty which provides for that arbitration, this uninterrupted possession would give the United States a just claim of sovereignty, even aside from the Treaty. Some of the acts evidencing the occupation and exercise of sovereignty on the part of Russia have already been cited. Those on the part of the United States are numerous and most conclusive. Upon the execution of the Treaty of Cession of 1867, United States' troops were dispatched to occupy the territory, and stations were established at various points, one of which was at Tongas, between latitudes 54° 40' and 55°, just north of the Portland Channel. No map was attached to or accompanied the Treaty of 1867, but immediately after the signature of the Treaty an official map was prepared under the direction of the Secretary of State of the United States, indicating the territory ceded by Russia by that Treaty, which map has been laid before the Joint High Commission; and it has been seen that it conforms to the views of the United States' Commissioners respecting the boundary. Other acts of occupation and sovereignty on the part of the Government of the United States are cited in Appendix VI, such as the establishment of customs offices in the "lisière," and the enforcement by revenue vessels of the revenue and other laws of the United States both on the mainland and on the waters of the inlets and arms of the sea as far as the head

of navigation (p. 146); the establishment of Government and other schools, and the control of the natives in the "lisière" (p. 147); the cruising of naval vessels in the interior waters just described to enforce order among the native Indian tribes (p. 149); the establishment of post-offices and post-roads in the territory in question (p. 149); and the setting apart by Act of Congress of certain portions of this territory for special uses, as in the case of Annette Island (p. 150).

It may be safely asserted that in no part of the territory claimed by the United States' Commissioners under the Treaty of 1825 has there been any occupation or exercise of sovereignty on the part of the authorities of Great Britain or the Dominion of Canada.

Inclosure 4 in No. 95.

Protocol No. 10 of Proceedings of Joint High Commission, September 23, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, all the members being present, including the Honourable Charles J. Faulkner.

The Protocol of the last meeting was read and approved.

The full power of the High Commissioners of the United States, including the Honourable Charles J. Faulkner, appointed in place of the Honourable George Gray, was presented and laid on the table.

The Joint High Commission thereupon adjourned until Tuesday, the 27th September, at 11 o'clock in the forenoon.

(Signed) CHANDLER P. ANDERSON. W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.

Inclosure 5 in No. 95.

Protocol No. 11 of Proceedings of Joint High Commission, September 27, 1898.

THE Joint High Commission assembled at 11 A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

The Committee to whom the question of conveyance of prisoners was referred at the meeting of the 25th August, presented a joint Report, which was ordered to be laid upon the table, and a copy furnished to each of the High Commissioners.

The Committee to whom the question of wrecking and salvage was referred at the meeting of the 25th August, presented a Report showing a partial concurrence. After some discussion it was ordered that the Report be laid upon the table, and a copy be furnished to each of the High Commissioners.

The Joint High Commission thereupon adjourned until Wednesday, the 28th September, at 11 o'clock in the forenoon.

Inclosure 6 in No. 95.

Protocol No. 12 of Proceedings of Joint High Commission, September 28, 1898.

THE Joint Commission assembled at 11 A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

The Committee on Mining Rights, appointed at the meeting of the 25th August, was increased by the addition of another member representing the British Commission.

The Joint High Commission thereupon adjourned until Thursday, the 29th September, at 11 o'clock in the forenoon.

Inclosure 7 in No. 95.

Protocol No. 13 of Proceedings of Joint High Commission, September 29, 1898.

THE Joint High Commission assembled at 11 o'clock A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

The following subjects which had been partially discussed at the meetings of the 31st August and 1st September, viz:—"Provisions for the transit of merchandize in transportation to or from either country, across intermediate territory of the other, whether by land or water, including natural and artificial water-ways, and intermediate transit by sea," and "Provisions relating to the transit of merchandize from one country to be delivered at points in the other beyond the frontier," were together referred to a Committee for consideration and report.

The Joint High Commission thereupon adjourned until Friday, the 30th September, at 11 o'clock in the forenoon.

No. 96.

Lord Herschell to the Marquess of Salisbury.—(Received October 20.)

(No. 8.)

My Lord,

Quebec, October 10, 1898.

I HAVE the honour to inclose a copy of the draft Agreement submitted to the Commission on the 4th instant by the Committee on the Alien Labour Law. Sir Wilfrid Laurier inquired whether the wording adopted would enable Canadians to proceed to the United States and work under contract. He pointed out that, in some cases, labourers or mechanics had been allowed to cross the frontier, but were subsequently prevented from working, on the ground that the importation of aliens under contract was prohibited. Sir Louis Davies suggested that the word "unrestricted" should be inserted before "passage of persons." Senator Faulkner said that the employment of workmen could not be stopped unless it were found that their actual admission into the country had been illegal. He considered that the proposed wording was sufficiently explicit. The question was reserved for future consideration.

On the 6th instant Senator Fairbanks proposed that, as the Commission had reached a point at which an adjournment would be of advantage, the sittings should be discontinued from the 10th October to the 1st November. Sir Wilfrid Laurier thereupon said that the British Commissioners would be ready to meet at Washington after the recess. He desired, however, that if the Commission were so fortunate as to agree upon a Treaty, it should be called the Treaty of Quebec. This was a matter of sentiment, to which he hoped there would be no objection. Senator Fairbanks at once replied that the reservation was quite agreeable to him and to his colleagues.

Although the Commission will only adjourn till the 1st November, it is understood that some extension of the period will be necessary, and that the exact date of our next meeting shall be fixed by arrangement between Senator Fairbanks and myself. Neither of the two Senators will be able to attend at Washington until after the elections, which are to be held on the 8th November, and Sir W. Laurier cannot leave Canada before the arrival of the new Governor-General. A meeting will, however, take place on the 1st November, and I trust that the work will be resumed about the 10th.

With regard to the boundary west of Lake Superior, Sir Richard Cartwright stated, at the meeting of the 7th instant, that Mr. Kasson, who is associated with him on the Committee, wished to consult the Department of State as to certain maps in its possession. Mr. Kasson explained that, so far, no difficulty had arisen, but that the circumstance mentioned by Sir R. Cartwright prevented the Committee from submitting their Report before the recess. It appears that the Canadian Government have been able to show, by the production of the maps attached to the Ashburton Treaty, that their contention with respect to this part of the boundary is absolutely correct. Mr. Kasson merely wishes to examine the maps at Washington to make sure that they correspond with the Canadian maps.

At to-day's meeting Sir Louis Davies read the inclosed Agreement, which had been drafted by the Committee, on the inland and Pacific coast fisheries.

I thought it well to call attention to a paragraph which has appeared in the "New York Herald" respecting the work of the Commission. A copy of it is transmitted herewith. The information purports to have been obtained from the State Department, and is supplied by the Washington correspondent of the newspaper. Mr. Dingley, speaking in the absence of Senator Fairbanks and Senator Faulkner, stated, positively, that no such reports as are described in the paragraph had been sent to the Secretary of State by the American Commissioners; and both General Foster and Mr. Kasson assured me that the State Department could not have authorized the correspondent to make the statements referred to.

I said that it was quite satisfactory for me to know that the American Commissioners had not reported in the sense of the "Herald's" telegram.

Copies of Protocols Nos. 14 to 19 are inclosed. The Protocol of to-day's meeting has not yet been submitted to the Commission.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 96.

Draft Agreement respecting Alien Labour.

IT is hereby agreed that, notwithstanding anything in the laws of the United States or of the Dominion of Canada to the contrary, the passage of persons from the United States to the Dominion of Canada, and from the Dominion of Canada to the United States, shall be allowed, where such persons are native or naturalized citizens of the United States, or British subjects, native or naturalized, and have resided for at least one year in the United States or in the Dominion of Canada respectively.

The foregoing provision shall not be construed so as to affect the right of either the United States or the Dominion of Canada to exclude idiots, paupers, insane persons, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude (not including political offences), polygamists, and persons imported for immoral purposes; or the right of either country to exclude natives of other countries whose immigration is, or may be hereafter, prohibited by legislation.

Inclosure 2 in No. 96.

Protocol No. 14 of Proceedings of Joint High Commission, September 30, 1898.

THE Joint High Commission assembled at 11 o'clock A.M., pursuant to adjournment, all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees, the Joint High Commission thereupon adjourned until Tuesday, the 4th October, at 11 o'clock in the forenoon.

Inclosure 3 in No. 96.

Protocol No. 15 of Proceedings of Joint High Commission, October 4, 1898.

THE Joint High Commission assembled at 10:30 o'clock A.M., all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

The Committee, to whom the question of Alien Labour Laws was referred at the meeting of the 25th August, presented a Joint Report, which was ordered to be laid upon the table, and a copy furnished to each of the High Commissioners.

The Joint High Commission thereupon adjourned until Wednesday, the 5th October, at 11 o'clock in the forenoon.

Inclosure 4 in No. 96.

Protocol No. 16 of Proceedings of Joint High Commission, October 5, 1898.

THE Joint High Commission assembled at 11 o'clock A.M., pursuant to adjournment, all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

In order to allow the meetings of the Joint Committees to be held, the Joint High Commission thereupon adjourned until Thursday, the 6th October, at 11 o'clock in the forenoon.

Inclosure 5 in No. 96.

Protocol No. 17 of Proceedings of Joint High Commission, October 6, 1898.

THE Joint High Commission assembled at 11 o'clock A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

It being understood that the work of the Joint High Commission had reached a stage at which an adjournment would be advantageous, the Commission agreed to take a recess from the 10th October to the 1st November. The British Commissioners expressed their willingness to resume the meetings at Washington.

In order to give time for the sessions of the Joint Committees during the day, the Joint High Commission thereupon adjourned until Friday, the 7th October, at 11 o'clock in the forenoon.

Inclosure 6 in No. 96.

Protocol No. 18 of Proceedings of Joint High Commission, October 7, 1898.

THE Joint High Commission assembled at 11 o'clock A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

After fixing the times for the meetings of the Joint Committees during the day, the Joint High Commission thereupon adjourned until Saturday, the 8th October, at 10 o'clock in the forenoon.

Inclosure 7 in No. 96.

Protocol No. 19 of Proceedings of Joint High Commission, October 8, 1898.

THE Joint High Commission assembled at 10 o'clock A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

To permit the meetings of the several Joint Committees, the Joint High Commission thereupon adjourned until Monday, the 10th October, at 10 o'clock in the forenoon.

(Signed) CHANDLER P. ANDERSON. W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.

Inclosure 8 in No. 96.

Draft Agreement respecting Inland Fisheries.

THE High Contracting Parties, recognizing the necessity of uniform and effective measures for the protection and preservation of the food fishes in the waters contiguous to the United States and Canada, hereby agree that the times, seasons, and methods of fishing in such contiguous waters, and the nets, engines, gear, apparatus, and appliances which may be used therein, shall be fixed and determined by uniform and common international Regulations, restrictions, and provisions, and to that end agree to appoint, within three months after this Convention goes into effect, a Commission, to be known as the International Fisheries Commission, consisting of one person named by each Government. It shall be the duty of this Commission, within six months after being named, to prepare a system of uniform and common international Regulations for the protection and preservation of the food fishes in each of the waters prescribed in this Article, which Regulations shall embrace close seasons, limitations as to the character, size, and manner of use of nets, engines, gear, apparatus, and other appliances, a system of registry for commercial fishing in waters where required, and such other provisions and measures as the Commission shall deem necessary.

The two Governments agree to put into operation, and to enforce by legislative and executive action, with as little delay as possible, the Regulations and restrictions, with appropriate penalties for all breaches thereof; and the date when they shall be put into operation shall be fixed by the concurrent Proclamations of the President of the United States and the Governor-General of the Dominion of Canada in Council.

Such Regulations and restrictions shall remain in force for a period of four years from the date of their executive promulgation, and thereafter for one year from the date when either of the Governments of the United States of America or Great Britain shall give notice to the other of its desire for their revision, whereupon the Commission provided for in this Article shall make a revision thereof, which Revised Regulations, if adopted by the two Governments, shall remain in force for another period of five years, and until a further notice of revision is given. It shall, however, be within the power of the two Governments, by joint or concurrent action, upon the recommendation of the Commission, to make modifications at any time in the Regulations.

It is agreed that the waters within which the afore-mentioned Regulations are to be applied shall be as follows:—

1. The territorial waters of Passamaquoddy Bay.
2. The St. John and St. Croix Rivers.
3. Lake Champlain.
4. The St. Lawrence River, where the said river constitutes the international boundary.
5. Lake Ontario.
6. Niagara River.
7. Lake Erie.
8. The waters connecting Lake Erie and Lake Huron, including Lake St. Clair.
9. Lake Huron and its connecting bays.
10. St. Mary's River and Lake Superior.
11. Lake of the Woods.
12. The Strait of Juan de Fuca, those parts of Washington Sound, the Gulf of Georgia and Puget Sound, lying between parallels 48° 10' and 49° 20'.
13. And such other contiguous waters as may be recommended by the International Fisheries Commission, and approved by the two Governments.

It is agreed, on the part of Great Britain, that the Canadian Government will protect by adequate Regulations the food fishes frequenting the Fraser River.

The Commission shall continue in existence so long as this Article shall be in force; and each Government shall have the power to fill, and shall fill, from time to time, any vacancy which may occur in its representation on the Commission. Each Government shall pay its own Commissioner, and any joint expenses shall be paid by the two Governments in equal moieties.

Inclosure 9 in No. 96.

Extract from the "New York Herald" of October 9, 1898.

REPORTS have reached the State Department from the American members of the Commission which has been sitting in Quebec, showing that little progress is being made in settling the questions which are being considered.

I was told to-day that, so far as the Department has been advised, none of the questions before the Commission have been finally disposed of, and they will be discussed, when the Commission reconvenes in this city, on the 1st November.

The British and Canadian members, I was told, have been making exorbitant demands, and are apparently unwilling to grant concessions in return for those which have been offered by the Representatives of this Government.

This spirit is deeply regretted by Administration officials, who had hoped that, in view of the pleasant relations between the two Governments, an arrangement for disposing of all the irritating questions between the United States, Great Britain, and Canada could be entered into without any great difficulty.

No. 97.

Lord Herschell to the Marquess of Salisbury.—(Received October 20.)

(No. 9. Confidential.)

My Lord,

Quebec, October 11, 1898.

AS the Commission has now adjourned for some weeks, it may be well that I should indicate the point which the negotiations have at present reached. Although, as will be seen, on all the minor questions, the prospect of a satisfactory arrangement is all that can be desired, I cannot say the same as regards the more important questions in difference.

From what has passed in conversation with individual Commissioners, I was led to the conclusion some time ago that they would not commit themselves to anything which could be represented as a settlement of these until after the November elections.

Senator Faulkner, indeed, told me frankly that this was the case, although he said his fellow-Commissioners would of course not admit it. Senator Fairbanks too, has more than once hinted unmistakably that it was likely to be advantageous to continue the negotiations in Washington, laying stress on the great interest which the President takes in the conclusion of a Treaty. I understood him to mean that, if the members of the Commission were under the direct influence of the President, they would be more likely to assume an attitude of concession.

In meetings of our Committees, General Foster has put the case of the United States in the most aggressive and uncompromising fashion, in spite of occasional statements that he was desirous of dealing with the question in a friendly and conciliatory spirit.

Owing to the attitude of General Foster, Senator Fairbanks volunteered the statement in confidence that General Foster was only representing himself, and was certainly not representing either Senator Fairbanks or the President. It has been very evident on more than one occasion that the relations of General Foster and Senator Fairbanks have become strained. I trust, therefore, that when we resume our negotiations at Washington, the obstacles to a complete settlement, which now seem so serious, may become less formidable.

Alien Labour Laws, Conveyance of Prisoners, Wrecking and Salvage, Inland and Pacific Coast Fisheries.

The Committees on these four questions have submitted their proposals, which I have forwarded to your Lordship in my despatches Nos. 7 and 8 of the 30th September, and the 10th instant. In each case the agreement arrived at seems to be satisfactory, although they may require some slight modification before they are definitely adopted by the Commission.

Cattle-branding along the Frontier.

The Committee on this subject have agreed that it shall be dealt with by means of corresponding regulations made by the two Governments, instead of an International Agreement.

Boundaries west of Lake Superior and in Passamaquoddy Bay.

Both these questions seem to be within immediate prospect of settlement. In my despatch No. 8 of yesterday, I have reported what was said in the Commission as to the boundary west of Lake Superior.

Transit Privileges.

The two questions under this head have been discussed at informal Conferences, but the Committee have not yet held any meetings. In view, however, of the tone of the discussions in the Commission, which were referred to at some length in my despatch No. 5 of the 20th ultimo, I do not anticipate any great difficulty in disposing of the points at issue.

Mining Regulations.

Although the Committee have not yet agreed upon a Report, I have had a discussion with Mr. Kasson since the date of my despatch No. 7, and I am led to think that it will be possible to arrive at a settlement by which the United States and Canada shall respectively place the citizens of the other country upon the same footing as their own citizens as regards all mining rights. At present the grant of mining rights by the United States' Government is restricted to citizens of the United States, all aliens being excluded. There is no similar restriction in any of the Canadian provinces, though there has been at times an agitation in favour of a similar restrictive enactment. A Treaty which would prevent any such restriction, in both countries, is regarded by myself and my colleagues as desirable.

Ship-building on the Great Lakes.

The United States' Commissioners on the Committee are prepared to agree to the limitations suggested by the Colonial Defence Committee, as stated in your Lordship's telegram of the 19th September, with the exception of one point, the only one which is likely to give rise to difficulty, viz., the character of the training ship or ships to be used on the Lakes. I learn from Vice-Admiral Sir John Fisher that, in the view of our naval authorities, training can best be carried on in sheds on shore rather than by the use of guns on board ship. I have placed this view, as that of a "high naval expert authority" before Senator Fairbanks, who will consult the United States' Navy Department on the subject.

Behring Sea.

The assessment of the compensation to the owners of sealing vessels and to the persons employed in the sealing industry has been gone into very carefully at the meetings of the Committee, but the views expressed on either side were so widely divergent that it was finally settled to send experts to Victoria to endeavour to arrive at an agreement and to lay before the Commission the result of their inquiries. In cases where these persons differ they will submit their separate conclusions. The United States' Commissioners admit that we are entitled to claim some concession from the United States beyond compensation to the sealers, if the right of pelagic sealing is abandoned, but they have not yet indicated their view as to the form which this concession should take, nor have we hitherto made any proposition on the subject.

Reciprocity.

The Committee appointed to deal with this subject have held several meetings, but do not seem to have made much progress towards a settlement. The truth is that, where two countries have each pursued a policy of protection, there are almost insuperable difficulties in the way of a reciprocity Treaty of any considerable extent.

Whenever it has been rumoured that a concession was about to be made by a modification of the Tariff affecting any particular article, whether a natural production or manufactured, the United States' or the Canadian Commissioners, and sometimes both, have been almost overwhelmed by protests and deputations. The utmost to be hoped for is, I think, that some small step may be taken towards a freer interchange of commodities, and that the way may be paved for further progress in that direction in the future.

Alaska Boundary.

We have discussed this question at great length. When I had carefully investigated it, and got together all the materials available—for I found that it had not been thoroughly studied or thought out by any Canadian official—I came to the conclusion that the British claim so to draw the boundary-line as to leave the greater part of the Lynn Canal, or at least the upper part of it, within the British possessions was much stronger than it at first appeared. At the same time, the boundary, as shown in various maps, to some of which an appearance of official sanction has been given, and certain official documents, and even acts, of the Canadian Government, afford countenance to the United States' claim to the whole of the Lynn Canal. I think the Argument which I presented has made an impression upon the United States' Commissioners, and has shown that their title to the upper part of the canal and to the towns of Dyea and Skagway is not so clear as they thought. As regards the line parallel to the coast, until it reaches the Lynn Canal, General Foster, to whom the Argument has mainly been left on the part of the United States, said that they were prepared to make concessions by bringing it nearer to the sea-coast. This is, however, of minor importance, and the main controversy will undoubtedly relate to the territory at the head of the canal.

It is impossible to forecast what turn the negotiations as to the Alaska boundary will ultimately take. If a reasonably fair compromise of conflicting views is possible, we shall be found quite willing to accede to it. If it be not, the only alternative would seem to be a reference to arbitration. The divergence of view results entirely from the different constructions placed upon the terms of the Treaty of 1825. These questions of construction might readily be solved by a competent jurist, and, when solved, there will be no serious difficulty in fixing the boundary-line upon the map, owing to the complete survey which has been made by the two Governments.

Atlantic Fisheries.

The subject appears likely to present the greatest obstacles in the way of a satisfactory settlement. The United States' Commissioners are not prepared to adopt the Treaty of 1888 as the basis of an arrangement. They assert that it would be impossible for them to grant the free importation of fish, and to obtain ratification by the Senate of a Treaty which conceded the British claim that, under the Treaty of 1818, there was a right to prevent United States' vessels landing their fish and obtaining the usual trading facilities accorded to vessels of other descriptions in Canadian ports. It appears that, in 1888, one of the main grounds insisted upon for refusing to ratify the Treaty was that it might be regarded as an admission that the rights claimed by Great Britain on behalf of Canada under the Treaty of 1818 were still in full force, whereas the alteration by the United States and Great Britain of their Navigation Laws in 1830, which permitted the entry of vessels of each country into the ports of the other for purposes of trade, put an end to the condition of things existing in 1818 and subsequently till 1830, under which what appeared in the Treaty of 1818 to be restrictions, were really concessions to fishing-vessels of rights to which other trading ships could lay no claim.

During the last two or three years, and more especially during the present season,

the rights which the Government of Canada claim under the Treaty of 1818 have been enforced with extreme leniency in the hope that a settlement with the United States might be arrived at. Should no arrangement be come to, the pressure to assert Canadian rights and to apply them strictly will become irresistible, and the inevitable result will be that some, and perhaps many, United States' fishing-boats will be seized and condemned. It is obvious that this would immediately produce an acute crisis, inasmuch as the United States would unquestionably adhere to the contention, which they have from time to time put forward, with, however, little justification, that some of the rights claimed by Canada under the Treaty of 1818 are not really possessed by her. If, therefore, the object of the present negotiations is to be attained, some understanding must be arrived at with regard to the fisheries question. It is true that it is of less importance than was formerly the case, owing to the large diminution in the number of United States' fishing-vessels which come into, or into the neighbourhood of, Canadian waters. But the seizure of even a single vessel, under the Treaty rights claimed by the one country and denied by the other, might endanger the good relations between the two countries.

I have pointed out to the United States' Commissioners who are dealing with this question that, if it is impossible to secure a settlement on the basis of the Treaty of 1888, it is for them to suggest some other means by which the same result may be arrived at. At present they have made no suggestion in this direction, and the subject stands over for further deliberation when we meet again.

It seems to me that in the last resort, if nothing else can be done, we might agree to refer to arbitration the question whether, and if so to what extent, the stipulations of the Treaty of 1818 have been affected by anything which has happened between that date and the present. If that question were once determined, the danger of the present situation would be removed, because the rights of the two countries would be accurately and, as between them, conclusively ascertained. We have, of course, no right to demand "free fish." If, when our rights were established, the United States' Government did not think it worth while to grant us free fish in return for the relaxation of such restrictions as we were entitled to impose, we could not complain. On the other hand, they would have no right to complain if we enforced our ascertained rights.

I think one cause of the difficulties which beset us at present is that those connected with the fishing interests of Massachusetts are persuaded that they have a right to get, and will get, as of right, some of the advantages which we maintain would be concessions. It is, therefore, very difficult to form an opinion as to whether they would be willing that free fish should be granted if they were once satisfied that they could not obtain free entry into Canadian ports for all purposes on any other terms. My Canadian colleagues would certainly find it difficult to agree to such an arbitration unless it were accompanied by some concession on the part of the United States, but they would be prepared to agree to it if free fish were granted as a *modus vivendi* pending the arbitration. It might be further stipulated that there should be a meeting of a Representative of each Government after the Award was given, to consider, in view of it, what arrangement should be made between the two countries or whether any further arrangement was necessary.

I have, &c.
(Signed) HERSCHELL.

No. 98.

Lord Herschell to the Marquess of Salisbury.—(Received October 20.)

(No. 10.)
My Lord,

Quebec, October 11, 1898.

I OBSERVE that the Treaty signed at Washington on the 15th February, 1888, contains a provision (Article XVI) that it shall be ratified by the Queen, "having received the assent of the Parliament of Canada and of the Legislature of Newfoundland."

It will be necessary to consider whether, or in what respects, any agreement embodied in a Treaty by the present Commission should be made subject to the approval of the Canadian and Newfoundland Legislatures.

I do not find that other Treaties with the United States require, as a condition of ratification, the assent of Parliament, whether Imperial or Colonial, although the

President's ratification is always dependent upon the "advice and consent" of the United States' Senate.

In the United States, the Treaty-making power is not vested in the President alone, nor can he ratify any Treaty without the advice and consent of the Senate. In Great Britain, the Queen has power to conclude Treaties and to ratify them under the Royal Sign Manual, without reference either to the Parliament of the United Kingdom or to a Colonial Parliament, though legislation may be requisite to give full effect to their provisions.

The provisions of the Treaty of 1888 had reference exclusively to the Atlantic Fisheries, which were matters of immediate concern to Canada and Newfoundland alone, and none of those provisions could become effectual without legislation.

In the present case, if a Treaty is entered into, it will deal with matters of Imperial interest, and with some that would need no legislation to bring the Treaty into operation. For example, the delimitation of the boundary between the two countries in Alaska would become operative as soon as the Treaty was ratified. The same may be said, so far as Canada is concerned, of the proposed Agreement that United States' citizens should have in the Dominion of Canada the same mining rights as natives of Canada. Again, the question of armaments upon the Great Lakes is one of direct Imperial concern which would necessitate no legislation; and so is the question of pelagic sealing, though an Imperial Act would be required to give effect to any Agreement prohibiting it.

Under these circumstances, it strikes me that it would be out of the question to require, as a condition of its ratification by the Queen, that the Treaty should have received the assent of the Parliament of Canada and the Legislature of Newfoundland, unless it were made a condition that the ratification of the Treaty should be made subject also to the consent of the Imperial Parliament. But there seem to be obvious objections to such a course.

It would be a serious matter to concede that a revision of Treaties made with Great Britain, however important such a revision may be to the interests of the British Empire, and however dangerous to the peace of the country it may be if there is no such revision, was dependent on the assent of a Colonial Legislature, consisting, it must be remembered, not only of a Chamber directly representing the people, but of a Senate sometimes in opposition to the popular Chamber and the Ministry of the day. In the next place it has, I believe, never been the practice to make the ratification of any Treaty subject to the consent of the British Parliament. I have not the opportunity here of referring to any constitutional works, and am speaking from memory, but unless my memory deceives me, I have heard proposals made in the House of Commons within the last twenty years that all Treaties should be made subject to the approval of Parliament, and I believe such proposals have been resisted by the Government and defeated.

My present impression certainly is that a change in this respect would not be advantageous. In the negotiation of the 1888 Treaty, only one of the Commissioners was nominated by the Canadian Government; the majority were the nominees of the Imperial Government. In the present case four of the Commissioners have been nominated by the Canadian Government. They include the Prime Minister and two other members of the Canadian Cabinet. There seems, therefore, no reason, for making the assent of the Canadian Parliament a condition of ratification, when the consent of the British Parliament is not made requisite to the ratification of Treaties which the Imperial Ministers of the Crown negotiate.

I shall be obliged if your Lordship will favour me with the views of Her Majesty's Government on the point to which I have called attention.

I have, &c.
(Signed) HERSHELL.

No. 99.

Colonial Office to Foreign Office.—(Received October 24.)

Sir,

Downing Street, October 22, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 10th instant, inclosing copy of a despatch for Her Majesty's Ambassador at Washington, dated the 22nd September, stating that he has received a further note from the United States' Secretary of State on the subject of the Ontario Lumber Act, in which Mr. Day renews his request that the operation of the Act may be suspended

for the present season, as a temporary measure, and until the Joint Commission shall have come to some decision in the matter.

I am to transmit to you, for the information of the Marquess of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing a copy of a despatch from Sir J. Pouncefote, transmitting a copy of Mr. Day's note of the 22nd August, which was referred to in his Excellency's despatch No. 261 of the 6th September, a copy of which was received by this Department from the Foreign Office on the 3rd instant.

Lord Aberdeen has not yet communicated to Mr. Chamberlain the views of his Government upon the request of the United States' Government for the temporary suspension of the Ontario Act, and I am to inclose, for Lord Salisbury's information, a copy of a telegram which has been addressed to the Governor-General on the subject, and to state that Mr. Chamberlain would suggest that, pending the reply of the Canadian Government, no instruction should be given to Her Majesty's Ambassador at Washington as to the reply to be made to Mr. Day's note.

I am further to observe that no decision has yet been arrived at upon the question of referring the objection of the United States' Government to the Ontario Act to the Joint Commission.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 99.

The Earl of Aberdeen to Mr. Chamberlain.

Sir,

The Citadel, Quebec, September 26, 1898.

WITH reference to previous correspondence on the subject of a recent Act of the Legislature of the Province of Ontario regulating the issue of timber licences, I have the honour to transmit to you, for your information, copy of a despatch which I have received from Her Majesty's Ambassador to the United States, communicating an inquiry from the United States' Acting Secretary of State, whether the suggested suspension of the Act, as regards contracts concluded prior to its enactment, is likely to be favourably considered.

I have, &c.
(Signed) ABERDEEN.

Inclosure 2 in No. 99.

Sir J. Pouncefote to the Earl of Aberdeen.

My Lord,

New London, Connecticut, September 8, 1898.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 18th ultimo, transmitting copy of an approved Minute of the Canadian Privy Council on the subject of a recent Act of the Ontario Legislature relating to the manufacture of lumber, to which is appended a Memorandum of the Attorney-General of Ontario dealing with the question.

I have the honour to inform you that I received on the 24th ultimo, a note on this subject from the United States' Acting Secretary of State (a copy of which is inclosed) inquiring whether the suggested suspension of the application of the Ontario Act to prior contracts, pending further discussion had been favourably considered by Her Majesty's Government.

In reply to that note I communicated to the United States' Government, a copy of the Minute of your Excellency's Privy Council above referred to, together with the Memorandum appended thereto of the Attorney-General of Ontario, and I added that Her Majesty's Government were corresponding with the Canadian Government on the subject.

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

Inclosure 3 in No. 99.

Mr. Day to Sir J. Pauncefote.

*Department of State, Washington, D.C.,
August 22, 1898.*

Excellency,

BY my note of the 15th June, 1898, I had the honour to communicate with you upon the matter of the effect of certain recent legislation of the province of Ontario, Canada, upon certain large vested interests of citizens of the United States in timber lands in Canada, and to inclose to you a Memorial on the subject addressed to this Department in behalf of a portion only of the extensive interests involved. I also had the honour of having one or more interviews with you on the subject, in which it was mutually suggested that, in so far as the matter related to the policy of Canada of enforcing such legislation against licenses originating in the future, it might properly be made a matter to be considered by the Joint High Commission, which was then in contemplation, and is about to begin its sessions. It is to be hoped that the general subject matter may be so considered by the Joint High Commission, and some satisfactory conclusion reached.

As was pointed out in our interviews, however, and also in my note and in the Memorial referred to, the particular hardship which was being occasioned by the enactment, and of which those affected complained, was not the application of it to future contracts, as to which there can be no vested rights, but was the application of the enactment to contracts and licenses or their renewals, which had originated and been made between the Province of Ontario and United States' citizens prior to the making of the enactment in question. The belief was expressed that it was not the intention of the Legislature of Ontario to have the Act so applied. The very serious and present consequences of such application to vested interests was pointed out, and a suspension of the application of the Act to prior contracts was suggested.

Without wishing to cause inconvenience in the matter, nevertheless, in view of the large interests which are involved and are being daily jeopardized, I am constrained to ask whether the suggested suspension of the application of the Act to prior contracts, pending further discussion of the matter, may have been favourably considered by Her Majesty's Government.

I have, &c.
(Signed) WILLIAM R. DAY.

Inclosure 4 in No. 99.

Mr. Chamberlain to the Earl of Aberdeen.

(Telegraphic.) P.

Downing Street, October 21, 1898, 5:30 P.M.

WHAT answer does your Government recommend to notes of United States' Secretary of State pressing for temporary suspension of Ontario Lumber Act?

No. 100.

Foreign Office to Colonial Office.

Sir,

Foreign Office, October 26, 1898.

IN continuation of previous correspondence, I am directed by the Marquess of Salisbury to transmit, to be laid before the Secretary of State for the Colonies, copy of a further despatch from Lord Herschell respecting the proceedings of the Joint Commission.*

As regards the proposal drafted by the Committee on the conveyance of prisoners through intervening territory, it will be seen that Lord Herschell suggests that, in view of the difficulty as to political offences, the best course may be to limit the Agreement to offences for which extradition can be obtained; and I am to state that his Lordship

proposes, with the concurrence of Mr. Chamberlain, to inform Lord Herschell, in reply, that discretion is left to the British Commissioners to settle the final form of this Article, as well as that dealing with wrecking and salvage in the manner which may seem to them most advantageous.

I am, &c.
(Signed) FRANCIS BERTIE.

No. 101.

Colonial Office to Foreign Office.—(Received November 2.)

Sir,

Downing Street, November 1, 1898.

I AM directed by Mr. Secretary Chamberlain to transmit to you, for the consideration of the Marquess of Salisbury, copy of a despatch from the Governor-General of Canada, inclosing copy of an approved Minute of the Dominion Privy Council, in which his Ministers request that a claim for compensation should be presented to the United States' Government in the case of three Canadian labourers, who were recently refused admission into the United States by an American Customs officer acting, as he alleged, under the provision of the United States' Alien Labour Law.

A copy of the Law in question will be found on p. 137 of a Parliamentary Paper on alien immigration issued by the Board of Trade in 1893 (C.—7113).

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 101.

The Earl of Aberdeen to Mr. Chamberlain.

Sir,

The Citadel, Quebec, September 22, 1898.

I HAVE the honour to forward herewith, for your consideration, copy of an approved Minute of the Privy Council, setting forth the circumstances under which Messrs. James Reid, W. Hawley, and F. Hawley, residents of the Province of Ontario, who had purchased labourers' excursion tickets to North Dakota, were stopped on their entrance into the United States at Port Huron by United States' officials, and refused permission to proceed to their destination.

You will observe that the officials in question allege the provisions of the Alien Labour Law as justification for the action complained of, though it does not appear that the men prevented from entering had violated that Law; and my Ministers suggest that the matter should be brought to the notice of the United States' Government, and a claim presented for suitable redress to the persons aggrieved.

I have, &c.
(Signed) ABERDEEN.

Inclosure 2 in No. 101.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 10th September, 1898.

ON a Report dated the 6th September, 1898, from the Secretary of State, submitting a communication from Messrs. Wilson and Wilson, Solicitors, Napanee, Ontario, representing that James Reid, W. Hawley, and F. Hawley, of the Village of Enterprise, Ontario, had purchased farm labourers' excursion tickets to Cavalier, North Dakota, from the ticket agent of the Grand Trunk Railway at Tamworth, Ontario. That the persons named were simply going to North Dakota in search of work, and that they had no contract with any person in Canada or the United States for work after their arrival in the United States.

The Minister states that in order to enable them to get a return ticket at a cheaper rate, the Grand Trunk Railway Company gave the parties a paper which set forth that if the parties worked as farm labourers daily for thirty days between the 18th August and the 16th day of November, 1898, and that a farmer in North Dakota certified to the fact that then the return ticket to Napanee would be sold them at a reduced rate.

The solicitors for the parties represent that they started on the trip on the 18th August, and were stopped at Port Huron by the United States' Customs officer, who refused to allow them to proceed on their way, and ordered them to return to Canada at once.

The parties complained that as they had made no contract in any way with anybody for employment in the United States, they had not violated the Alien Labour Law.

The facts are set forth more fully in detail in the accompanying letter from the solicitors.

They allege that the action of the United States' officials subjected them to loss and inconvenience, and they claim that they are entitled to compensation from the United States' Government for the illegal action of the officers at Port Huron.

The Committee, on the recommendation of the Secretary of State, advise that your Excellency be moved to forward a certified copy of this Minute, and the letter of Messrs. Wilson and Wilson hereto attached, to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States, and that that Government be pressed to compensate the parties for the loss they have sustained.

All which is respectfully submitted for your Excellency's approval.

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

Dear Sir,

Napanee, August 20, 1898.

We have been consulted by W. Hawley, Esq., of Enterprise, Ontario, with reference to a claim he has for compensation, for being deported from the United States by the United States' Immigration Officer stationed at Port Huron, Michigan; and we will be pleased to have you make demand on the United States' Government for compensation in the matter on Mr. Hawley's behalf.

The facts of the case are as follows:—

Mr. Hawley, on the 17th August last, bought a farm labourer's excursion ticket to Cavalier, North Dakota, from the Grand Trunk Railway ticket agent, stationed at Tamworth, Ontario, and on the 18th August he started on his journey. Mr. Hawley was simply going to North Dakota in search of work, and had no contract with any person, either in Canada or the United States, for work after he had arrived in the States. Accompanying the railway ticket that he bought was an agreement with the Grand Trunk Railway that, in case the holder of the ticket should have a certificate, which was attached to the agreement, properly executed by a farmer in North Dakota, certifying that Mr. Hawley had worked as a farm labourer daily for thirty days at least between the 18th day of August and the 16th day of November last, the holder would be entitled to a ticket enabling him to return to Napanee for the sum of 18 dollars, which is very much below the ordinary railway fare for the trip.

Mr. Hawley started on the trip on the 18th instant, and arrived in Port Huron at 5 A.M. on the 19th instant. On his arrival at Port Huron, the United States' Custom-house officer stopped him, and before inspecting his baggage demanded his ticket. Mr. Hawley handed over his ticket, and then the United States' Customs officer marked his baggage with "O," and had it put in the shed, and refused to allow Mr. Hawley to proceed on his way, and ordered him to return to Canada at once, and threatened to arrest him if he did not so return. The officer also took up the certificate mentioned and stated that he refused to let Mr. Hawley proceed because the certificate was evidence of a contract between the farmers of the Western States and the Grand Trunk Railway Company for the importation into the United States of foreign labourers and their employment, against the laws of the United States.

About 8 A.M. on the 19th instant the Immigration Agent of the United States stationed at Port Huron arrived at the station, and the United States' Customs officer handed over the ticket and certificate of Mr. Hawley to the Immigration Agent, who then instructed Mr. Hawley that he would not allow him to proceed on his way, nor would he surrender his ticket to him until he had procured a ticket for Canada, and Mr. Hawley's ticket was surrendered to him only after he had purchased a ticket for Canada and after he was actually on board the train to return to Canada, he having purchased a ticket for Sarnia.

Mr. Hawley returned to Napanee to-day, having lost no time unnecessarily on his trip from Sarnia.

As we have stated before, Mr. Hawley was simply going to North Dakota to look

for work, and had made no contract in any way with anybody for employment in the United States contrary to law.

Mr. Hawley is undoubtedly entitled to compensation from the United States' Government for the illegal action of their officers stationed at Port Huron, and we would respectfully request, on Mr. Hawley's behalf, that a demand for redress be made on the United States' Government.

Any further information in the matter that is required to enable a demand to be made we will gladly furnish.

We beg leave to state that we have written the Grand Trunk Railway Company in reference to the matter.

Yours very respectfully,
(Signed) WILSON AND WILSON.

Honourable W. R. Scott,
Secretary of State, Ottawa.

No. 102.

Colonial Office to Foreign Office.—(Received November 7.)

(Confidential.)

Sir,

Downing Street, November 7, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 3rd instant, inclosing copy of a despatch from Lord Herschell, raising the question whether, and in what respects, any Agreement embodied in a Treaty by the present High Commission should be made subject to the approval of the Canadian and Newfoundland Legislatures.

I am to state, in reply, that Mr. Chamberlain agrees with Lord Herschell that the scope of the present negotiations is wider than the scope of that which resulted in the Convention of 1888, and that if an Agreement is reached on several of the questions under discussion, such Agreement could not properly be made subject to a proviso such as is embodied in Article XVI of the Convention of 1888, and he would, as regards any provisions of the Treaty which could not take effect without Imperial or Colonial legislation, suggest that Article XXXIII of the Treaty of Washington, 1871, would seem to furnish a convenient precedent, while, as to any provisions which would need no legislation to bring them into operation, the Treaty should take effect on ratification.

I am, &c.
(Signed) H. BERTRAM COX.

No. 103.

The Marquess of Salisbury to Lord Herschell.

(No. 5.)

My Lord,

Foreign Office, November 7, 1898.

I HAVE had under consideration your despatch No. 10 of the 11th instant, in which the question is raised as to whether the ratification of any Treaty which may result from the labours of the present Joint High Commission should be made subject to the assent of the Parliament of Canada and the Legislature of Newfoundland, as provided in the Treaty signed at Washington on the 15th February, 1888.

I am of opinion that it would not only be unnecessary, but unwise, to make the ratification of a Treaty subject to the approval of Parliament, whether Imperial or Colonial; and I fully agree with the views expressed in your despatch as regards the adoption of such a course on the present occasion.

I am, &c.
(Signed) SALISBURY.

No. 104.

Colonial Office to Foreign Office.—(Received November 8.)

(Confidential.)

Sir,

Downing Street, November 7, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letters of the 22nd, 27th, and 28th ultimo, inclosing copies of Lord Herschell's despatches Nos. 7, 8, and 9, relating to the proceedings of the Joint High Commission at Quebec, and of your letter of the 26th ultimo respecting the instructions to be issued to the British Commissioners on the subject of the conveyance of prisoners through intervening territory, and on the subject of wrecking and salvage.

Mr. Chamberlain concurs in the proposal of the Marquess of Salisbury to inform Lord Herschell that discretion is left to the British Commissioners to settle the final form of the Articles dealing with these subjects in the manner which may seem to them most advantageous.

As regards the question how far Article I of the Convention of 1818 has been affected by subsequent legislation, which Lord Herschell discusses in his despatch No. 9 of the 11th ultimo, in dealing with the subject of the Atlantic Fisheries, I am to inclose copy of a Report of the Law Officers of the Crown on the point, dated the 5th of August, 1886,* which Mr. Chamberlain would suggest should be sent out for his Lordship's information, if he has not already been furnished with a copy.

I am, &c.

(Signed) H. BERTRAM COX.

No. 105.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 273.)

Sir,

Foreign Office, November 8, 1898.

I TRANSMIT to your Excellency herewith a copy of a letter from the Colonial Office,† relative to the desire expressed by the Canadian Government that a claim for compensation should be presented to the United States' Government on behalf of three Canadian labourers, who were recently refused admission into the United States by an American Customs officer at Port Huron, acting, it is alleged, under the provisions of the United States' Alien Labour Law.

By that Law, the immigration into the United States of persons working under contract is forbidden, but, in the present case, the men state that they were going to North Dakota in search of work, and that they had no contract with any person in Canada or the United States for work after their arrival in the United States, though they had an agreement, which is described in the Minute of the Canadian Privy Council accompanying the Colonial Office letter, with the Grand Trunk Railway Company, by which they would obtain a return ticket at less than the usual rate.

The question of the Alien Labour Law is, as you are aware, one of the subjects now under discussion by the Joint High Commission, and Lord Herschell, in his despatch No. 8 of the 10th ultimo, of which a copy is inclosed,* reports what passed in the Commission on the subject, and forwards the draft Agreement submitted to the Commission by the Committee, to whom the question was referred.

As Lord Herschell is now in Washington, it would be advisable that your Excellency should consult him on the subject, and if, after so doing, you see no objection to such a course, you may bring the claim to the notice of the United States' Government.

I am, &c.

(Signed) SALISBURY.

* Not printed.

† No 101.

No. 106.

Lord Herschell to the Marquess of Salisbury.—(Received November 14.)

(No. 11.)

My Lord,

Washington, November 2, 1898.

ON the 17th ultimo the United States' Government addressed a note to Her Majesty's Ambassador, stating that the Secretary for the Navy wished to lend the United States' ship "Wasp" (a converted cruiser) to the State of Illinois for the purposes of drill and instruction of the naval militia of that State, and asking that the passage of the "Wasp" to the Lakes might be appropriately facilitated by the Canadian Government.

Sir Julian Pauncefote at once forwarded the application to Ottawa, and also repeated a telegram which he received subsequently from the State Department, to the effect that the "Wasp" was too large to pass through the canals, and that the "Frolic" had therefore been substituted.

As I was at Ottawa at the time, the Governor-General communicated the papers to me; and, after consultation with Sir Wilfrid Laurier, I telegraphed to Sir Julian Pauncefote at New London, saying that it would be very undesirable to prejudge the questions now under discussion in the Commission by admitting a vessel through the canals, to be handed over to the State of Illinois. Such a step might seriously interfere with the negotiations, and with the ratification of any Agreement.

I pointed out that a Chicago newspaper had already treated the projected dispatch of the "Wasp" as an abrogation of the Agreement of 1817, and as involving the sanction of building war-ships on the Lakes.

In accordance with my suggestion Sir Julian Pauncefote called Mr. Hay's attention to these considerations, and asked him, privately and unofficially, whether the request of the Navy Department could not be withdrawn, pending the result of the present negotiations.

I also wrote on the subject to Senator Fairbanks, who replied that the arrangements had been made without his knowledge, and that he had written to the Secretary of State, on receiving my letter, to ask that any further action might be suspended.

On my arrival at Washington I called on Mr. Hay with Sir J. Pauncefote, who had already spoken to him; we were informed that nothing would be done in the matter until the spring, and that the Governor of Illinois had been notified accordingly. The "Evening Times" of last night announced that the "Frolic" would lie up for the winter, as it was too late in the season to send her up the St. Lawrence.

I have, &c.

(Signed) HERSCHELL.

No. 107.

The Marquess of Salisbury to Lord Herschell.

(No. 6.)

My Lord,

Foreign Office, November 15, 1898.

WITH reference to my despatch No. 5 of the 7th, I transmit to you, for your information, a copy of a letter from the Colonial Office on the question as to whether any Treaty resulting from the labours of the Joint High Commission should be made subject to the assent of the Parliament of Canada or of the Legislature of Newfoundland.*

In my reply, of which a copy is also inclosed,† I have concurred in the opinion expressed by Mr. Secretary Chamberlain, that as regards any provisions in the Treaty which could not take effect without Imperial or colonial legislation, Article XXIII of the Treaty of Washington of 1871 would form a convenient precedent for adoption on the present occasion.

I am, &c.

(Signed) SALISBURY.

No. 108.

Foreign Office to Colonial Office.

Sir,

Foreign Office, November 15, 1898.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your letter of the 7th instant, relative to the question raised by Lord Herschell in his despatch No. 10 of the 11th ultimo as to whether any Treaty resulting from the labours of the present Joint High Commission should be made subject to the assent of the Parliament of Canada or of the Legislature of Newfoundland.

I am to state that his Lordship agrees with Mr. Secretary Chamberlain, that as regards any provisions which could not take effect without Imperial or colonial legislation, Article XXXIII of the Treaty of Washington would furnish a convenient precedent.

On the general question it would, in Lord Salisbury's opinion, be both unnecessary and unwise to make the ratification of a Treaty subject to the approval of Parliament, whether Imperial or colonial, and I am to inclose, for Mr. Chamberlain's information, a copy of a despatch addressed to Lord Herschell fully concurring in the views expressed by him as regards the adoption of such a course on the present occasion.

I am, &c.

(Signed) F. H. VILLIERS.

No. 109.

The Marquess of Salisbury to Lord Herschell.

(No. 7.)

My Lord,

Foreign Office, November 18, 1898.

I HAVE been in communication with the Secretary of State for the Colonies relative to the proposed Articles dealing with the questions of the conveyance of prisoners through intervening territory, and of wrecking and salvage rights, inclosed in your despatch No. 7 of the 30th September last.

With regard to the former your Lordship reports that the question was raised in the Commission as to whether any provision was made for the exclusion from the proposed arrangement of persons charged with political offences. You suggest that in view of the difficulty as to political offences it may be wiser to limit the Agreement to offences for which extradition can be obtained, because it is, no doubt, understood that political offences are excluded on both sides from the application of the Treaty; but the addition of provisions with regard to assaults might involve acts committed by persons who are implicated in offences of a political character.

There will be opportunities while the High Commission is in Session at Washington of ascertaining whether the ratification of a Treaty would be jeopardized were there any doubt as to the absolute exclusion of political offenders, and Her Majesty's Government consider it desirable to leave discretion to the British High Commissioners to settle the final form of the Article.

The draft Article relative to wrecking and salvage rights will doubtless be further discussed in Committee, and in this case also Her Majesty's Government desire to give your Lordship and your colleagues full authority to affect a settlement in the manner which may seem most advantageous.

I am, &c.

(Signed) SALISBURY.

No. 110.

The Marquess of Salisbury to Lord Herschell.

(No. 8.)

My Lord,

Foreign Office, November 18, 1898.

IN regard to the question raised by your Lordship in your despatch No. 9 of the 11th ultimo, on the subject of the Atlantic fisheries, as to how far Article I of the Convention of 1818 has been affected by subsequent legislation, I should wish to call your attention to a Report of the Law Officers of the Crown on the point, dated 5th August, 1886, of which a copy is inclosed.*

I am, &c.

(Signed) SALISBURY.

No. 111.

Sir J. Pouncefote to the Marquess of Salisbury.—(Received November 19.)

(No. 296.)

My Lord,

Washington, November 5, 1898.

I HAVE the honour to report that on the 17th ultimo I received a request from the United States' Secretary of State for permission for the United States' vessel of war "Wasp" (a converted yacht) to pass the Lakes, being destined for Illinois waters, for the purposes of the drill and instruction of the naval militia of that State.

On the 21st ultimo I received a telegram from Colonel Hay expressing the desire of the Secretary of the Navy to substitute the United States' ship "Frolic" for the "Wasp," the latter vessel being too large to go through the canals.

I brought both these applications to the knowledge of the Governor-General of Canada, and on the 23rd October I received a telegram, addressed to me by Lord Herschell from Ottawa, with the concurrence of Sir Wilfrid Laurier, representing how undesirable were the proposed steps, and suggesting the expediency of inducing the United States' Government to withdraw their request, pending the negotiations of the Joint Commission.

I thereupon brought the matter to the knowledge of the Secretary of State, and I have now been informed by him that at his instance the Secretary of the Navy has agreed that the request for the passage of a United States' vessel to the Lakes shall be suspended, pending the result of the discussions of the Commission on the general question. I have informed the Governor-General of Canada, and I understand that Lord Herschell has reported to your Lordship fully upon the above.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 112.

The Marquess of Salisbury to Sir J. Pouncefote.

(No. 287.)

Sir,

Foreign Office, November 25, 1898.

I HAVE received your Excellency's despatch No. 296 of the 5th instant, reporting your action in connection with the request of the United States' authorities that the war-vessel "Wasp" should be permitted to pass the Lakes on her way to Illinois waters.

I approve the steps taken by you to obtain the withdrawal of this application pending the negotiations of the Joint High Commission.

I am, &c.

(Signed) SALISBURY.

No. 113.

Lord Herschell to the Marquess of Salisbury.—(Received December 5.)

(No. 12.)

My Lord,

Washington, November 23, 1898.

I HAVE the honour to inclose copies of Protocols Nos. 20 to 29.

On the 17th instant, the Committee on the boundary in Passamaquoddy Bay laid before the Commission the facts with regard to the small island, half-an-acre in extent, about which there has always been a difficulty. The question, which appears to be of very small importance, was referred back to the same Committee, consisting of Sir Louis Davies and Mr. Dingley.

The Committees on mining regulations, transport facilities, and reciprocity have held several meetings, and the Committee on the Behring Sea question resumed its discussions this week, the experts who were sent to Victoria having arrived at Washington.

I have, &c.

(Signed) **HERSCHELL.**

Inclosure 1 in No. 113.

Protocol No. 20 of Proceedings of Joint High Commission, Quebec, October 10, 1898.

THE Joint High Commission assembled at 10 o'clock A.M., pursuant to adjournment.

The Protocol of the last meeting was read and approved.

The Committee to whom the subject of fisheries in contiguous waters was referred at the meeting of the 22nd September, presented a Joint Report, which was ordered to be laid on the table, and a copy furnished to each of the High Commissioners.

The Joint High Commission thereupon adjourned to reassemble at Washington on Tuesday, the 1st November, at 11 o'clock in the forenoon.

(Signed) **CHANDLER P. ANDERSON.**

**W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.**

Inclosure 2 in No. 113.

*Protocol No. 21 of Proceedings of Joint High Commission, Washington,
November 1, 1898.*

SOME of the members of the High Commission met at the Department of State pursuant to adjournment, but in accordance with an understanding come to since the last meeting, a further adjournment was made until the 10th November, at 11 o'clock in the forenoon.

(Signed) **W. CHAUNCY CARTWRIGHT.
HENRI BOURASSA.**

CHANDLER P. ANDERSON.

Inclosure 3 in No. 113.

*Protocol No. 22 of Proceedings of Joint High Commission, Washington,
November 10, 1898.*

THE Joint High Commission assembled at 11 o'clock, A.M., pursuant to adjournment, at the Department of State, and after having paid an official visit to the Secretary of State, proceeded to the Executive Mansion where the members were presented to the President. All the members were present except Sir Wilfrid Laurier, Sir Louis Davies, Sir James S. Winter, and the Honourable T. Jefferson Coolidge.

After reassembling at the Conference Rooms, the Protocols of the last two meetings were read and approved.

In order to allow time for the meeting of the Sub-Committee during the day, the Joint High Commission thereupon adjourned until Friday, the 11th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 4 in No. 113.

*Protocol No. 23 of Proceedings of Joint High Commission, Washington,
November 11, 1898.*

THE Joint High Commission assembled at the Conference Rooms at 11 o'clock, A.M., pursuant to adjournment, all the members being present except Sir Wilfred Laurier, Sir James S. Winter, and the Honourable T. Jefferson Coolidge.

The Protocol of the last meeting was read and approved.

After arranging for the meeting of the Sub-Committees, the Joint High Commission adjourned until Tuesday, the 15th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 5 in No. 113.

*Protocol No. 24 of Proceedings of Joint High Commission, Washington,
November 15, 1898.*

THE Joint High Commission assembled at the Conference Rooms at 11 o'clock, A.M., pursuant to adjournment, all the members being present except Lord Herschell and the Honourable John A. Kasson. The Honourable Charles W. Fairbanks was requested to take the chair in the absence of Lord Herschell.

The Protocol of the last meeting was read and approved.

Arrangements were made for the meetings of the Sub-Committees during the day, and it was agreed that the question of the boundary-line in Passamaquoddy Bay should be the first subject for consideration at the meeting on Thursday next.

The Joint High Commission thereupon adjourned until Wednesday, the 16th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 6 in No. 113.

*Protocol No. 25 of Proceedings of Joint High Commission, Washington,
November 16, 1898.*

THE Joint High Commission assembled at the Conference Rooms at 11 o'clock, A.M., pursuant to adjournment, all the members being present except Lord Herschell and the Honourable John A. Kasson.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Sub-Committees, the Joint High Commission adjourned until Thursday, the 17th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 7 in No. 113.

*Protocol No. 26 of Proceedings of Joint High Commission, Washington,
November 17, 1898.*

THE Joint High Commission assembled at the Conference Rooms at 11 o'clock, A.M., pursuant to adjournment, all the members being present.

The Protocol of the last meeting was read and approved.

The Committee to which the question of the boundary-line in Passamaquoddy Bay was referred at the meeting of the 22nd September, brought up the subject before the Joint High Commission for further instructions, and after a general discussion the question was again referred to the same Committee for consideration and report.

The Joint High Commission thereupon adjourned until Friday, the 18th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 8 in No. 113.

*Protocol No. 27 of Proceedings of Joint High Commission, Washington,
November 18, 1898.*

THE Joint High Commission assembled, pursuant to adjournment, at the Conference Rooms, at 11 o'clock, A.M., all the members being present.

The Protocol of the last meeting was read and approved.

Meetings of the Joint Committees were arranged for, and the Joint High Commission then adjourned until Tuesday, the 22nd November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 9 in No. 113.

*Protocol No. 28 of Proceedings of Joint High Commission, Washington,
November 22, 1898.*

THE Joint High Commission assembled, pursuant to adjournment, at the Conference Rooms, at 11 o'clock, A.M., all the members being present except the Honourable Charles J. Faulkner.

The Protocol of the last meeting was read and approved.

Arrangements for the meetings of the Joint Committees were made, and the Joint High Commission thereupon adjourned until Wednesday, the 23rd November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 10 in No. 113.

*Protocol No. 29 of Proceedings of Joint High Commission, Washington,
November 23, 1898.*

THE Joint High Commission assembled, pursuant to adjournment, at the Conference Rooms, at 11 o'clock, A.M., all the members being present.

The Protocol of the last meeting was read and approved.

The Joint High Commission then arranged for the meetings of the Joint Committees, and thereupon adjourned until Friday, the 25th November, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

No. 114.

Lord Herschell to the Marquess of Salisbury.—(Received December 5.)

(No. 13.)

My Lord,

Washington, November 25, 1898.

SINCE our arrival at Washington the Committee appointed to deal with the question of reciprocity has held several long meetings, but without, so far, any definite result.

It is not to sit again for the present, and I believe that the American Commissioners wish to confer with several of the Senators before another meeting takes place.

No suggestion having been made by my American colleagues with reference to the North Atlantic fisheries, the question upon which the difference between us appeared most acute, I thought it well to see Senator Fairbanks privately, and to acquaint him very frankly with my views upon the present situation. I pointed out to him that on several of the subjects in difference we had shown ourselves ready to make considerable concessions in the direction desired by the United States, whilst, on the other hand, we had heard nothing of any corresponding concessions on their part; that if a Treaty was to be arrived at it must be by a process of give and take, and that any Treaty which did not show a fair equivalent for the concessions made by Great Britain would not serve the end in view, namely, the removal of friction and the establishment of good relations between the two countries. Any Agreement which was to effect this end must be such as could not be regarded as a triumph by either side, and though it might be impossible to devise a Treaty which would give complete satisfaction to every one in both countries, it must be such as would be generally regarded as just and equitable. I stated that as regards the Atlantic fisheries the United States' Commissioners treated as out of the question an arrangement which was agreed to by the Administration of 1887 when the feeling in the United States towards Great Britain was of a very different character from the friendly one by which the United States were now said to be animated. I said that, as far as I could learn, the opposition to such an arrangement emanated chiefly from the fishing town of Gloucester, Massachusetts, and that it seemed strange that it should be regarded as more important to conciliate a single town in one of the States than at the risk of giving offence to the inhabitants of that town to insure a satisfactory settlement with Great Britain. I added that it was not what I had been led to expect when assured of the very strong amicable sentiment which now animated the people of the United States.

Senator Fairbanks listened to these representations in a perfectly friendly manner, and in no way resented them. He told me that the Senators from Massachusetts had very strong feelings on the subject of the Fishery Arrangement of 1888, and he added that

he might tell me, in confidence, that endeavours had been made by the Boston Chamber of Commerce, as well as by members of the Commission, to change their views, but hitherto without success. He stated that the Senators in question were very influential Members of the Senate, and that their opposition to any Treaty would be a most serious matter.

I said, in reply, that I was quite aware of the difficulty which might be experienced by Senator Hoar and some other members of the body in agreeing to the ratification of a Treaty which was obnoxious to all the arguments which they had advanced as grounds for refusing to ratify that of 1888, and that, therefore, I should be quite willing to entertain a project for the settlement of the question which would relieve them from this difficulty, if one could be devised. The arguments advanced in the Majority Report of the Committee of Foreign Relations of the Senate in 1888 (see inclosure in Sir L. Sackville-West's despatch No. 192, of the 29th May, 1888), made it clear that the views of Great Britain and of the United States differed as to the construction in several respects of the Treaty of 1818, and as to the rights which now subsist under it, and that during the last two years, especially, Canada had asserted the rights which she believed herself to possess with extreme leniency, in the hope of some settlement being arrived at.

Senator Fairbanks interposed with the observation that Canada had acted during that time with great generosity.

I proceeded to say that Canada had, of course, no right to insist on the free importation of fish. If it were not conceded, she could only revert to what she believed to be her rights. If no agreement were arrived at, it would be impossible for the Government to avoid enforcing those rights, and if the United States adhered to the position which they maintained in 1888, a situation of acute controversy would immediately arise. It seemed to me, therefore, essential that the rights which Canada and the United States respectively possess under the Treaty of 1818 should be conclusively determined by agreement or arbitration, which (except war, which might be dismissed from consideration) were the only ways of ending the controversy. If the former was impossible, the latter would be the only alternative, but even if the rights were ascertained by arbitration, there must be some *modus vivendi* in the meantime, and the one which seemed most feasible and desirable was the admission of fish free of duty.

Senator Fairbanks neither assented to nor dissented from the views I expressed, but said he thought it better that the consideration of the question should not be pressed forward for the present. I asked him if he meant that it had better be left over till the Senators arrived in Washington for the meeting of Congress at the beginning of next month. To this he frankly replied in the affirmative. He added that he should like to read me a copy of a Resolution which had been transmitted to the Commission and to the President from the Cleveland (Ohio) Chamber of Commerce.

This Resolution urged very forcibly the importance of reciprocal trade arrangements, but stated that it was of far greater importance that good relations should be established between the two countries by removing the causes of difference which had arisen, that individual interests ought not to stand in the way of doing so in a just and equitable manner, and that at the present time the conditions were more favourable for such a settlement than they had been for a very long time past. The Senator, after reading the Resolution to me, said he did so because it accurately expressed the views both of himself and of the President.

Before I left, Senator Fairbanks thanked me for coming to see him privately; he said that he had told the President that I was coming, who had expressed great satisfaction, and said that he thought progress was more likely to be made by a fresh interchange of opinion between us than by meetings of the Commission.

Senator Fairbanks stated that this was his view also, and that though, of course, we should each consult our colleagues, matters had now reached a stage at which agreement was more likely to be arrived at by meetings between himself and me than by fighting the matter out in Joint Committees.

During a brief conversation which I had with the President when dining at the White House, he expressed very much the same views as are embodied in the Resolution to which I have alluded. He said that the matters in difference were, after all, comparatively speaking, of small importance, and that what he wanted was to see all those differences settled and brushed aside, so as to leave the field clear for more important questions.

Information which I have received from persons of influence in Boston, entirely unconnected with the Commission, quite bears out Senator Fairbanks' view that the

difficulty with the Massachusetts Senators is a very real one. I have no doubt the President will exert all the influence he can to induce the Senators to concur in some reasonable settlement.

It may be of interest to your Lordship to know that the President, in the course of his conversation with me, observed that, in his opinion, the time had come to reconsider the question of the Tariff; that no one had been more strongly impressed than he had with the importance of protection to the interests of the country, and that he believed its effects had been beneficial. At the same time, he thought that the circumstances had changed, and rendered freer trade relations with countries outside the States expedient. One great difficulty in the way of such a change had been to find any means of revenue as a substitute for customs duties; but the war had gone far to remove this difficulty by inducing a sanction of forms of internal taxation, which would not otherwise have been assented to. There would doubtless be a modification of these taxes in certain particulars, but some of them would unquestionably become permanent. I do not think the President contemplates any immediate or widespread change in the direction of diminished protective duties, but there is, I feel sure, a growing tendency in some parts of the United States which have been most strongly protectionist to view the Tariff question in a new light, and to contemplate an effort to secure trade in external countries, even if it be at the cost of some increased admission of foreign competition in this country.

We are proceeding with the discussion of the other questions which have not yet been made the subject of a Report by a Committee; but, for the reason I have given, it seems hopeless to expect any real progress with some of the most important questions until a few days after the meeting of Congress on the 5th December. Whilst the delay is vexatious, I feel that no good would be done, but rather the reverse, by attempting to press these matters forward.

I have, &c.
(Signed) HERSCHELL.

No. 115.

Lord Herschell to the Marquess of Salisbury.—(Received December 12.)

(No. 14. Secret.)

My Lord,

Washington, December 2, 1898.

SINCE our arrival here we have continued, in the Committee appointed for that purpose, the discussion of the proposed modification of the Agreement of 1817, relating to naval vessels on the Great Lakes.

As the result of this discussion, my American colleagues handed me yesterday the proposal which I inclose.

It will be seen that, as regards the provisions prohibiting the maintenance upon the Great Lakes of any naval armament or vessels of war, and that permitting the construction of naval vessels there, subject to certain limitations, it complies substantially with the requirements on which the Colonial Defence Committee suggested I should insist.

As regards the ship-building clause, for the word "plated" the expression "armour-plated" has been substituted. This change was made to meet the objection, which seemed to be a valid one, that the word "plated," if strictly construed, would prevent the building of any iron ship.

A further concession has been made by prohibiting the completion of more than one vessel at the same time. The stipulation is probably not of great importance, but so far as it goes it is in the right direction.

The condition that the vessel is to be delivered at the Atlantic sea-board before the completion of any other vessel will serve to secure compliance with the requirement that the delivery at the Atlantic sea-board shall be within as early a time as practicable.

We did not think it necessary to insert a provision that no war-vessel should return to the Lakes for repair and refit. It appeared to us that this would be excluded by the proposed Agreement, at all events under existing conditions.

It has never been doubted that the Americans have no right to bring ships through the canals to the Lakes except by the permission of the Government of Canada, and that the access to and from the Atlantic by these waterways is under the control of

Canada is acknowledged by the concluding words of the proposed ship-building clause, which limit the right of access to the purpose there mentioned.

As regards the revenue-cutters, the proposal departs in three particulars from the requirements suggested in the Memorandum of the Colonial Defence Committee. The maximum number allowed is six, instead of four.

It was stated by my American colleagues that it was not contemplated that more than four at the most should be employed at the present time, or probably for a very considerable time to come; but it was pointed out that the population might grow to a very great extent on those parts of the shores of the Lakes which were as yet unoccupied, and that for this reason a larger number might be required than present conditions demanded.

They were very anxious that any arrangement now come to should remain undisturbed for as long a period as possible, and therefore thought it well to provide some margin for the future. Sir Wilfrid Laurier, who, of course, knows more of the conditions and prospects than I do, thought the proposal not an unreasonable one.

The suggestion that the location of the vessels kept on the Lakes for revenue purposes should be as defined in the 1817 Agreement does not appear suitable in the existing conditions. The 1817 Agreement made provision for maintaining four war-ships. One of these was to be kept on Lake Champlain, one on Ontario, and two on the "Upper Lakes." By this, I suppose, were meant Lakes Erie, Huron, Michigan, and Superior. There is no need for a revenue-cutter upon Lake Champlain. As regards the other Lakes, it is suggested that if any provision as to location is to be inserted there would have to be alternative provisions for their distribution, according as three or four, or more, were employed, and, moreover, that there are objections to restricting the use of vessels in the revenue service to particular localities, and not permitting them to be employed where their services may be from time to time needed. There seems force in these suggestions, and here again Sir Wilfrid Laurier does not regard the matter as of serious importance.

The only other point requiring comment is the size of the revenue-vessels. The American Commissioners have been in communication with the Secretary of the Treasury on this point, and they state that it has been the practice of late to build their revenue-vessels of 800 to 900 tons displacement, that very severe weather is often met with in the Upper Lakes, and that this course is considered more advantageous than employing vessels of smaller size. It will be seen that 900 tons is the figure in the proposal, but the Commissioners stated that they would be willing to agree to 800 tons, but thought it impossible to assent to a lower figure.

As the result of our first discussion, my American colleagues proposed that, though neither Government should hereafter maintain upon the Great Lakes any naval armament or vessels of war, either Government might maintain upon those Lakes "not more than two vessels of a displacement not exceeding 1,100 tons each, with an armament for each of not more than six guns of a calibre not exceeding 4 inches, and not more than eight guns of minor calibre, such vessels to be used for the purpose of naval instruction and training."

At a meeting of the Committee held after I was in receipt of the Memorandum of the Colonial Defence Committee of the 16th September, and of your Lordship's instructions thereon, I conveyed to my colleagues the purport of the instructions I had received, and also a Memorandum I had prepared embodying the views of Vice-Admiral Sir John Fisher, for the purpose of showing that the training of a naval militia could be as effectually, or indeed more effectually, carried out by means of guns under a shed on shore than by guns on board the training ship, and I urged that the training ships to be used on the Great Lakes should not have any guns. My American colleagues stated that they would confer with the Secretary of the Navy on the subject. It will be seen that as the result of the discussions here, the provision relating to training ships embodied in the inclosed proposal is a considerable modification of that originally put forward. They have reduced the maximum tonnage from 1,100 to 1,000 tons. They have also reduced the number of guns of a calibre not exceeding 4 inches from six to two, and the number of guns of minor calibre from eight to four, and also inserted the condition that the vessels should be unarmoured. They stated that their practice had been to carry out the training by means of guns on board ship, and that they did not think it possible for them to make such a change as I had suggested. They assured me that their desire had been, as far as possible, to meet my views. They further stated that they had been strongly urged to insist on four training vessels, one for each State bordering on the Lakes. They had, however, obtained acquiescence in their suggestion

that there should be only two training ships, but that each of them should be lent to two States for training during different parts of the year. They represented that the training of a naval militia on the Lakes for service in the Atlantic was a matter in which the States bordering on the Lakes felt a deep interest, which was indeed shared by the people generally.

The recommendation of the Colonial Defence Committee is "that no actual war vessels" should be used for training purposes on the Lakes. I am not sure that I quite apprehend the meaning intended by the words "no actual war vessels." They were differently interpreted by two naval officers of whom I asked their meaning. One construed them as prohibiting the use of vessels with guns on board, the other as only excluding any vessel on the present strength of the navy.

The use of the qualifying word "actual" seemed to me to indicate that the words were not intended to preclude the use of every vessel which could be called a war ship. I am not sure, therefore, whether my instructions were intended to exclude the presence of any guns on board these training ships. My American colleagues pointed out, and I apprehend truly, that there were plenty of merchant-vessels on the Lakes which might within a few hours have guns put on board, and be made practically as effective for war purposes as training ships of the character they suggested would be. When I discussed the matter with Captain White, R.N., at Ottawa, I found that he did not attach great importance to the question whether the guns were on board the training vessels or not for the reason I have just indicated, that if kept on shore in a condition to be put on board the operation could be so speedily carried out. My impression is, as the result of much communication on the subject with my American colleagues, that it will not be possible to arrive at an agreement in which the provision as to training ships is very substantially modified. I am fully alive to the objections which may be taken to the proposal as it now stands, but I feel satisfied that if the Agreement of 1817 is abrogated, and no other substituted, the result will be that the Americans will keep on the Lakes as training ships four vessels, very likely of larger dimensions and of heavier armaments than those proposed. This conclusion is based upon the following considerations: the jealousy of the individual States is such that each will exert great pressure to have a training ship for its exclusive use. And inasmuch as it will probably not be practicable to give what they would regard as their legitimate share of the ship-building trade to the Lake ship-builders, I think this would afford an additional motive for complying with the wishes of the States. Any one who has not lived for some time in this country can, I think, scarcely realize the force of pressure which local interest brings to bear upon the Executive, and how apt they are to yield to such pressure, or how very difficult it is for them to resist it.

Upon the whole, I do not think it likely that any better arrangement can be secured in the place of that of 1817 than the one now proposed. I have already given my reasons for thinking that it would be very unfortunate if no agreement were arrived at, and the matter were dealt with by a simple abrogation by notice of the subsisting arrangement. The situation is, I admit, unsatisfactory, whether there be such an arrangement as that proposed or none at all; but the latter would, in my judgment, be the more unsatisfactory of the two. I should further state that my American colleagues are quite willing that the term of notice for abrogating the Treaty should be one year, the period suggested by the Colonial Defence Committee. They were disposed to think that the arrangement should continue for several years certain, and afterwards until the stipulated notice were given. I do not know whether this would be considered advisable. I am not sure that it might not subject the proposal to greater opposition in the Senate; it will certainly not in its present form be regarded with complete satisfaction.

I may add that the proposal, if assented to, would obviously require some verbal alteration to put it in a suitable form; but the consideration of this has been deferred until we see whether an agreement can be arrived at.

In conclusion, I submit to your Lordship that if the other subjects referred to the Commission can be satisfactorily disposed of, it would be very desirable, as a matter of policy, that the Treaty should contain a provision relating to naval vessels on the Great Lakes; and if I had power to accede to the views of my American colleagues as regards this subject, it might aid in the settlement of some of the other questions.

I must beg your Lordship to favour me with instructions by telegraph as soon as possible after the receipt of this despatch, as it is very important that I should be able to deal with it at the earliest practicable date.

I have, &c.
(Signed) **HERSCHELL.**

Inclosure in No. 115.

Proposal respecting Naval Vessels on the Great Lakes.

THE High Contracting Parties agree to annul their Agreement of 1817 in respect to the maintenance of a naval force and the construction of armed vessels on the Great Lakes, and in lieu of such Agreement stipulate as follows:—

Neither Government shall hereafter maintain upon the Great Lakes any naval armament or vessels of war.

Either Government may hereafter maintain upon the said Lakes not more than two unarmoured vessels of a maximum displacement of 1,000 tons each, with not more than two guns of a calibre not exceeding 4 inches, and four guns of minor calibres, each; such vessels to be used only for the purpose of naval instruction and training.

Each Government may maintain, not exceeding, six revenue-cutters for police and revenue service only, such revenue-cutters not to exceed 900 tons displacement, and armed only with, not exceeding, one 6-pr. rapid-fire gun each.

Either Government may make use of the industrial establishments on the shores of said Lakes for building the above-mentioned vessels, and also for the construction of naval vessels for use upon the high seas as herein provided, but not otherwise; but such naval vessels shall not be armour-plated, armed, equipped, or rendered available for war on said Lakes. Not more than one of such vessels shall be completed at the same time; it shall be delivered at the Atlantic sea-board within as early a date as practicable after its completion and before the completion of any other such vessel, and for that purpose shall have access to all the waterways to the Atlantic sea-board.

No. 116.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, December 12, 1898.

WITH reference to previous correspondence relative to the Joint Commission now sitting at Washington, I am directed by the Marquess of Salisbury to transmit to you herewith, for the information of the Secretary of State for the Colonies, a copy of a despatch which has been received from Lord Herschell respecting the present state of the negotiations.*

I am to state that his Lordship proposes, with the concurrence of Mr. Chamberlain, to inform Lord Herschell that his language to Senator Fairbanks in regard to the question of the North Atlantic Fisheries is entirely approved by Her Majesty's Government.

I am, &c.

(Signed) F. H. VILLIERS.

No. 117.

Foreign Office to Colonial Office.

(Secret.)

Sir,

Foreign Office, December 16, 1898.

WITH reference to your letter of the 19th September last, I am directed by the Marquess of Salisbury to transmit to you herewith, for the information of Mr. Secretary Chamberlain, a copy of a despatch from Lord Herschell,† giving an account of the discussion which has taken place in the Committee of the Joint High Commission on the proposed modification of the Agreement of 1817, relating to naval vessels on the Great Lakes.

Lord Salisbury would suggest that the matter should be at once laid before the Colonial Defence Committee for consideration and report.

Lord Herschell is anxious to receive instructions on the subject by telegraph as soon as possible.

I am, &c.

(Signed) F. H. VILLIERS.

No. 118.

Colonial Office to Foreign Office.—(Received December 20.)

(Confidential.)

Sir,

Downing Street, December 19, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 12th instant, inclosing copy of Lord Herschell's despatch No. 13 of the 25th November, respecting the present state of the Joint Commission negotiations, and to request you to inform the Marquess of Salisbury that he concurs in his Lordship's proposal to inform Lord Herschell that his language to Senator Fairbanks in regard to the question of the North Atlantic Fisheries is entirely approved by Her Majesty's Government.

I am, &c.
(Signed) H. BERTRAM COX.

No. 119.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received December 26.)

(No. 332.)

My Lord,

Washington, December 16, 1898.

WITH reference to my despatch No. 261 of the 6th September last, relative to the suspension of certain legislation of the Province of Ontario relating to the manufacture of lumber, I have the honour to transmit herewith copy of an approved Minute of the Canadian Privy Council,* which has been furnished to me by the Governor-General of Canada.

This Minute points out that, under the Constitution of Canada, the Dominion Government have no warrant for suspending or interfering with the legislation referred to.†

In view of the fact that the lumber question is before the Joint High Commission, I have given a copy of the inclosed Minute to Lord Herschell, but have thought it best to defer, for the present, communicating with the United States' Government.

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

No. 120.

Colonial Office to Foreign Office.—(Received December 28.)

(Confidential.)

Sir,

Downing Street, December 27, 1898.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 16th instant, covering a copy of a despatch from Lord Herschell, in which he discusses very fully the proposal made by the Representatives of the United States on the Joint Commission for a modification of the existing agreement as to the question of naval vessels on the Great Lakes.

I am to request you to inform the Marquess of Salisbury that this proposal was referred to the Colonial Defence Committee, who have expressed the opinion, in which Mr. Chamberlain concurs, that it should be accepted.

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

* Not printed.

† See inclosures in Colonial Office letters of September 3 and October 6, printed on pp. 52 and 79.

No. 121.

The Marquess of Salisbury to Lord Herschell

(No. 2.)

(Telegraphic.) P.

Foreign Office, December 29, 1898.

NAVAL vessels on the Great Lakes. The proposal of the United States' Commissioners, forwarded in your despatch No. 14, Secret, of the 2nd December, should, in the opinion of the Colonial Defence Committee, be accepted. You may therefore proceed in this sense.

No. 122.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 313.)

Sir,

Foreign Office, December 30, 1898.

I HAVE received your despatch No. 332 of the 16th instant, inclosing copy of a Minute of the Canadian Privy Council relative to the suspension of certain legislation of the Province of Ontario relating to the manufacture of lumber.

Your Excellency states that in view of the fact that the lumber question is before the Joint High Commission, you have given a copy of the Minute to Lord Herschell, but have deferred for the present communicating it to the United States' Government.

The Memorandum annexed to this Minute appear, however, to be identical with those inclosed in Colonial Office letters of the 3rd September and 6th October last respectively (see Joint Commission print of the 3rd September, Section 1, and 7th October, Section 1).

Your Excellency reported in your telegram No. 109 of the 24th August last that the first of these two Memorandums had been communicated to you by the Governor-General of Canada, and you were authorized by my telegram No. 151 of the 6th September to communicate the substance of it to the United States' Government.

With regard to the second Memorandum, your Excellency reported in your despatch No. 269 of the 26th September having received it from the Canadian Government, and having communicated a copy of it to the United States' Government.

I am, &c.

(Signed) SALISBURY.

No. 123.

The Marquess of Salisbury to Lord Herschell.

(No. 10.)

My Lord,

Foreign Office, December 30, 1898.

I HAVE received your despatch No. 13 of the 25th ultimo, respecting the proceedings of the Joint Commission since your arrival at Washington, in which you report that no suggestion having been made by your American colleagues with reference to the North Atlantic Fisheries, the subject on which the difference between British and United States' Commissioners appear to be most acute, you had thought it advisable to see Senator Fairbank privately, and to acquaint him frankly with your views on the present situation.

I have to inform your Lordship that your language to Senator Fairbanks in regard to this question is entirely approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 124.

Lord Herschell to the Marquess of Salisbury.—(Received December 31.)

(No. 15.)

My Lord,

Washington, December 22, 1898.

THE Commission adjourned on the 19th instant, and will not meet again till the 5th January. Copies of the Protocols up to date are inclosed.

The accompanying copy of a letter which I have addressed to Senator Fairbanks will acquaint your Lordship with my views upon the present situation as regards the three principal questions, viz., the fisheries, the Behring Sea question, and the Alaska boundary.

I also inclose copies of the Memoranda exchanged between Senator Fairbanks and myself during the last week with respect to the Alaska boundary, from which your Lordship will observe that the Committee on that question, which includes General Foster and Sir Wilfrid Laurier, besides Senator Fairbanks, have not yet arrived at any agreement for a settlement of the boundary, and that the line in the neighbourhood of the Lynn Canal presents the greatest difficulty.

Sir Julian Pauncefote transmitted to me the telegram approving the proposed clause in respect to the British carrying trade between the newly acquired American possessions and the coasts of the United States.

In view of the communications which had already passed between his Excellency and the American Government on that subject, which includes questions not affecting Canada alone, I thought it best to submit the draft to the Secretary of State. Sir J. Pauncefote agreed that this would be the proper course. I accordingly called upon Mr. Hay, and urged the desirability of inserting such a clause in the Treaty. He promised that the matter should at once be laid before the President. I took advantage of the opportunity to express my views upon the various questions as to which the Commission has hitherto failed to come to any satisfactory understanding.

At my request, Mr. Hay said he would arrange for me to have an interview with Mr. McKinley on the following day, and I was accordingly received at the White House yesterday afternoon.

My interview was of a satisfactory character. I pointed out to the President the critical stage at which the negotiations had arrived, and, repeating the arguments contained in my letter to Senator Fairbanks, I assured him that, in my opinion, unless the attitude of the United States' Commissioners greatly altered, a Treaty would be impossible. I added that I almost despaired of a successful result of our negotiations. He said, emphatically: "I don't despair. A Treaty *must* be made. The highest interests of the two countries require that it should be." With regard to the question of the compensation to the sealers, he said it would be absurd to let a matter of 100,000 or 200,000 dollars stand in the way of a settlement.

As to the Alaska boundary, he agreed with me that it would be lamentable if we were driven to have an arbitration about it. He said, with emphasis: "You can settle it as well as any Arbitration Tribunal could;" and entirely assented to my position that the proper way to adjust it was by compromise. I urged that the best course was to let Canada have a port on the Lynn Canal, and adduced arguments to show that this was the most reasonable form of compromise. Whilst not expressing directly his concurrence in this view, he did not intimate dissent. On the contrary, he said: "You must have *something* you want." We then discussed the question of arbitration. He acquiesced without reserve in my view that I could not fairly be called upon to agree to an arbitration as to part of the boundary only, and said: "If there is to be an arbitration at all, it must be about the whole boundary." I then stated fully the arguments in favour of the proposed clause as to the carrying trade. I pointed out that though in itself a small matter from a pecuniary point of view, its insertion would be taken as a practical indication of the friendly feeling of the United States, whilst if no such concession were made irritation would certainly be provoked, and the main object of the pending negotiations, which was to secure the maintenance of friendly relations between the two countries, might be frustrated.

The President, whilst expressing himself sympathetically as to the object in view, did not commit himself to an approval of the clause. He told me, however, that immediately on receiving the draft of it from Mr. Hay, he had called upon the Treasury to make a report to him on its scope and effect.

I thought it prudent to say that, in calling his attention as I had to the critical stage which the negotiations had reached, there was no intention on my part to make any complaint against the United States' Commissioners, but that sometimes I could not help feeling that they were too timid, and were too much influenced by apprehension as to the action of the Senate, and gave, perhaps, undue weight to opinions expressed by individual Senators as an indication of the way in which the Treaty would be dealt with if it came before the Senate for ratification. The President replied that he thought this might be so; that, personally, he had no fear as to its ratification if a Treaty were once agreed upon, the feeling in favour of it being so deep and widespread. He assured me that he would himself take the matter in hand, and that he would see the United States' Commissioners during the recess, and try to "stiffen them up." He took leave of me with great cordiality, and in doing so repeated, with much warmth: "A Treaty must be made." If his views prevail, the prospect of a fairly satisfactory Treaty is a hopeful one, but whether he is strong enough to enforce them may be doubtful. Some people allege that he is wanting in firmness of purpose, and is always influenced by the last comer. Whether this be so or not, I have myself no means of judging.

I have, &c.
(Signed) **HERSCHELL.**

Inclosure 1 in No. 124.

*Protocol No. 30 of Proceedings of Joint High Commission, Washington,
November 25, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present except Sir Richard Cartwright.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees, the Joint High Commission adjourned until Tuesday, the 29th November, at 11 o'clock in the forenoon.

(Signed) **W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.**

Inclosure 2 in No. 124.

*Protocol No. 31 of Proceedings of Joint High Commission, Washington,
November 29, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present except Sir Richard Cartwright.

The Protocol of the last meeting was read and approved.

After agreeing upon what Joint Committee meetings should be held during the day, the Joint High Commission adjourned until Wednesday, the 30th November, at 11 o'clock in the forenoon.

(Signed) **W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.**

Inclosure 3 in No. 124.

*Protocol No. 32 of Proceedings of Joint High Commission, Washington,
November 30, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

Meetings of the Joint Committees during the day were arranged, and the Joint High Commission then adjourned until Thursday, the 1st December, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 4 in No. 124.

*Protocol No. 33 of Proceedings of Joint High Commission, Washington,
December 1, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

Arrangements were made for the meetings of the Joint Committees during the day, and the Joint High Commission thereupon adjourned until Friday, the 2nd December, at 11 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 5 in No. 124.

*Protocol No. 34 of Proceedings of Joint High Commission, Washington,
December 2, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

Having arranged for the meetings of the Joint Committees, the Joint High Commission adjourned until Tuesday, the 6th December, at 10-30 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 6 in No. 124.

*Protocol No. 35 of Proceedings of Joint High Commission, Washington,
December 6, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10-30 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees during the day, and in order to permit further meetings on Wednesday without interruption, the Joint High

Commission adjourned until Thursday, the 8th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 7 in No. 124.

*Protocol No. 36 of Proceedings of Joint High Commission, Washington,
December 8, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

The Joint High Commission arranged for the meetings of the Joint Committees during the day, and then adjourned until Friday, the 9th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 8 in No. 124.

*Protocol No. 37 of Proceedings of Joint High Commission, Washington,
December 9, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

Having arranged for the meetings of the Joint Committees, the Joint High Commission adjourned until Monday, the 12th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 9 in No. 124.

*Protocol No. 38 of Proceedings of Joint High Commission, Washington,
December 12, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

The meetings of the Joint Committees during the day having been arranged for, the Joint High Commission adjourned until Tuesday, the 13th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 10 in No. 124.

*Protocol No. 39 of Proceedings of Joint High Commission, Washington,
December 13, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

Arrangements were then made for the meetings of the Joint Committees during the interval, and the Joint High Commission adjourned until Friday, the 16th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 11 in No. 124.

*Protocol No. 40 of Proceedings of Joint High Commission, Washington,
December 16, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

Having made arrangements for the meetings of the Joint Committees during the day, the Joint High Commission adjourned until Saturday, the 17th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 12 in No. 124.

*Protocol No. 41 of Proceedings of Joint High Commission, Washington,
December 17, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees during the day, the Joint High Commission adjourned until Monday, the 19th December, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 13 in No. 124.

*Protocol No. 42 of Proceedings of Joint High Commission, Washington,
December 19, 1898.*

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir James S. Winter.

The Protocol of the last meeting was read and approved.

After arranging for the progression of the work during the recess the Joint High Commission adjourned, to reassemble at Washington on Thursday, the 5th January, 1899.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 14 in No. 124.

Lord Herschell to Senator Fairbanks.

(Confidential.)

Dear Senator Fairbanks,

Washington, December 21, 1898.

IT seems to me well that, as we are now separating for a recess, I should state my views as to the position in which our negotiations stand.

The three most important questions submitted to the Commission are those relating to the Atlantic fisheries, the seal question, and the Alaskan boundary. Whether a Treaty can be arrived at or not must necessarily depend upon how far these can be adjusted.

From the outset it was hoped by Great Britain that the Atlantic fisheries question might be settled on the basis of the arrangement agreed to by the two Governments in 1888, or, at all events, by a provision for "free fish" in return for a renunciation by Great Britain of the rights of restriction which she claimed under the Treaty of 1818. In view of the past history of the question, from the date of the Treaty down to the present time, this seemed the most natural and, for many reasons, the most desirable solution of the question.

Down to a late period the British Commissioners entertained the hope that this solution might be agreed to. When they were recently informed that this settlement was impossible, owing to the strong local feeling opposed to it, they were most desirous of finding some way out of the difficulty. When it was first suggested some months ago that it might be found impossible to grant "free fish," it was stated on behalf of the British Commissioners that they were willing to entertain the consideration of any other concession by the United States which could be suggested in lieu thereof. No such suggestion having been forthcoming, it was intimated that the British Commissioners would be willing to agree to an arbitration which should settle beyond dispute what were the British rights under the Treaty of 1818, the present *modus vivendi* continuing, or some other being arranged for in the meantime. They felt that this course would be calculated to prevent disputes which might otherwise arise between the two countries, and create great difficulties in the future. At the same time, they cannot conceal the fact that this mode of adjustment is a great disappointment to them, and will be a great disappointment to the people of Canada, who had hoped, and, indeed, expected, that with the friendly feeling prevailing—which has been declared to exist, and which, we believe, does exist—an arrangement not less favourable than that of 1888 could be secured. It is obvious that if the provisions of the Treaty dealing with this question are unpalatable this renders concession on other points more difficult, and makes it essential that the Canadian Government should be able to justify on their merits the agreements made under other heads of the Treaty.

Nor, again, has it been possible down to the present time to obtain the admission free of duty of lumber and of some agricultural products, which would gain for a Treaty a large measure of support in Canada.

I turn now to the seal question. In the Memorandum on the part of the Government of the United States, containing its views on the subjects submitted to the Commission, it was suggested that the only satisfactory mode of dealing with the question in respect to the fur seals was the prohibition of pelagic sealing, and it was hoped that the Joint High Commission would agree upon a reasonable and equitable basis for securing this. The British Commissioners, in accordance with their instructions, have readily concurred in negotiations for this purpose, laying down only two conditions: that there must be fair and equitable compensation to the owners of sealing-vessels and to others engaged in the industry, and that there must be some adequate concession in consideration of Great Britain giving up her national right and undertaking to enforce the prohibition; also that in estimating the value of this concession it must be taken into account that the abandonment of the national right and the enforcement by the British Government of the prohibition would, according to the contention of the United States throughout the entire controversy, enure very largely in a pecuniary point of view to the benefit of the United States either directly or through their lessees, or in both those ways.

As regards the compensation to be made to those engaged in the sealing industry, the negotiations have made much progress, but are now at a critical point. I think that the difference between us is partly due to the different points of view from which we regard the matter. Your point of view is that the sealing industry, even if allowed to continue as at present, could not last long and could not be profitable. This is not

our point of view. Whilst we admit that pelagic sealing has had the effect of diminishing the numbers of the seal herd, our impression is that a state of things has been brought about, in which, though not increasing in numbers, the seal herd may not continue to diminish. I have done my best to ascertain, without the slightest prejudice in favour of the sealers, whether sealing as now conducted and with the prices which now prevail is a profitable occupation or not. I have come to the conclusion that it is. And it must be remembered that prices are now decidedly above their worst, and although they may, of course, relapse, it is at least as probable that they may reach a higher point than the present. At all events, I have satisfied myself that the sealing population entertain a strong conviction that it would be better for them to continue their industry than to be bought out, and that they would not submit to this with satisfaction even if the compensation suggested on our part were provided for them. They may be wrong in the views which they entertain, but they have surely as much right to entertain those views as the Gloucester fishermen have to entertain theirs with regard to the effect of the suggested arrangement as to "free fish." The views of the Gloucester fishermen have practically closed the negotiations for such an arrangement. Whilst I do not mean to suggest that I or my colleagues would allow the views of the sealers conclusively to control our settlement of the matter, we feel that we are in honour bound, not to stipulate for less compensation, for men who are to be suddenly called upon by the power of the State to discontinue their calling than in our judgment they ought to be fairly content with. Moreover, it must be remembered that if a Treaty were agreed to, which fell short even of this satisfaction, it would encounter the vehement hostility of the sealers, and that this would spread widely throughout Canada, and might endanger the existence of the present Canadian Government and the ratification of the Treaty.

We are constantly reminded, as we ask for one arrangement or another, that any Treaty made by the United States requires for its ratification a two-thirds vote in the Senate, and that this renders the suggested arrangement impossible, even though the United States' Commissioners might themselves approve of them. May I not in fairness ask that our position should also sometimes be taken into account? It is surely much more difficult for us to defend taking a smaller sum than we think reasonably necessary for the compensation of those whose calling is to be violently put an end to by the abandonment of a national right than for you to justify a somewhat larger sum than you may think adequate when the abandonment of that right will, according to the views insisted upon by the United States for many years, not only prevent an asset of the United States from ceasing to have any value, but make it a very valuable one.

The difference between us as regards the amount to be assessed is happily, though considerable, not really great, in view of the magnitude of the interests involved. I am prepared to urge a substantial reduction from the 750,000 dollars named by us, but there is a point beyond which I could not go, because, in my honest judgment, it would very likely be fatal to the Treaty and to the existence of my colleagues as a Government. The chief obstacle is created by the proposal that the settlement should be on the basis that the sealers should retain their vessels. We have always insisted on a settlement on the basis that these should be ceded, because we felt satisfied that this number of vessels thrown upon the Canadian market, either at once or within a limited interval, would result in next to nothing being obtained for them. If they came to be United States' property, we believe that they would be a much more valuable asset. Moreover, it does not seem to us right that the sealers, whose business is to be expropriated for the benefit of others, should take their chance of what they might obtain. Surely we, who are asked to legislate against our own subjects, ought to be allowed a potent voice when the basis of compensation is to be adjusted. I trust, however, that the difficulty will not be found insuperable. There would seem to be sufficient interests involved in the United States to enable a settlement to be arrived at on the basis of the cession of the vessels and their outfits on the one hand, and an increase of the sum available for compensation to the sealers on the other.

As regards the consideration to be given for surrendering the national right, when I ascertained that you were not prepared to make any substantial concessions in the directions desired by us, and that no suggestion was offered for an adjustment of this matter, I confess I despaired of a settlement on the lines upon which we had been proceeding. Later on, however, it occurred to me that an adjustment might in part, if not altogether, be found in an arrangement that there should be paid to Canada a certain proportion of the receipts derived from the seals taken on land. I am extremely pleased to find that this scheme has been favourably viewed. Although the percentage suggested does not seem to us adequate, I entertain a confident hope that we might arrive at an equitable settlement.

I pass now to the question of the Alaskan boundary. In view of the Memoranda already received from and transmitted to you, I am able to treat this question briefly, though I own I regard the situation with respect to it as most threatening. I have, in the Memorandum sent in answer to yours of yesterday, pointed out why I think it essential that the boundary should be delimited throughout, and that this can only be done by agreement, or, failing agreement, by arbitration. I own I have clung to the hope that we might settle this boundary question by compromise. "Give and take" has often been suggested as a proper mode of arriving at a settlement of disputed boundary. It has seemed to me that between two nations whose disposition to one another was friendly, and who neither of them desired to take undue advantage of the other, such a settlement ought not to be impossible. It would, I think, be a lamentable conclusion to be obliged on this question also to have recourse to arbitration, and to announce to the world that it was out of the power of the two nations to arrive at an agreement on such a question.

The only part of the boundary where it is of any grave importance whether your contention or ours be well-founded is in the neighbourhood of the Lynn Canal. If this part of the question could be settled by agreement, I do not think the rest of it would present substantial difficulty. Our view is that on the true construction of the Treaty the line ought to be so drawn as to leave all the land surrounding the upper part of the Lynn Canal in British territory, and that nothing has been done or happened since the date of the Treaty to vary the rights which on its true construction we were entitled to. Your contention is that the line ought to be so drawn as to include the whole of the land bordering on the Lynn Canal within the United States.

I quite recognize that there are weighty arguments in support of the United States' view. I do not deny that if the matter went for decision to some independent Tribunal it might quite possibly be held to be the correct one, but, on the other hand, there are arguments of cogency and force in support of the British contention, and I am far from thinking it impossible that such a Tribunal as I have mentioned might sustain it. Under these circumstances, how is it possible for me to accede to the demand that without any consideration for doing so I should agree to have the boundary drawn according to the claim of the United States?

I would ask with the utmost earnestness what defence or justification I could offer were I to do so. I should, of course, be met by the inquiry: Did you think there was nothing in the British Case that you abandoned their claim? Speaking truthfully and honourably, I could only answer this in the negative.

Why, then, would be the next question: Did you without any agreement by way of compromise abandon the British claim? To this the only answer could be: Because the United States demanded the concession, and would make none in return.

I would beg my colleagues to put themselves in my place, and to consider whether they could themselves do, or could fairly be asked to do, what is required of me.

I have suggested by way of compromise that the boundary-line should leave all the land bordering on the Lynn Canal within United States' territory, except Pyramid Harbour and a strip of land behind it, giving access to Canadian territory. This proposal concedes almost the whole of the territory in dispute to the United States.

Even if their claim be much stronger than the British, this would, I submit, be a fair compromise.

I do not see how I could ask less of the disputed territory to be assigned to Great Britain without practically conceding everything to the United States and abandoning the entire British claim. I named Pyramid Harbour, but should be quite prepared to entertain the suggestion that it should be some harbour other than that.

If, as I have proposed, United States' vessels were to have in any harbour which, under the suggested compromise, was within the Canadian boundary the same rights in all respects as Canadian vessels, I cannot think that any important interest of the United States would be at all seriously affected. It must be borne in mind that the United States are entitled at the utmost to a narrow strip of land a few miles deep at the sides of and at the head of the Lynn Canal, and that this strip of land is of use chiefly if not entirely for the purpose of passage across it into Canadian territory, and, further, that the United States are entitled to the land on either side of the entrance of the canal and commanding it.

Surely, under these circumstances, such a compromise as that suggested would, as between nations negotiating in a friendly spirit, be a very reasonable one. If an agreement by way of compromise be impossible, there seems to me, as I have pointed out, to be no other course but arbitration.

The Memorandum last received indicates a willingness to agree to an arbitration as to some parts of the boundary in dispute, but not as to all. How can I assent to this except by conceding the American claim as regards other portions of the boundary without receiving anything in return for this concession? I cannot see that such a suggestion is fair and equitable.

It is proposed specifically that there should be a submission to arbitration of the question whether the line drawn from Prince of Wales' Island along the Portland Canal passes to the south or to the north of Wales' and Pearse's Islands. With what reason can I be expected to submit that question to arbitration so long as the United States are unwilling to submit to the same arbitrament the question of the boundary in the neighbourhood of the Lynn Canal, when in my opinion the title of Great Britain under the Treaty to Wales' and Pearse's Islands is far clearer and much less open to dispute than that of the United States to the land round the northern part of the Lynn Canal?

I am quite alive to the difficulties which might arise if an arbitral Tribunal were to decide that Dyea and Skagway, which have been for a few years occupied by the United States, were in British territory. I have shown myself willing to ease the situation and avoid these difficulties by suggesting an agreement that Dyea and Skagway should belong to the United States in any event, but I feel sure that you will see that I ask nothing more than is just when I claim some concession in return for it, which is to be independent of the contingency of the arbitration.

I can assure you that I am and have been throughout most anxious to find a solution of the questions at issue which should be fair to us and, as far as possible, acceptable to you. I have tried to look at them in every light, and to see your side of them as completely as my own.

I should be unwilling to obtain more than I thought a fair equivalent for what I gave, because what I above all things desire is a Treaty which shall be felt on all sides to be a reasonably fair and common-sense settlement of questions not a little difficult and complicated.

Believe me, &c
(Signed) HERSCHELL.

Inclosure 15 in No. 124.

Draft of an Article respecting the use of Harbours in the Lynn Canal.

(Received from Senator Fairbanks, December 14.)

IT is further agreed, on the part of the United States, that all commercial vessels of the Dominion of Canada shall have free ingress and egress to and from the Lynn Canal in the territory of Alaska, and to and from any port or harbour thereof, as freely, and on the same terms, and subject to the same conditions as the commercial vessels of the United States, and subject to no other charges or restrictions than those applied to like vessels of the United States. All merchandize arriving at any port established on said canal and destined to any place in the Dominion of Canada may be landed at such port for transit across the intervening territory of Alaska without the payment of duty, under such proper Regulations of the Secretary of the Treasury of the United States as shall be required for the protection of the revenue. For the greater facility of such transit trade, it is further agreed that the Dominion of Canada may establish at such port an office, with necessary agents, for the supervision of such transit and (if so desired) for the collection of Canadian customs duties on all merchandize in transit as aforesaid.

In like manner, all merchandize arriving from Canada at the inland frontier of Alaska and destined for export by way of said canal to any foreign country, or to any Canadian port, may be transported from said frontier to the port of exportation on the said canal, and may be thence exported without the payment of duties thereon, under such proper Regulations for the protection of the revenue as the Secretary of the Treasury of the United States shall prescribe.

The Secretary of the Treasury of the United States and the Minister of Trade and Commerce of the Dominion of Canada may, by common accord, make such additional Regulations for giving effect to the foregoing provisions as they shall find appropriate and expedient.

Inclosure 16 in No. 124.

Memorandum respecting fixing the Boundary in Alaska.

(Received from Senator Fairbanks, December 14.)

THE Joint High Commission, in pursuance of the stipulation contained in the last clause of Article I of the Convention of the 22nd July, 1892, "will proceed to consider and establish the boundary-line in question."

To this end they will consult the Report and surveys of the Commission appointed under the said Convention, and agree upon the points by longitude and latitude where the eastern boundary-line crosses the rivers named in the proposed surveys mentioned in the correspondence between the two Governments in 1873-75 (see Canadian Sessional Papers, vol. xi, No. 125, 1878, pp. 10, 28, 37, &c.) and such other rivers and points as may be agreed upon.

They will further provide for the fixation and marking by a Joint Commission of experts of the said points of the boundary agreed upon.

Inclosure 17 in No. 124.

Memorandum respecting the Lynn Canal.

(Given to Senator Fairbanks, December 16.)

THE proposed Article in reference to the Lynn Canal assumes the boundary to be so fixed as, in accordance with the contention of the United States and contrary to the contention of Great Britain, to give the whole of the shores of the Lynn Canal to the United States.

It thus decides the entire question there at issue in favour of the United States, and gives only certain very limited commercial concessions in relation to the ports on the canal to Canada.

The British members of the Committee are unable to regard this as a fair and equitable settlement of the question of boundary. They propose, in lieu thereof, that it should be agreed that the United States should have the whole of the land bordering on the Lynn Canal except Pyramid Harbour and a strip of land from that harbour to the boundary-line, such as to secure access thereto by the Dalton trail. This would give almost the whole of the disputed territory in that region to the United States, and even supposing the force of the claim of the United States to that territory to be considerably stronger than that of Great Britain, would seem to be a just and equitable settlement by way of compromise of the dispute.

As regards Pyramid Harbour, the British Commissioners would assent to an agreement giving equal rights to United States' and Canadian vessels in that harbour.

If this should not be accepted the British Commissioners propose, as an alternative, that provision should be made for the delimitation of the boundary by legal and scientific experts, with a stipulation that, should Great Britain be found entitled to the land bordering on the upper part of the Lynn Canal, Dyea and Skagway, with a strip behind them to the present provisional boundary-line, should, nevertheless, belong to the United States, whilst, on the other hand, should the United States be found entitled to the land bordering on the upper part of that canal, Pyramid Harbour and a strip of land securing access to the boundary by Dalton trail should belong to Canada.

Should neither of these proposals be acceptable, there seems to be no alternative but to leave the question of boundary to be determined according to the true construction of the Treaty of 1825 (and a consideration of other circumstances if, and so far as, they affect that determination) by legal experts.

Inclosure 18 in No. 124.

Memorandum respecting the Alaska Boundary.

(Given to Senator Fairbanks, December 16.)

THE question of the boundary in the neighbourhood of the Lynn Canal having been separately dealt with from the rest of the boundary in dispute, it has been thought convenient to continue this separate treatment for the moment.

It is to be observed that, whilst as regards the Lynn Canal there is to be a complete surrender of all territorial claims by Great Britain, the proposals made offer no concession to the British view in other parts of the boundary, although, in the opinion of the British members of the Committee, their position as to the territory in dispute there is very greatly stronger than the position of the United States in claiming the territory round the Lynn Canal.

They are unable to understand the object of the proposal that the boundary should be determined only at points where it was thought desirable a quarter of a century ago that the boundary should be fixed, and at any other agreed points. The circumstances at the present time are, in their opinion, altogether different, and the obligation appears to be imposed on them to provide for a delimitation of the whole of the boundary from its southernmost point to the point where the boundary-line encounters the 141st degree of longitude. Any other course appears to them open to the gravest objections. They are quite willing to endeavour to fix this boundary by agreement with the United States' Commissioners, but this will be impracticable if it can only be attained by a surrender throughout of what they believe to be the rights of Great Britain. It can only be accomplished on the basis of concessions on both sides, which can be regarded as fair equivalents. If no agreement is possible, the only mode of making "provisions for the delimitation and establishment of the Alaska-Canadian boundary" seems to them to be by means of legal and scientific experts.

Inclosure 19 in No. 124.

Memorandum with respect to the Points for Fixing the Alaskan Boundary.

(Received from Senator Fairbanks, December 20.)

THE proposition as to the fixation and marking of the eastern boundary on the rivers and at the points to be agreed upon is modified or enlarged, so as to provide—

1. For a submission to arbitration of the question whether the line drawn from the southernmost point of Prince of Wales' Island in the parallel of $54^{\circ} 40'$, to and along the Portland Canal, passes to the south or to the north of Wales' and Pearse's Islands; and

2. In case of failure to agree upon the place on the rivers and other points indicated where the eastern boundary crosses them, such matter of difference shall likewise be submitted to arbitration.

Inclosure 20 in No. 124.

Memorandum as to proposed Agreement for Fixing the Alaskan Boundary.

(Sent to Senator Fairbanks, December 22.)

I AM not sure that I understand the new proposal, but I gather that it is intended to limit the "fixation and marking" of the Alaskan boundary to certain points to be agreed upon, and also to limit it to the eastern boundary, thus excluding, as I understand, the northern boundary. Moreover, there is no provision as to what is to be done if an agreement is not arrived at as to the points where the boundary is to be fixed.

The proposal appears to me quite inadmissible as a solution of the question. The Protocol on this subject which describes the purpose for which the High Commission was appointed is in these terms: "Provisions for the delimitation and establishment of the Alaska-Canadian boundary by legal and scientific experts, if the Commission shall so decide, or otherwise."

This appears to me to render it our duty to make provisions for the delimitation and establishment of the boundary between Canada and Alaska throughout, and not merely at particular places. To adopt the latter course would be, as it seems to me, to fail to discharge the duty in terms imposed upon us. Moreover, it would, in my opinion, be very mischievous to leave the boundary in part undetermined and without any provision for its delimitation. It would be to court future differences which the very object of our mission is to render impossible. In a case of disputed boundary between two countries, there seem to me to be only two ways in which a difference of opinion can be adjusted. Those ways are: agreement between the parties, or an adjustment of their legal rights by independent persons. If the former be impossible, the latter seems the only alternative open, and it is one which was unquestionably in contemplation as possible.

It has been suggested that the view of Great Britain that the upper part of the Lynn Canal is within her boundary is an afterthought, and only recently adopted. This is quite a mistake.

In a report made in 1886 by an official who had been instructed by the British Government to investigate and report on the question of the Alaskan boundary, reasons were stated at great length for coming to the conclusion that the upper part of the canal was within British territory. More recently an official of the Colonial Office, reporting on the question, whilst not adopting in its entirety the Canadian view as to the boundary generally, maintained strongly, and gave his reasons for so doing, that the upper part of the Lynn Canal was within the British boundary.

Washington, December 21, 1898.

No. 125.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received December 31.)

(No. 33. Treaty.)

My Lord,

Washington, December 22, 1898.

ON the 20th September last I received from the Governor-General of Canada a despatch, of which I have the honour to inclose a copy herewith, respecting the arrest of one Thomas Meagher by a United States' Deputy Collector of Customs named Avery in the River St. Clair, which forms the boundary between the State of Michigan and Canada.

In the opinion of the Canadian authorities, this act constituted a forcible abduction of a Canadian subject from Canadian territory.

I at once laid the case before the Department of State, with a request for immediate inquiry, with a view to making such reparation as the circumstances might be found to call for. Mr. Hay referred the matter to the proper authorities for investigation, and on the 19th November sent me the inclosed Memorandum by the United States' Attorney-General, which I at once forwarded to the Government of Canada.

I have the honour to transmit herewith Lord Minto's reply to this communication, with its inclosures, from which your Lordship will perceive that I am requested to communicate to the United States' Government the opinion of the Dominion Government that they are entitled to ask that the prosecution against Meagher be abandoned, without prejudice to such claim for compensation as he may be found to have, and that Avery be surrendered to the Canadian authorities to be tried in Canada for the offence of having forcibly abducted Meagher from Canada.

The case has assumed such importance that I do not propose to take any further step pending instructions from your Lordship.

I would suggest that perhaps the best method of dealing with it would be to obtain the consent of the United States' Government that it should be referred to the Joint High Commission, who have separated for the Christmas holidays, but meet again on the 5th January.

I should be much obliged if I could be informed by telegraph before that date whether I am authorized to adopt this method of procedure.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 125.

The Earl of Aberdeen to Sir J. Pauncefote.

Sir,

The Citadel, Quebec, September 20, 1898.

I HAVE the honour to forward herewith copy of a letter from the Department of the Secretary of State of Canada, transmitting copies of letters and affidavits in regard to the alleged forcible abduction from Canadian territory of one Thomas Meagher by a United States' official to the United States, where he is now detained.

I shall be obliged if your Excellency will be good enough to make this matter the subject of such representations to the United States' Government as you may consider likely to insure the speedy liberation of this man from custody.

I have, &c.

(Signed) ABERDEEN.

Inclosure 2 in No. 125.

Mr. Pelletier to the Governor-General's Secretary, Ottawa.

Department of the Secretary of State, Ottawa,

September 17, 1898.

Sir,

AT the instance of the Minister of Justice, I have the honour to transmit to you herewith copies of the letters of M. K. Cowan, M.P., and of affidavits referring to the abduction of one Thomas Meagher, and to request that his Excellency may be moved to forward the same to Her Majesty's Ambassador at Washington for the purpose of being communicated to the proper authorities of the United States.

I am further to state that it is assumed the Government of the United States will, under the circumstances, lose no time in setting Meagher at liberty.

I have, &c.

(Signed) P. PELLETIER,
Acting Under-Secretary of State.

Inclosure 3 in No. 125.

Mr. Cowan to Mr. D. Mills.

Dear Sir,

Windsor, Ontario, August 30, 1898.

HEREWITH I inclose you affidavits of Thomas Meagher, complainant, and Samuel D. Craig and Alexander Weber, eye-witnesses, which speak for themselves. I have this morning had a conversation with Mr. Lucking, partner of Maybury, Mayor of Detroit, who is acting for Meagher. He informs me that twenty-five affidavits can be got if necessary. We are anxious to have this man extradited. Will you kindly let me know by return mail what steps are necessary (1st) to procure his extradition, (2nd) to make a claim for compensation against the American Government. Could you not make application for his extradition from Ottawa. I am also writing Mr. Hardy, and inclosing him a copy of the affidavits. The affidavits inclosed you are originals, as you will observe, and the certificate of the Notary before whom the same were taken is attached to them. Meagher's preliminary examination will take place in about a couple of weeks.

Yours truly,

(Signed) M. K. COWAN.

Inclosure 4 in No. 125.

Mr. Cowan to Mr. D. Mills.

My dear Mr. Mills,

Windsor, Ontario, September 8, 1898.

HEREWITH I inclose you copy of a letter received this morning by me from J. R. Cartwright, Deputy Attorney-General. I also return you affidavits which were forwarded to you, and which you return to me. You had better retain these, as they set out all the facts in connection with this case. I think a claim should be made on the Washington authorities for the return of Meagher to Canada, and after that is secured, we will then make a claim for compensation. I am writing the Deputy Attorney-General to-day.

I remain, &c.
(Signed) M. K. COWAN.

Inclosure 5 in No. 125.

Mr. J. R. Cartwright to Mr. Cowan.

Dear Sir,

Windsor, Ontario, September 7, 1898.

REFERRING to your letter of the 30th ultimo, I beg to say that, assuming the facts to be as alleged, it appears, to say the least, very doubtful whether the case is one of abduction within the Treaty. It would seem rather a matter for diplomatic remonstrances looking to the return of Meagher than one for extradition proceedings.

Yours truly,
(Signed) J. R. CARTWRIGHT.

Inclosure 6 in No. 125.

Deposition of Mr. Thomas Meagher.

State of Michigan, County of Wayne, ss. :

THOMAS MEAGHER (commonly spelled Maher), being duly sworn, deposes and says that he resides in the township of Chatham, county of Kent, Ontario, where he has resided for the past fourteen years, his residence being about $3\frac{1}{2}$ miles from the village of Port Lambton, Ontario.

Deponent is 25 years of age, unmarried, and lives with his father and mother at the place aforesaid. Deponent and his father together constructed, about five years ago, a small steam-launch which deponent was navigating in the River St. Clair on the morning of the 19th August, A.D. 1898, when deponent's boat was about 300 or 400 feet below the Marshland Club-house near the American shore, and was just turning his boat around to go up stream when he was approached by Mr. Henry Avery, who resides, as deponent understands it, a part of the year at Port Huron and part of the year at his summer residence on the north channel of the St. Clair River, so called.

Avery was in a row boat with a man by the name of Louis Benoir. Avery asked deponent if "he had any eggs." Deponent said, "None to sell." He then asked deponent if he would tow him up-stream as far as Joe Bedore's, and deponent consented, took the line of the boat, and started up-stream and across the river. After going a short distance Avery asked leave to get on the launch, and deponent gave him leave. He drew alongside and got into the launch. He stood near the engine for a time and asked how it worked; then he went forward, and he observed a box of eggs which lay in full view. He then exclaimed in substance to deponent "You're a damned liar, you have got eggs." Deponent said, "I told you I had no eggs to sell."

At this time deponent's boat was about in the middle of the channel going up stream and towards the Canadian shore. Deponent was taking the Canadian side, because there was less current than on the American side and a shorter distance. Then Avery asked deponent to take the American side. Deponent said, "No, he was going up the Canadian side." Avery then demanded that he himself should steer, which deponent declined. Avery then grabbed one tiller rope, and in the struggle for possession of the same between deponent and Avery, the steering apparatus was thrown out of gear.

The boat had been headed partially towards the Canadian shore, and by the accident to the steering gear the boat headed full towards the Canadian side, and in a few moments ran aground on the Canadian shore nearly opposite the Marshland Club. It was as near as may be directly opposite the summer residence of Samuel D. Craig, of Detroit, Michigan.

Before striking ground Avery pulled out a revolver, and, pointing it at deponent, shouted: "If you do not stop the engine while I am counting three I will shoot you," accompanying it with other vile language. Deponent made no reply, and did not stop the engine. As the boat struck the shore deponent jumped out on the land, where there was about 6 inches of water. Avery grabbed deponent as he jumped over the side, and he called to Benoir to handcuff deponent. Deponent struggled to free himself and avoid being handcuffed, and Avery shouted to Benoir to "slug him with the handcuffs." Benoir struck at deponent with the handcuffs, but did not hit him, and deponent freed one hand, and struck Benoir in the face. Deponent did not hit nor injure Avery in any way. They finally overpowered deponent, dragged him into their boat, and handcuffed him. They then rowed across to the Riverside Hotel. Avery then took deponent upstairs in the hotel into a small bed-room, and handcuffed him to the bed-post. One cuff was around deponent's left wrist and the other around the bed-post, and all done in such a way that deponent could neither lie down nor stand up, but was obliged to sit on the side of the bed.

All of the foregoing transpired between the hours of 11 and 12 o'clock, Detroit city time, the 19th August, 1898.

Within an hour after deponent was confined in the bed-room Avery brought from eight to ten different ladies, opened the bed-room door, and showed deponent to them. Some of them refused to step inside of the bed-room. Deponent heard Avery say on such occasions: "Come and have a look at him." About two hours after deponent was first put in the bed-room Mr. Samuel D. Craig and Mr. Alexander Weber talked to deponent through the transom over the door of the bed-room. Deponent was given his dinner and supper by employes of the hotel. At bed time Avery came to the room and changed the handcuffs in such a way that deponent could lie down, but he was still handcuffed all night. In the morning deponent was changed back to the original position, and he was kept handcuffed in that position until about 11 o'clock, when Avery and said Craig came together to the room, and the handcuffs were removed, and deponent was permitted to wash his hands and face. He was again handcuffed, and was taken down by Craig and Avery to the bar-room of the hotel, where the handcuffs were removed. Craig pleaded with Avery to remove the handcuffs, and finally prevailed upon Avery to do so. All three had a glass of wine together. Soon the regular steamer for Port Huron approached the dock, and Avery again started to put the handcuffs on deponent, but, on the intervention of Mr. Craig, and assurances from this deponent that he would not seek to get away, Avery consented to leave off the handcuffs. He took deponent on the steamer to Port Huron, where deponent was put in the county gaol in the same ward with seven other prisoners confined for different offences. Deponent was confined in said county gaol continuously from Saturday, the 20th August, at about 5 o'clock in the afternoon, until 6 o'clock in the evening of the 26th August, 1898, when he was released on bail. In the meantime, deponent had been taken twice before Commissioner E. H. Harris. Deponent further says that he was never before arrested in his life, nor charged with any offence. Deponent understands that he was charged before the Commissioner with smuggling one box or crate of eggs and one-half bushel of red ripe cherries, and it is charged in the complaint that this smuggling took place on the 7th day of July, A.D. 1898.

Deponent further says that at the time of his arrest, abduction, and imprisonment aforesaid at the Riverside Hotel Avery had no warrant for deponent, and he did not make known in any way to deponent why he was arrested, nor did he claim to have any authority to do so, except that at the Riverside Hotel he said that he was a United

States' officer, but he did not claim that he had any warrant against deponent, or that any complaint had been made against him.

(Signed)

THOMAS FRANCIS MEAGHER.

Subscribed and sworn to before me this 27th day of August, A.D. 1898.

(Signed)

DURBIN NEWTON, *Notary Public*,
Wayne County, Michigan.

Inclosure 7 in No. 125.

Deposition of Mr. Samuel D. Craig.

State of Michigan, County of Wayne, ss.:

SAMUEL D. CRAIG, being duly sworn, deposes and says that he resides at Detroit, Michigan, and he has a summer cottage near the Marshland Club, St. Clair Flats, Harsen's Island, St. Clair County, Michigan. That he is also a member of said Marshland Club. That deponent is 53 years of age, that he has been a Justice of the Peace for the city of Detroit for four years, that he has been Deputy County Clerk of Wayne County, Registrar of Probate Court for said County, Under-Sheriff of Wayne County, Clerk of the Police Court of the city of Detroit, and for five years and upwards he held the position of Tally Clerk of the House of Representatives of the United States' Congress.

Deponent knows Henry Avery and Thomas Meagher, both of whom are referred to and mentioned in the affidavit of Thomas Meagher, hereunto annexed. Deponent has read the affidavit of Thomas Meagher hereunto annexed, and knows its contents. Deponent was close to said parties when Avery first accosted Meagher and when Meagher took his boat in tow, and deponent saw the entire occurrence between the parties up to the time that Meagher was taken into the Riverside Hotel, and deponent knows of his own knowledge that the facts set out in said Meagher's affidavit detailing said transaction, arrest, abduction, and confinement in the Riverside Hotel are true.

Deponent further says that the river is quite narrow opposite the Marshland Club, that he distinctly saw the entire transaction, including the pointing of the revolver at the head of Meagher, heard the shouts of Avery in which he threatened to shoot Meagher, saw the struggle between the parties and its precise location, and deponent swears that said struggle and arrest took place in Canada, on the Canadian shore of the St. Clair River, almost directly opposite deponent's summer cottage aforesaid.

Deponent saw that Meagher had control of his launch until nearly the time that it struck the ground, and that he had entire control of the engine until that time. After Meagher was confined in the Riverside Hotel, deponent requested Avery to permit deponent to see Meagher, which he absolutely refused. The proprietor of the hotel also refused a similar request made to him by deponent after Avery had left the hotel and gone up the river. Deponent told Avery in conversation that he had gone outside of his jurisdiction and authority entirely in making the capture of Meagher in Canada. Avery said "that he knew his business." Deponent requested Avery to take Meagher to Port Huron and have him arraigned. Avery declared that "he knew his business, and that he would keep him there as long as he damned pleased."

Deponent further says that Meagher was kept confined in the Riverside Hotel about twenty-four hours. Two regular passenger-steamers touched at Riverside after the arrest on the same day he was arrested. Deponent further says that the arrest was made between the hours of 11 and 12 o'clock in the forenoon of said day. After the refusal of Avery and the hotel proprietor to allow deponent to see Meagher, and about two hours after he was first confined, deponent was permitted by the wife of the proprietor to talk through the transom above the bed-room door to Meagher.

Mr. Alexander Weber was with deponent at this time. They both could see him through the transom by standing on chairs. Meagher was handcuffed to the bed-post in such manner that he was compelled to sit on the side of the bed. He was in the same position on the next day between 10 and 11 o'clock in the forenoon, when

deponent went to the room with Avery, and then occurred what is described in Meagher's affidavit.

Between the 20th and 26th August deponent saw Meagher twice in the county gaol at Port Huron.

And further deponent says not.

(Signed) SAMUEL D. CRAIG.

Subscribed and sworn to before me this 27th day of August, A.D. 1898.

(Signed) DURBIN NEWTON, *Notary Public,*
Wayne County, Michigan.

Inclosure 8 in No. 125.

Deposition of Mr. Alexander Weber.

State of Michigan, County of Wayne, ss. :

ALEXANDER WEBER, being duly sworn, deposes and says that he is a resident of Detroit, Michigan, and is 45 years of age; that he owns a summer cottage on Harsen's Island, St. Clair County, Michigan, next door to that of Samuel D. Craig and about 100 feet distant. That in the forenoon of the 29th August, A.D. 1898, deponent was on his own premises aforesaid, and he saw what transpired between Henry Avery, Deputy Collector of Customs, and Thomas Meagher, as detailed in the affidavits of Thomas Meagher and Samuel D. Craig hereunto attached, and which this deponent has read.

When Avery approached Meagher deponent was near enough to hear the conversation between them, and the entire occurrence took place in plain view of deponent. Deponent says that the account of said transaction given by Thomas Meagher and Samuel D. Craig in said affidavits is accurate and correct. Deponent is thoroughly familiar with the neighbourhood in question, having dwelt there in summers for about fifteen years, and he says that said struggle and arrest took place on the Canadian shore of said St. Clair River. This deponent saw Meagher overpowered and taken into the boat of Avery by Avery and Benoir, and carried across to and confined in the Riverside Hotel. Deponent saw Meagher in the bed-room handcuffed to the bed-post. This deponent saw by standing on a chair and looking through a transom. Deponent has known Meagher for three or four years past from seeing him pass up and down in his steam-launch. Deponent says that the arrest of Meagher took place, as near as he can fix the hour, between 11 and 12 o'clock in the forenoon of said day. Deponent says that he should think that in the neighbourhood 100 people saw the transaction.

And further deponent says not.

(Signed) ALEXANDER WEBER.

Subscribed and sworn to before me this 27th day of August, A.D. 1898.

(Signed) DURBIN NEWTON, *Notary Public,*
Wayne County, Michigan.

Copy of Certificate attached to the above Affidavit.

No. 1831.—*Notarial Jurat.*

State of Michigan, County of Wayne, ss. :

I, Henry M. Reynolds, Clerk of the said County and Clerk of the Circuit Court for the County of Wayne, which is a Court of Record having a seal, do hereby certify that Durbin Newton, whose name is subscribed to the Jurat of the annexed instruments and therein written, was, at the time of taking such Jurat, a Notary Public in and for said county, duly commissioned and qualified, and duly authorized to take the same.

And, further, that I am well acquainted with the handwriting of such Notary Public, and verily believe that the signature to the said Jurat is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said Court and County, at Detroit, this 27th day of August, A.D. 1898.

(Signed) HENRY M. REYNOLDS, *Clerk.*
(By Walter H. Towers, Deputy Clerk.)

Inclosure 9 in No. 125.

Colonel Hay to Sir J. Pauncefote.

My dear Sir Julian,

Department of State, Washington, November 19, 1898.

PURSUANT to the conversation between you and Mr. Hill on the 15th November relating to the arrest of Thomas Meagher by Henry Avery, United States' Deputy, in which it was arranged that a Memorandum by the Attorney-General upon this case should be transmitted to you, I send herewith the inclosed Memorandum.

Very truly yours,
(Signed) JOHN HAY.

Inclosure 10 in No. 125.

Memorandum as to the Case of Thomas Meagher (or Maher).

MAHER is charged with smuggling in the eastern district of Michigan, and alleges that he was forcibly abducted into the United States from Canadian territory without warrant. The facts, as reported by the United States' Attorney, are as follows:—

Thomas Meagher (or Maher) was arrested by Henry L. Avery, a Deputy Collector of Customs for the district of Huron, Michigan, on the St. Clair River, on the 21st August, 1898, and on the following day defendant was taken before United States' Commissioner E. W. Harris, charging him (Meagher), under R. S. Section 3082, with smuggling certain merchandize; temporary bail was fixed at 1,000 dollars, and none being offered the defendant was committed to the custody of the United States' Marshal. The bail was subsequently reduced to 300 dollars, and was furnished on the 26th August, 1898. After some adjournments, which were had upon the motion of defendant's counsel, the examination was had before United States' Commissioner Harris on the 7th September, 1898. The Government offered testimony in proof of the charge, which was not disputed, and the Commissioner thereupon announced that he would hold the defendant to await the action of the Grand Jury; but, at the request of counsel for defendant, held the examination open to give the defendant an opportunity to procure a new bond to answer any indictment which might be presented against him. No defence was made on the examination. On the 13th September, 1898, the Commissioner made an order holding the defendant to await the action of the Grand Jury, and the defendant was readmitted to bail.

The United States' Attorney has recently been directed to present the case to the Federal Grand Jury at Detroit on the 17th instant, and if an indictment is found to hold the case *in statu quo*, and not to proceed to trial for thirty days or until further instructions are given.

Meagher has made some complaint of harsh treatment and indignities after his arrest and while he was in custody. The testimony offered on behalf of the United States at the examination tends to show that the defendant has been guilty of smuggling on repeated occasions. As to the charge of forcible abduction, it appears from the testimony that Meagher was arrested by the Deputy Collector of Customs upon the former's boat in American waters, and that after such arrest Meagher headed his boat for the Canadian shore, which was finally reached; there, on the Canadian shore, or in the shallow water contiguous thereto, Meagher was overpowered by the deputy and by another man who accompanied the deputy to assist him, and retaken to the American side. There appears to be no doubt from the testimony

that the Deputy Collector boarded Meagher's boat and made the arrest in American waters, and that during the struggle which ensued the boat crossed the line into Canadian waters, and ultimately ran aground on the Canadian shore; that Meagher did not escape from the Deputy Collector and was not recaptured, but that the act of arrest which he resisted was continuous until he was finally overpowered and brought back to the American side. The circumstance that Meagher was in a boat on water, and was so far in control of the tiller as to head the boat towards the Canadian shore, and the additional circumstance that he resisted the process and endeavoured to escape, were the only reasons why he succeeded in crossing the line temporarily, being immediately brought back, and why the arrest was not completed and perfected, and Meagher's resistance overpowered on the American side of the line.

In the correspondence on the subject, referring to the case of Peter Martin in the volume of "Foreign Relations for 1877," pp. 266-271, it has been suggested that the fundamental position of this Government was that the recapture of Martin in the United States was unlawful, and that this was the basis of its claim of Martin's unlawful imprisonment under the sentence for the original offence committed in Canada, as well as for the subsequent assault committed in United States' territory. But the imprisonment under the latter sentence was unlawful, because it was imposed in punishment of an alleged crime committed within the jurisdiction of the United States; and, conceding as to the recapture, it must be remembered that Martin escaped and was actually recaptured in our territory. In the present case, however, there is the broad distinction that the offence was committed in the United States; that Meagher was captured and placed under arrest in the United States; that he was not recaptured in Canada, but merely crossed the line temporarily and, so to speak, accidentally, under the peculiar circumstances of the case, in consequence of his own tortious conduct and the aggravation of his original offence by resisting arrest and endeavouring to escape. He was immediately brought back to the United States, as part of the original act of arrest made and technically carried into effect there.

In the Martin case, the restraint was illegal when placed upon Martin in the United States. In this case, the restraint was not illegal because it was not placed upon Meagher in Canada, but in the United States.

Can it, therefore, be successfully contended, under these circumstances, that all punitive process falls absolutely at the boundary-line of the country when that line is crossed by a criminal under arrest endeavouring to escape, who thereby aggravates his original offence, and that illegal restraint was put upon Meagher in Canada, and that bringing him back from Canada immediately after he has crossed the line without breaking the continuity of the arrest is a violation of the sovereignty of the Dominion of Canada? Under such circumstances, both Governments are interested in reaching a result which will strengthen rather than weaken the administration of the law. It is not asserted as a principle of international law that an officer of one sovereignty may exercise in another sovereignty any compulsive force whatever over the citizens or subjects of the latter; but, in keeping in view the facts shown in the case and the mutual interests of both Governments in the subject, which affects an extensive boundary on land as well as on water, it is submitted that there was no invasion or infraction of the sovereignty of the Dominion of Canada in this case; that there was no intention on the part of the officer of the United States to exercise power in any other sovereignty or to pursue and retake an offender there, and there was in reality no such result. The officer of the United States made an arrest within the territory of the United States. When the line was accidentally crossed he retained control of his prisoner, and brought him back immediately, without any cessation of the process of arrest.

It is submitted that the tortious conduct of the offender, which compelled the officer of the United States to cross the Canadian line, cannot be taken as justification of himself, or as constituting upon the part of the officer of the United States any real breach of the sovereignty of the Dominion of Canada.

It is finally submitted that, inasmuch as a case might occur in which Canadian process under similar circumstances would require to be vindicated and upheld, it is to the common interest of both Governments to provide for mutual recognition of their respective process and warrant, so far as such facts as are here involved demand.

Inclosure 11 in No. 125.

Governor-General the Earl of Minto to Sir J. Pauncefote.

Sir,

Government House, Ottawa, December 15, 1898.

IN reply to your Excellency's despatch of the 22nd ultimo, transmitting copy of a Memorandum prepared by the Attorney-General of the United States in regard to the abduction from Canada of one Thomas Meagher, I have the honour to inclose herewith a copy of a letter from the Department of the Secretary of State of Canada covering copy of a Memorandum drawn up by my Minister of Justice, who, your Excellency will observe, is of opinion that the circumstances warrant a request that the prosecution against Meagher be abandoned without prejudice to any claim for compensation he may be found to have, and that Avery, the officer who effected his arrest, should be surrendered to be tried in Canada for the offence of having forcibly abducted Meagher from this country.

I have, &c.
(Signed) MINTO.

Inclosure 12 in No. 125.

*Mr. Pelletier to the Governor-General's Secretary, Ottawa.**Department of the Secretary of State, Ottawa,
December 12, 1898.*

Sir,

WITH reference to Sir Julian Pauncefote's despatch of the 22nd ultimo, covering copy of a Memorandum of the Attorney-General of the United States in relation to the abduction from Canada of one Thomas Meagher, I have the honour to transmit a Memorandum prepared by the Minister of Justice in reply, and to recommend that his Excellency the Governor-General be humbly moved to send a copy of the same to Sir Julian Pauncefote for communication to the proper authorities of the United States; and that his Excellency be also moved to intimate that, under the circumstances, he is advised that the Government of Canada is entitled to ask that the prosecution against Meagher be abandoned, without prejudice to such claim for compensation as he may be found to have, and that Avery be surrendered to the Canadian authorities to be tried in Canada for the offence of having forcibly abducted Meagher from Canada.

I have, &c.
(Signed) P. PELLETIER,
Acting Under-Secretary of State.

Inclosure 13 in No. 125.

Memorandum as to the Case of Thomas Meagher.

I HAVE before me a Memorandum of the Attorney-General of the United States in reference to the illegal arrest and detention of Thomas Meagher, and upon which I desire to make the following observations:—

The facts, as reported to me, show that Mr. Meagher, at the time the Deputy Collector of Customs (Avery) hailed him, was near the boundary between Canada and the United States, in the St. Clair River, on the Canadian side. Avery, the Deputy Collector of Customs at Port Huron, and another man, both of whom were in a skiff, asked Meagher to take them in tow, and they threw him a line from their boat. After he complied with Avery's wish, Avery asked to be admitted into Meagher's yacht to see her machinery. To this Meagher gave his assent and took Avery on board, the other man remaining in the skiff. Avery then requested Meagher to run across the river to the American shore, but this Meagher refused. Then Avery tried to take the wheel, or tiller, from him and turn the yacht in that direction, but Meagher unshipped the tiller, turned on steam, and ran directly for the Canadian shore. When Avery saw that Meagher would not obey him he drew a revolver, cocked it, and said he would give him while he counted three to comply, and if he did

not obey him he would shoot; and he commenced counting one, two, three, but did not shoot. He then struck Meagher with a handcuff after the yacht had reached the Canadian shore. In the struggle which there ensued Avery dropped his pistol into the river, and he called to his assistant in the skiff to give him another handcuff. When he succeeded in arresting Meagher, he forcibly took him into his own skiff and conducted him to the American side of the River St. Clair, leaving Meagher's yacht and the other man on the Canadian shore.

These are the facts as they transpired in Canada.

If Meagher was on the American side of the boundary-line when he was first hailed by Avery, he was there by virtue of a right secured to him under Treaty with the United States, which makes the navigation of the River St. Clair, from bank to bank, common to both countries.

Meagher, I understand, claims to have been on the Canadian side of the boundary, in the River St. Clair, when Avery came on board his yacht; so that it is not accurate to say that any arrest was made in American waters. Meagher was not put under arrest when Avery first came on board; he was requested to steer his boat to the American shore, which, if he had complied with, he would not, in all probability, have been informed that there was any intention of arresting him, until he had landed on the United States' side; but when he refused to comply with Mr. Avery's request, then Mr. Avery undertook to take forcible control of the yacht.

If Mr. Meagher had been legally arrested on the American side of the boundary-line, the arrest could not be regarded as a continuous arrest. It was made under the authority of the United States' Municipal Law, which operates only within the territory of the Republic.

Once Meagher's boat was upon the Canadian side of the boundary, Avery possessed no legal authority from the United States which could there be enforced. He was under Canadian Law and not under the Law of the United States; and it was a gross violation of the sovereignty of Her Majesty in the Dominion of Canada for an official of the United States' Customs Department to undertake forcibly to seize a British subject on British soil, to put him in irons, and to carry him to the United States' side of the boundary.

Whatever authority the Deputy Collector (Avery) may have had in the United States, it came to an end when the boundary-line was crossed. If Meagher was upon the American side when arrested his seizure on the Canadian shore was a fresh taking within Canadian jurisdiction, and, therefore, without authority. The rule is well settled, and the municipal laws of the United States, like the municipal laws of any other country, operate within the United States and not elsewhere, as the authority of every nation is absolute and exclusive within its own territory (*Church v. Hubbard*, 2 Cranch, S. C. R., 234).

The seizure of a person or his property for a breach of the municipal law of one nation cannot be made within the territory of another; and especially is this true of the Customs Laws of another State, which are often hostile to the commercial interests of other countries, and, therefore, lie wholly outside of any recognized rule of comity (*The Appolon*, 9 Wheaton, S. C. R., 362).

In this case the Attorney-General of the United States has endeavoured to uphold the extension of the legal processes of that country beyond its territorial limits, so as to subject Meagher and his boat (which was forcibly taken from the Canadian shore to the United States, where it was tied up) to the jurisdiction of the United States. This position cannot be successfully maintained. "Every exertion of this sort," says Halleck, "beyond the limits of the Republic is a mere nullity, and incapable of binding such persons or property."

The Attorney-General endeavours to draw a distinction, in this regard, between the case of Peter Martin and the case of Mr. Meagher. That attempt is unsuccessful, and is based upon an inaccurate statement of the facts. Martin was residing in British Columbia. He committed an assault upon a British Columbian officer in the extenuation of his duty; he was sentenced at Laketon to fifteen months' imprisonment at Victoria, in British Columbia. To send him from the gaol at Laketon to Victoria it was necessary to convey him by way of the Stickeen River, and so through United States' territory. The party landed on the bank of the river for the purpose of cooking food. While there the prisoner obtained possession of a loaded gun, and made a deadly assault upon one of the constables. He did not escape. He was overpowered and conveyed by steamer to Victoria. Martin was tried upon his arrival at Victoria for this assault, but this was not the sole ground upon which the American Government claimed that he should be given up. Secretary Fish said that

if the Colonial officers, in transporting Martin from the place at which he was convicted to the place of his imprisonment, conducted him at any time through the territory of the United States, a violation of the sovereignty of the United States had been committed, and the removal of the prisoner from the jurisdiction of the United States to British soil was an illegal, violent, and forcible act, which could not justify the subsequent proceedings, whereby he has been, is, or may be restrained of his liberty. At Victoria, Martin was sentenced to the term of one year and nine months' imprisonment with hard labour for his assault upon the officers in whose custody he was while being conveyed through American territory, which sentence was to take effect immediately upon the expiration of fifteen months. Now, Martin was discharged, upon the demand of the United States, not only from the conviction for the assault made in American territory during the transportation, but also from the sentence which had been pronounced at Laketon, because of the attempt of British officials to exercise jurisdiction, under the laws of British Columbia, by conveying him through the territory of the United States.

The principle involved in that case is that involved in the forcible arrest of Meagher.

The same rule of law may be illustrated by the proceedings in connection with the "Chesapeake," which had been forcibly taken possession of by certain confederates, who had gone on board of her as passengers when she was sailing between New York and Portland, and who ultimately ran her into Sambro, in the Province of Nova Scotia, where the leader of these confederates (one Brain) left her. At this port, one of the United States' steamers entered and found the "Chesapeake" in the possession of some of her original crew. There were two British subjects on board, who were engineers, and had been engaged in that capacity by the confederates, who had taken forcible possession. They were made prisoners in the port by the United States' officer. There was also on board a schooner, lying in the same port, one of the confederates named Wade. Wade was taken from the schooner and put in irons. Mr. Seward, in this case, suggested to Lord Lyons that the "Chesapeake" should be allowed to remain in the hands of her naval captors, and she would be delivered up to the British authorities if required, the United States making demands for the extradition of the men and the delivery of the vessel, the men having been left at the port of Halifax. The British authorities, in that case, regarded the capture of the vessel and the forcible taking of the men in British waters as a violation of British sovereignty; and so the formal delivery of the vessel to the British authorities, the setting free of the men, and an apology and disclaimer from the United States was asked.

Mr. Dana, in discussing this case, observes that the naval officers of the United States, as belligerents, had no right to arrest these men or to take the vessel within British territorial jurisdiction, and a disclaimer and apology by the United States, he says, became necessary, and was freely tendered.

There is no exception to the rule that every voluntary entrance into the territory of another State, for the purpose of enforcing there a municipal law of another country, or a belligerent right, is a gross violation of its sovereignty. When the fact is established, its importance is paramount. The arrest of persons in the one case, and the capture of the vessel in the other, come to an end, and the property and the person seized, whether upon a reliance on foreign municipal law, or upon a belligerent right, cannot be upheld.

This rule is well established, though it may be carried further with respect to acts of war than with respect to acts under a foreign municipal law. In the case of the "Vrow Anna Catharina," 5 C. Robinson's Report, Sir William Scott says:—

"The sanctity of a claim of territory is undoubtedly very high. The Court is at all times disposed to pay attention to claims of this species, and to none more readily than to those which concern the territorial rights in the State of Portugal. When the fact is established, it overrules every other consideration. The capture is done away with; the property must be returned, notwithstanding that it may actually belong to the enemy; and if the captor shall appear to have erred willingly, and not merely through ignorance, he will be subject to further punishment. It is to be remembered, however, at the same time, that it is a point on which foreign States are extremely liable to be misinformed and abused by the interested representations of those who are anxious to catch at their protection. The claim of territory is, therefore, to be taken as a matter of *stricti juris*, and to be made out by clear and unimpeached evidence. The right of seizing the property of the enemy is a right which extends, generally speaking, universally, wherever that property is found. The protection of neutral territory is an exception to the general rule only; it is not, therefore, to be considered

as disrespectful to any Government that the facts upon which such claims are founded should be accurately examined."

In civil cases there is really less room for controversy, because there is no presumption that the right to enforce the municipal law extends to the person or property wherever found. The presumption is the contrary. It extends to the person only within the jurisdiction where that municipal law can operate, and it certainly cannot operate beyond the boundaries of the State.

This rule is well illustrated in the trial of one Davis, while on board an American vessel, for shooting a native of the Society Islands near the shore. It was held that the murder was committed not on board the American vessel, from which the shot was fired, but in the canoe in which the native who was shot was at the time his life was taken, and it was in that case held that Davis could not be convicted under the laws of the United States, because those laws were not in force in the place where the man's life was taken (2 Sumners, C. C. R.).

The Attorney-General of the United States, in his Memorandum, says that Meagher, in attempting to escape, aggravated his original offence. If Meagher was arrested in American territory in the first instance, which he denies, he escaped within British jurisdiction, where the municipal law of the United States could not have any force; and it would lead to very great disorder indeed, and possibly to bloodshed, if the Government of the United States were to give any countenance to the attempt on the part of any officer of the United States to exercise jurisdiction under the law of that country in British territory.

Under the circumstances, I am clearly of opinion that the only proper course is to abstain from attempting to prosecute Meagher, a subject of Her Majesty, who has been forcibly abducted from this country, for the alleged offence of having violated the Customs Laws of the neighbouring Republic. I am of opinion that the forcible abduction of Meagher by Avery, and the acts of cruelty by which it was accompanied, entitle the Government of Canada to ask for the surrender of Avery to the Canadian authorities, to be here tried for having forcibly abducted Meagher from this country.

(Signed) DAVID MILLS,
Minister of Justice.

Ottawa, December 7, 1898.

No. 126.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, January 3, 1899.

IN continuation of previous correspondence, I am directed by the Marquess of Salisbury to transmit to you, to be laid before the Secretary of State for the Colonies, a copy of a despatch from Lord Herschell,* reporting an interview with the President of the United States, and inclosing copies of further protocols of the Joint High Commission, as also copy of a letter to Senator Fairbanks stating his views as to the present position of the negotiations.

Lord Salisbury proposes, with Mr. Secretary Chamberlain's concurrence, to approve the terms of Lord Herschell's letter to Senator Fairbanks as well as the language which he held to the President.

I am, &c.
(Signed) F. H. VILLIERS

No. 127.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 2.)

(Telegraphic.) P.

Foreign Office, January 4, 1899.

WITH reference to your despatch No. 33, Treaty, of the 22nd December: Meagher case.

The Memorandum of the Canadian Minister of Justice should be presented, and you should ask United States' Government to drop the prosecution of Meagher, and to refer to the Joint High Commission the subsequent questions of compensation and of handing over Avery for trial in Canada.

No. 128.

Colonial Office to Foreign Office.—(Received January 5.)

Sir,

Downing Street, January 5, 1899.

I AM directed by Mr. Secretary Chamberlain to acquaint you, for the information of the Marquess of Salisbury, that he has received from the Governor-General of Canada copies of correspondence which has passed between him and Her Majesty's Ambassador at Washington, respecting the forcible abduction from Canadian territory of one Thomas Meagher by an United States' Revenue officer.

2. Mr. Chamberlain understands that this correspondence has been communicated to Lord Salisbury by Sir J. Pauncefote, with a suggestion that the questions raised in Lord Minto's despatch of the 15th ultimo should be referred to the Joint High Commission.

3. It appears to Mr. Chamberlain that in its present stage the matter is one for treatment by the ordinary diplomatic means rather than by the High Commission.

4. It is not disputed that Meagher, whether he was originally arrested in Canadian waters or not, did actually escape on British territory, and was there forcibly recaptured and conveyed to American soil.

5. Such action on the part of an American officer, Mr. Chamberlain has no doubt, will be readily admitted by the United States' Government to be a violation of the sovereignty of Her Majesty, for which an apology is due; and Mr. Chamberlain considers that Her Majesty's Government are entitled to ask for such an apology, and for the cessation of all proceedings in the United States' Courts against Meagher.

6. He would suggest, therefore, for Lord Salisbury's consideration, that Sir J. Pauncefote should be instructed, in presenting to the United States' Government the Memorandum of the Canadian Minister of Justice of the 7th December, to state that Her Majesty's Government consider that the action of Avery, the United States' Revenue officer, was a violation of Her Majesty's sovereign rights, and that they are confident that the United States' Government will acknowledge this to be the case, and will at once order the proceedings pending against Meagher to be dropped. The question whether Meagher is entitled to compensation and whether Avery should be handed over to the Canadian authorities for trial for the forcible abduction of Meagher might then be referred, if the United States' Government so wish, either to the Joint High Commission or, perhaps more suitably, to Lord Herschell and one of the American legal members of the Commission.

I am, &c.

(Signed) H. BERTRAM COX.

No. 129.

Board of Trade to Foreign Office.—(Received January 6.)

Sir,

Board of Trade, January 5, 1899.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 22nd ultimo transmitting copies of a despatch from Her Majesty's Ambassador at Washington, dated the 8th December, and of a telegram addressed to his Excellency by Lord Salisbury on the 21st ultimo, regarding the desire of the United States' Government to obtain the consent of Great Britain to a modification of the Clayton-Bulwer Convention of 1850, with a view to the construction of the Nicaraguan Canal,

and asking for the observations of this Board on Sir J. Pauncefote's despatch. In reply, I am to say that, before making any detailed observations on this important subject, the Board would desire to see particulars of the modifications proposed by the United States' Government, and they would accordingly be glad to be favoured with any information as to these proposals which Sir J. Pauncefote may ascertain in compliance with Lord Salisbury's telegram.

In the meantime they are causing a statement to be prepared for communication to the Foreign Office, embodying such information as can be derived from the various sources at their command, relating to the commercial aspects of the projected Canal in relation to British trade interests.

I am, &c.
(Signed) A. E. BATEMAN.

No. 130.

Foreign Office to Colonial Office.

Sir,

Foreign Office, January 9, 1899.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your letter of the 5th instant relative to the abduction from Canadian territory of Thomas Meagher by an United States' Revenue officer.

The correspondence exchanged on the subject between the Governor-General of Canada and Her Majesty's Ambassador at Washington had already reached his Lordship through Sir J. Pauncefote, a copy of whose despatch is annexed.*

The Secretary of State for the Colonies will observe from the accompanying telegram,† which was sent to his Excellency on the 4th instant, after communication with your Department, that Her Majesty's Ambassador at Washington has been instructed to present the Memorandum of the Canadian Minister of Justice to the United States' Government, and to ask that the prosecution of Meagher be dropped. This request and the communication of Mr. Mills' Memorandum appear to indicate sufficiently that, in the view of Her Majesty's Government, the action of Avery, the United States' Revenue officer, was a violation of Her Majesty's sovereign rights, and Lord Salisbury proposes, therefore, to await the result of Sir J. Pauncefote's action on the inclosed telegram before sending him further instructions in the matter.

I am, &c.
(Signed) F. H. VILLIERS.

No. 131.

The Marquess of Salisbury to Lord Herschell.

(No. 1.)

My Lord,

Foreign Office, January 18, 1899.

I HAVE to acknowledge the receipt of your despatch No. 15 of the 22nd ultimo, reporting an interview with the President of the United States, and inclosing a copy of a letter which you addressed to Senator Fairbanks, containing a statement of your views as regards a settlement by the Joint High Commission of the Atlantic Fisheries, Behring Sea, and Alaska Boundary questions.

The terms of your Lordship's letter to Senator Fairbanks, as well as your language to the President, are approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 132.

Lord Herschell to the Marquess of Salisbury.—(Received January 20.)

(Telegraphic.) P.

Washington, January 20, 1899.

IT seems almost inevitable that the question of the rights under the Treaty of 1818, with regard to the Atlantic fisheries, should be referred to arbitration.

The provision for the nomination of a third Arbitrator, in case those named by Great Britain and the United States cannot agree upon one, presents some difficulty. My American colleagues suggest that the third Arbitrator should be nominated by the President of the Swiss Confederation. I imagine that this arrangement would not be deemed satisfactory. The Americans object to leaving the selection to any of the Monarchs who have been mentioned.

It has occurred to me that we could count on securing an eminent and trustworthy jurist, if the nomination were confided to the First Presidents of the Courts of Cassation in France, Switzerland, and Belgium.

I shall be glad to receive an early reply by telegraph from your Lordship as to whether this scheme is considered advisable and practicable.

No. 133.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, January 21, 1899.

WITH reference to previous correspondence on the subject of the proceedings of the Joint Commission now sitting at Washington, I am directed by the Marquess of Salisbury to transmit to you herewith, a copy of a telegram which has been received from Lord Herschell,* stating that arbitration on the North Atlantic Fisheries question seems almost inevitable. Lord Herschell points out that a difficulty is likely to arise as to the nomination of the third Arbitrator if those named by the two Powers cannot agree on one. He suggests that the nomination might be left to the three Presidents of the Courts of Cassation of France, Belgium, and Switzerland.

I am to state that, before replying to Lord Herschell, Lord Salisbury would be glad to be favoured with Mr. Chamberlain's views on the matter.

I am, &c.

(Signed) F. H. VILLIERS.

No. 134.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received January 23.)

(No. 9.)

(Telegraphic.) P.

Washington, January 23, 1899.

MEAGHER abduction case.

With reference to your Lordship's despatches Nos. 6 and 7 of the 11th instant, I am informed by the United States' Secretary of State that it has been decided to release Meagher from his bail. United States' Government do not admit facts as stated by Canadian Minister of Justice, and disavow any act of violence if committed in Canadian territory. They express regret at the unfortunate occurrence.

Mr. Hay hopes that the explanations afforded, and the regret expressed, may be accepted as satisfactorily terminating the incident.

I have informed the Governor-General of Canada of the above, and shall report to your Lordship by next mail.

No. 135.

Foreign Office to Colonial Office.

Sir,

Foreign Office, January 25, 1899.

WITH reference to my letter of the 9th instant respecting the case of Thomas Meagher who was arrested by a United States' Customs officer in Canadian waters, and taken in custody to the United States for trial, I am directed by the Marquess of Salisbury to transmit to you a copy of a telegram which has been received from Her Majesty's Ambassador at Washington on the subject.*

Sir J. Pauncefote states that Meagher has been discharged from his bail, and that the Secretary of State has expressed disavowal of the act of the American Customs officer if committed in Canadian territory, and his regret at the unfortunate occurrence. Mr. Hay hopes that his explanations and expression of regret will be accepted as a satisfactory conclusion of the incident.

Lord Salisbury would suggest that before considering the matter further, it would be as well to await the receipt of Sir J. Pauncefote's despatch, and also the views of the Canadian Government to whom his Excellency has communicated Mr. Hay's reply.

I am, &c.

(Signed) F. H. VILLIERS.

No. 136.

Colonial Office to Foreign Office.—(Received January 26.)

(Confidential.)

Sir,

Downing Street, January 25, 1899.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 21st instant, inclosing copy of a telegram from Lord Herschell as to the selection of an Arbitrator for the North Atlantic Fisheries question, in case it should be necessary to refer it to arbitration.

Mr. Chamberlain is not aware that the United States' Government have hitherto objected to the nomination of Arbitrators by European Sovereigns, and he considers that Her Majesty's Government would be establishing a bad precedent if they yielded to what seems an unreasonable prejudice against monarchical nominations.

Mr. Chamberlain doubts very much if the arrangement suggested by Lord Herschell for leaving the nomination in the hands of the Presidents of the Courts of Cassation of France, Belgium, and Switzerland would result in a nomination satisfactory to the dominion, and, looking to the nature of the questions to be decided, he is of opinion that the best arrangement would be to have an Arbitrator nominated by a maritime State with fisheries, say Sweden and Norway, Italy, or Holland.

I am, &c.

(Signed) H. BERTRAM COX.

No. 137.

The Marquess of Salisbury to Lord Herschell.

(No. 1.)

(Telegraphic.) P.

Foreign Office, January 27, 1899.

LOOKING to the nature of the questions to be discussed, Her Majesty's Government consider that the best arrangement would be nomination of Arbitrator by a Maritime State with fisheries, such as Sweden, Italy, or Holland.

Colonial Office are doubtful if arrangement suggested in your telegram of 20th January would result in nomination of an Arbitrator satisfactory to the Dominion.

It is also feared that to yield to what seems an unreasonable prejudice against monarchical nominations would establish a bad precedent.

No. 138.

Lord Herschell to the Marquess of Salisbury.—(Received January 30.)

(Telegraphic.) P.

Washington, January 30, 1899.

I DULY received your Lordship's telegram of the 27th instant. It appears that in my desire to be concise I did not make my meaning sufficiently clear.

The Americans have not objected in principle to the nomination of an Arbitrator by any Monarch, nor have we demurred to nominations by Republican Presidents. But there are obvious reasons why we cannot consent to ask France or Switzerland to nominate. Objections are entertained by the Americans to several Sovereigns: to the Kings of Italy or Sweden, on account of the decisions in the Behring Sea Arbitration; to the King of the Belgians, by reason of the Halifax Award; and to the German Emperor, owing to the present relations between the United States and Germany. It was generally agreed that there was a difficulty in applying to the Emperor of Russia, because the Anglo-American *entente* has been represented by many persons on both sides of the Atlantic as being directed against Russian predominance. The choice has become extremely limited, and it may prove impossible to agree upon any ruling Sovereign.

It was in order to avoid the deadlock which might thus be caused that I made the suggestion conveyed in my telegram of the 20th. I do not understand on what grounds it is regarded as doubtful whether that suggestion would result in the choice of an Arbitrator satisfactory to Canada. My colleagues who represent the Dominion entirely approve of it. The question to be referred to the Arbitrators would be a very simple one, and might be determined by any capable lawyer.

We are doing our best to eliminate the necessity of any recourse to arbitration in regard to the Fisheries, as also in the case of the Alaska Boundary. But it may prove impossible to settle these questions otherwise.

I shall be glad to receive any other suggestions for meeting the difficulty, and to know what course I should take.

No. 139.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, February 1, 1899.

WITH reference to your letter of the 25th ultimo, I am directed by the Marquess of Salisbury to transmit to you, to be laid before Mr. Secretary Chamberlain, a copy of a further telegram from Lord Herschell* relative to his suggestion for the nomination of an Arbitrator on the North Atlantic Fisheries question, in the event of the Joint High Commission being unable to arrive at an agreement on the point.

Lord Herschell states that the American Commissioners have not objected to nomination by monarchies, but he points out that for reasons which he gives, the choice is extremely limited, and that it may be impossible to agree on any Sovereign. He does not understand why it should be considered doubtful whether selection by the Presidents of the Courts of Cassation of France, Belgium, and Switzerland would result in the choice of an Arbitrator satisfactory to the Canadian Government, as the matter to be submitted would be very simple, and such as might be determined by any capable lawyer.

Lord Salisbury would be glad to be informed of Mr. Chamberlain's views as to the nature of the reply, which should be returned to Lord Herschell.

I am, &c.

(Signed) F. H. VILLIERS.

No. 140.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received February 2.)

(No. 30.)

My Lord,

Washington, January 23, 1899.

WITH reference to your Lordship's despatches Nos. 6 and 7 of the 11th instant relative to the arrest of Thomas Meagher, and to my telegram No. 9 of this day's date, I have the honour to transmit herewith copy of a note from the United States' Secretary of State, informing me, in compliance with the request set forth in my note of the 5th instant, that Meagher will be discharged from the arrest made and from the bail given by him for his appearance.

Mr. Hay adds that the United States' Government disavow any act of force against Meagher, if committed in Canadian territory, and regret the unfortunate occurrence.

I have forwarded a copy of Mr. Hay's note to the Governor-General of Canada.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 140.

Mr. Hay to Sir J. Pauncefote.

Excellency,

Department of State, Washington, January 21, 1899.

I HAVE the honour to acknowledge the receipt of your note of the 5th instant, inclosing a Memorandum from the Minister of Justice of Canada in relation to the case of Thomas Meagher.

After due consideration of this case, I take pleasure in saying that your request will be granted, and the said Meagher will be discharged from the arrest made and from the bail given by him for his appearance. This will relieve him from the necessity of any further action on his part, as it leaves him at liberty.

In reference to the other suggestion made in regard to Mr. Avery, I beg to say that, as this Government is advised, the facts are not precisely stated in the Memorandum of the Canadian Minister of Justice; that this Government is persuaded that even on the facts stated in the Memorandum there was no felonious intent on the part of Mr. Avery, the Deputy Collector of Customs; and if he did the act complained of, yet, as this Government understands the facts, he did not commit any intentional violation of British sovereignty, and if such violation was committed, it was done involuntarily and unintentionally in the endeavour of the Deputy to effect an arrest which, in his judgment, he had a right to make, and which he believed was undertaken within the territory of the United States.

This Government disavows any act of force, if any was executed, against Meagher in Canadian territory, and regrets the unfortunate occurrence; and in view of the sentiments of friendship existing between the two Governments, it is hoped that these explanations and expressions of regret will be accepted as a satisfactory conclusion of the incident.

I have, &c.

(Signed) JOHN HAY.

No. 141.

Colonial Office to Foreign Office.—(Received February 7.)

(Confidential.)

Sir,

Downing Street, February 7, 1899.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 1st instant, inclosing copy of a further telegram from Lord Herschell, in which he explains his suggestion for the nomination of an Arbitrator on the North Atlantic fisheries question in the event of the Joint High Commission being unable to arrive at an agreement on the point.

In reply, I am to acquaint you, for the information of the Marquess of Salisbury, that it appears to Mr. Chamberlain that if a nomination by France or Switzerland is out of the question, a nomination by a body in which a Frenchman and a Swiss would have a controlling influence would be equally objectionable.

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Mr. Chamberlain adheres to his objection to the course proposed, and to his opinion that a selection by a Maritime State would be the best arrangement; but if the Canadian members of the Commission entirely approve Lord Herschell's suggestion, as they are said to do, he is not prepared to press his opinion, in a case where the interests and responsibility are entirely Canadian.

I am, &c.
(Signed) H. BERTRAM COX.

No. 142.

The Marquess of Salisbury to Lord Herschell.

(No. 2.)

(Telegraphic.) P.

Foreign Office, February 8, 1899.

WITH reference to your telegram of 30th January respecting the nomination of an Arbitrator on the North Atlantic fisheries question, it is pointed out by the Colonial Office that if it is out of the question that the nomination should be made by France and Switzerland, it would be equally objectionable if the nomination were made by a body in which a Frenchman and a Swiss would have a controlling influence.

Colonial Office adhere to the opinion that the best arrangement would consist of selection by a Maritime State, but as your suggestion is entirely approved by the Commissioners for Canada, they will not press their objection in a case where entirely Canadian interests and responsibilities are involved.

No. 143.

Lord Herschell to the Marquess of Salisbury.—(Received February 12.)

(Telegraphic.) P.

Washington, February 12, 1899.

A CRISIS in our negotiations seems imminent. We were apparently approaching an agreement on the Alaska boundary dispute, but in consequence, as we believe, of the pressure which has been exercised by interests affected on the Pacific Coast, the proposals of our American colleagues, with regard to a port on the Lynn Canal, have become such as to involve a practical surrender of all our claim in that locality.

Having failed to come to an agreement on this subject, we proposed a reference to arbitration. The American Commissioners in reply to this drafted a proposal for a Commission of Inquiry, the effect of which would be to leave the whole dispute undetermined, and to make it a subject for future negotiation between the two Governments. We pointed out that in default of agreement the dispute could only be settled by arbitration, and that in view of the action of the United States' Government in the boundary question with Venezuela a refusal on their part to have recourse to arbitration would create a very grave situation; we should have to consider whether in that event it would be proper or useful to proceed with the negotiations on other points. It was impossible to obtain a definite answer as to whether arbitration would be accepted.

A proposal for arbitration was handed to us yesterday morning, but it was so worded as to conclude in favour of the United States the only important question, viz., the boundary in the neighbourhood of the Lynn Canal, and only the other parts of the line were to be left to arbitration.

This proposal we at once rejected, and we inquired whether it was to be regarded as a refusal to submit the entire question to arbitration. The answer was in the negative, but we were still unable to get a definite reply to the question whether the whole boundary should be referred. We handed in a Memorandum insisting on our right to claim arbitration on the whole dispute. The American reply to this fences with our inquiry, and proceeds to suggest that the settlement of the remaining questions ought not to be abandoned owing to the failure to settle the Alaska boundary.

I have repeatedly pointed out that if we leave unsettled the question which is most likely to give rise to conflict and which, moreover, is capable of adjustment by methods well recognized among friendly Powers, it seems useless to remove the smaller causes of

difference, not to mention the irritation which would be aroused by the refusal to adopt a reference to arbitration in view of the circumstances I have already alluded to. I should be willing to offer the terms of reference contained in Article IV of the Treaty with Venezuela.

If it is impossible to agree on arbitration, my present impression is that we shall have to break off the negotiations, much as I should regret such a course. I shall be obliged if your Lordship will favour me with instructions at the earliest possible moment as to what should be done in the present situation.

No. 144.

The Marquess of Salisbury to Lord Herschell.

(No. 3.)

(Telegraphic.) P.

Foreign Office, February 14, 1899.

THE Cabinet have considered your telegram of yesterday, and have decided that, if you think such a course advisable, you should have authority to break off negotiations.

With the assistance of your Canadian colleagues, you are better able than we are here to form a judgment as to the amount and value of such concessions as you may have been able to obtain for Canada, and the question turns on this point.

No. 145.

The Marquess of Salisbury to Sir J. Pauncefote.

(No. 37.)

Sir,

Foreign Office, February 15, 1899.

I SAW Mr. White to-day, and informed him that Lord Herschell had intimated his fear that it might be necessary to break off the negotiations of which he had hitherto had the charge. The United States' Government declined to adopt his views with respect to the Alaska boundary, and, which was more serious, declined even to refer the proposals he made to arbitration. If they adhered to this policy, he did not see that it was possible that any agreement could be arrived at. I told him that this telegram from Lord Herschell had been laid before the Cabinet, and had received their unanimous assent. I further said that under those circumstances I did not see how we could sign any Treaty with respect to the Clayton-Bulwer arrangement, as the opinion of this country would scarcely support us in making a concession which would be wholly to the benefit of the United States at a time when they appeared to be so little inclined to come to a satisfactory settlement in regard to the Alaska frontier.

I am, &c.

(Signed) SALISBURY.

No. 146.

Lord Herschell to the Marquess of Salisbury.—(Received February 16.)

(No. 1.)

My Lord,

Washington, February 7, 1899.

SINCE the Commission resumed its meetings on the 5th January it has been constantly engaged on a discussion of the questions which then remained unsettled. Much delay has inevitably resulted from the illness and death of Mr. Dingley. He had taken a most prominent part in the deliberations with reference to the reciprocity arrangements for the admission of natural products and manufactures free of duty across the frontier between the United States and Canada. This circumstance rendered it impossible to push forward with the vigour which might otherwise have been displayed by us the adjustment of the other matters under discussion.

My Canadian colleagues regard it as of vital importance to them to obtain Tariff concessions with reference to a number of articles, and notably lumber and certain agricultural products. Their view has been that if they could obtain these concessions the Treaty would have so powerful a backing in Canada that they would be able, in respect of the other matters in difference, to accept and justify a settlement which otherwise would be the subject of violent and perhaps successful attack by political opponents.

I may observe that the members of the Canadian Government who are my colleagues on the Commission have exhibited a very reasonable disposition, but from what I have heard from themselves, as well as from conversations I have had with other members of the Dominion Government, it is evident to me that all the members of that Government are not actuated by an equally reasonable spirit. This naturally increases the difficulties of my colleagues, and adds to their desire to obtain such Tariff concessions as would be widely popular.

During Mr. Dingley's illness, and until the appointment of his successor after his death, consideration of the reciprocity question was practically suspended. The appointment of his successor was delayed for a considerable time, inasmuch as the President was desirous of appointing the Member of the House of Representatives who succeeded Mr. Dingley as Chairman of the Ways and Means Committee. He thought it expedient that the Member occupying this position should be a party to the signature of the Treaty, so that he might undertake its explanation and defence in the House of Representatives when the financial questions requiring the concurrence of that House came before it. It was not for some little time after Mr. Dingley's death that the Speaker of the House nominated his successor, and after this that successor's consent to serve on the Commission had to be obtained. Mr. Payne's powers were only presented to the Commission on the 2nd instant, but he commenced taking part in the deliberations of the Reciprocity Committee on the evening of the 30th January.

As regards minerals, and some minor agricultural products, there seems no doubt that a satisfactory arrangement can be arrived at. So far as lumber and hay are concerned, the prospects are to my mind not promising. It is no doubt highly desirable that the free admission of lumber into the United States should be secured, inasmuch as Ontario has passed a retaliatory law which has caused great irritation, and is sure to give rise to still more when it comes to be enforced in the ensuing lumber season. My Canadian colleagues are, therefore, naturally bent upon obtaining this concession, but the lumber interest opposed to it is very powerful, and is to be found in many States. The only hopeful feature is that quite recently the great newspaper interests, especially of the eastern and central States, have commenced a vigorous campaign in support of free paper and pulp, and, as associated with these, free lumber. On the other hand, a combination of paper makers, with an enormous capital, has taken up the battle on the other side. I am quite unable to forecast the result.

Although, as I have said, the suspension of reciprocity negotiations has incidentally affected the settlement of other questions, we have nevertheless been actively and constantly engaged in the discussion of them. When it became certain that we could not obtain the admission of fish free of duty on the Atlantic coast, it at first appeared as if the only mode left open for avoiding future disputes was to refer to arbitration the questions in controversy as to the rights which now subsist under the Treaty of 1818, and the definition of the bays referred to in that Treaty. We felt, however, that this after all was not a satisfactory solution of the difficulty. Sir Louis Davies and I, therefore, devised more than one scheme, and discussed them with our American colleagues on the Committee. I may state that, as Sir James Winter was not in Washington at that time, I was added to the Committee appointed to deal with the subject of the Atlantic fisheries. The schemes to which I refer involved the maintenance of the right which we claim under the Treaty of 1818 to exclude fishing-vessels from Canadian ports except when entering them for one of the purposes specified in the 1st Article of the Treaty.

The objections to these schemes seemed to us, after full discussion, to be insuperable. Sir Louis Davies, after consultation with his colleagues, came to the conclusion that if the question of the bays could be settled, the most satisfactory course would be to abandon the rights of exclusion, which we claim under the Treaty of 1818, and to admit fishing-vessels into the ports of Canada for commercial purposes as freely as ordinary commercial vessels, reserving, however, to Canada full power, if it were deemed advisable, to prohibit the sale or exportation of bait and the shipping of crews, or to impose conditions or restrictions upon them. I heartily concurred in this view. The Treaty restrictions could serve no useful purpose except as a lever to obtain the concession of free fish. But it seems certain that if the control over the bait supply, which

Canada undoubtedly possesses, quite apart from the Treaty of 1818, does not afford sufficient leverage for securing "free fish," the addition of the power of exclusion conferred by the Treaty would not suffice for that purpose. Whilst then on the one hand this power of exclusion cannot serve any useful purpose, it operates on the other hand in a manner distinctly prejudicial to the interests of Canada. It tends to limit the number of fishing-vessels which come to purchase provisions and supplies of all kind: and thus to hamper and restrict what would otherwise be a profitable trade. I may add that the doubt which suggested itself whether it would be possible to enforce restrictions on the sale of bait, if thought desirable, supposing free admission were allowed for other purposes, was set at rest by the opinion of the experts consulted by Sir Louis Davies, that no difficulty need be apprehended on this score.

Whilst, however, it seems clear that the rights of exclusion which have been so long insisted upon may be abandoned, not only without detriment but with advantage to Canada, the fishermen of the provinces interested have, unfortunately, always been taught to look upon them as of great value, and their abandonment would unquestionably raise a great outcry. Both Sir Louis Davies and Sir James Winter (who has recently returned to Washington) consequently feel themselves unable to venture to sign a Treaty involving that abandonment, unless they are able to gain support for it by Tariff concessions of importance to the maritime provinces and Newfoundland respectively. Sir James Winter desires chiefly the free admission of mineral products, which, as I have said, will probably be obtained. The agricultural products, which, in Sir Louis Davies' opinion, must be admitted free if he is to make the proposed concession, are amongst those still under the consideration of the Reciprocity Committee.

We have had prolonged discussions with regard to the Settlement of the Alaska boundary. Our American colleagues, who are members of the Committee dealing with that subject, whilst stating that it would be impossible for them to concede the sovereignty of any harbour on the Lynn Canal, suggested that they should, without parting with the sovereignty, grant the use of Pyramid Harbour and a strip of land behind it to the Canadian boundary, which should be exclusively under Canadian jurisdiction so long as the grant lasted. They handed to us a document in which it was proposed that the grant should be only for a period of fifty years. Whilst we expressed ourselves willing to consider this proposal as a basis for negotiation if the details could be satisfactorily arranged we strongly objected to the limitation of the term, and insisted that the grant should continue as long as we maintained a custom-house and a sufficient police force for the preservation of order. We handed them the inclosed draft, which modified their proposal in this respect, and omitted one or two minor provisions, with which I need not trouble your Lordship. When we came to discuss this proposal, they raised serious objection on account of the effect which, by reason of the navigation laws of the two countries, it would have upon the carrying trade if Pyramid Harbour were to be treated as a British port. British vessels would thus be enabled to convey goods from United States' ports to the Klondyke, which they had never hitherto done, whilst United States' vessels would be precluded from carrying goods from Canadian ports to Pyramid Harbour. We have not seen our way to accede to their proposition that for the purpose of the navigation laws the new harbour should be treated as a United States' harbour, whilst they, down to the present time, insist on adhering to it, and compromise on the point, though perhaps not absolutely impossible, is difficult. We proposed that all the ports in the Lynn Canal should be used on precisely the same terms by the vessels of both nations, but they are unwilling to consent to this.

As regards the rest of the boundary-line, we have been able to adjust almost every part of it, conditionally on a satisfactory settlement being arrived at with reference to the harbour on the Lynn Canal. The line fixed upon runs between that close to the coast which we put forward and the one at a greater distance from the coast which the United States have hitherto insisted on. It is so described in the inclosed Memorandum that, our experts inform us, it can be cheaply and with certainty laid down. A part of the line for a short distance to the north-westward of the Lynn Canal, and also that part where it enters the Portland Canal, have been left open to further discussion. We are again deliberating on the matter to-day.

I inclose a copy of the proposal with regard to the Behring Sea question now under discussion. Senator Fairbanks has named to me the sum of 500,000 dollars as the limit to which the United States would be prepared to go as a settlement of the compensation to the owners of the sealing fleet and those engaged in the industry, leaving the vessels and their outfits in the possession of the owners. This is a great advance on any previous proposal, and does not substantially differ from the sum which we had been prepared to accept, viz., 600,000 dollars, and a cession of their vessels and outfits by the

owners. We have not yet agreed upon the sum to which we are entitled in respect of the wrongful treatment of four vessels by the United States.

The amount of the percentage to be paid annually by the United States out of their receipts from the seal taking on the Pribyloff Islands has been the subject of much controversy. We considered that if the increase in the herd became very large owing to the cessation of pelagic sealing, the percentage to be paid should be proportionately increased. This was vehemently opposed by the United States' Commissioners. We ultimately made a modified proposal on a different basis. Taking 20,000 roughly as the number of seals which might be obtained on the islands even if pelagic sealing continued, we proposed that the percentage of the receipts to be handed over should only apply to the excess over 20,000 taken in each year, the effect of which would be to graduate the share of Canada, making it proportionately greater according as the growth of the herd became greater. This was assented to in principle by our American colleagues, but the percentage remains undetermined, and what we insist upon will depend upon the concessions obtained under other parts of the Treaty.

There seems at this moment to be a disposition to make substantial Tariff concessions, but whilst I think the desire of the President and Cabinet to secure a Treaty and to yield whatever is necessary for the purpose is as great as ever, there is a point beyond which they will feel themselves unable to go, so that in the present state of mind of my colleagues I cannot even now regard it as certain that our negotiations will have a successful issue. They are being subjected to what I cannot but regard as unreasonable pressure on the part of several of their colleagues in the Canadian Cabinet to refuse to assent to some of the arrangements which they would themselves consider, if not as altogether satisfactory, at least as such as they ought to assent to rather than allow the negotiations to fail and the controversies to remain unsettled. I need hardly say that I have used such persuasion as I could to induce them to follow the dictates of their own judgment, uninfluenced by representations often the result of very imperfect acquaintance with the situation, whilst at the same time I have not urged them to do anything which I did not believe to be for the best interests of Canada, even if Imperial interests were wholly excluded from consideration.

Copies of the Protocols since the beginning of January are inclosed.

I have, &c.

(Signed) HERSCHELL.

Inclosure 1 in No. 146.

Draft Article respecting the Alaska Boundary, handed to American Commissioners, February 2, 1899.

THE line commencing at Cape Chacon, which is the most southern point of Prince of Wales Island, shall ascend northerly to the entrance of Portland Canal, west of Wales and Pearce Islands, thence upwards through the centre of said canal to the mouth of Bear River, thence from a peak on the right bank of Bear River northerly to another peak on the 56th degree of north latitude; thence by intervisible peaks, as much as possible in a straight line to Big Mountain, thence in the same way to Kate's Needle, thence in the same way to a peak 7,109 feet high in the vicinity of the junction of the Tulusque River with the Taku, thence in the same way to the White Pass, thence in the same way to the Chilkoot Pass, thence in the same way to a peak 7,300 feet high east of the 136th degree of longitude, thence in the same way to Black Mount, which lies about three miles east of the same degree of longitude, and about 59° 6' of north latitude, thence in the same way to a peak lying at the northern extremity of John Hopkins' Glacier, thence in the same way to Mount Pinta, thence in the same way to Mount Cook, thence in the same way to Mount St. Elias.

There shall be granted to Her Britannic Majesty the possession of Pyramid Harbour on Chilkat Inlet of Lynn Canal, and a strip of territory along the Chilkat River, the whole to be inclosed in the following limits: commencing on the sea-shore at the 59° 10' of north latitude, and thence west in a straight line to the summit of the hills at a point where the said degree 59° 10' of north latitude is intersected by the degree 135° 30' of longitude, and thence upwards by intervisible peaks along the range of mountains parallel to the valley of the Chilkat River, to the point of intersection of the above described boundary line. Reverting to the above-mentioned starting point on the sea-shore, the line shall proceed to Pyramid Island including the same, thence in a straight line to a peak on the hills of the right bank of the Chilkat River, overlooking

Canstyaskali village, from the said peak upwards by intervisible summits, along the range of mountains parallel to the valley of the Chilkat River, to the point of intersection of the above described boundary line.

The said port and territory within the above limits shall be subject to the exclusive jurisdiction of the Dominion of Canada, and of its laws civil and criminal. It is agreed, however, that the rights of individuals and corporations heretofore acquired in the said port and territory shall be respected.

It is further agreed that should the Canadian Government cease to maintain a custom-house at said port or a police force sufficient to preserve order in said port and territory, the privileges above granted shall terminate, and the said port and territory shall revert to the United States, but all concessions of land made and all rights and privileges previously granted by the Canadian Government shall be respected.

It is stipulated that vessels of the United States and of British or Canadian register shall have equal treatment in the harbours of Pyramid, Skagway, and Dyea.

Inclosure 2 in No. 146.

Draft Agreement respecting Behring Sea.

THE High Contracting Parties mutually and reciprocally agree that their respective subjects, citizens, and vessels shall be prohibited from engaging in pelagic sealing in any part of the waters of the North Pacific Ocean and Behring Sea, and that every person or vessel offending against this prohibition may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who alone shall have jurisdiction to try the offence and impose the penalties for the same, the witnesses and proof necessary to establish the offence being also sent with them; and they agree, further, to prohibit the use of any British or United States' port by any persons for any purposes whatsoever connected with the operation of pelagic sealing, and to prohibit the importation or bringing of any undressed fur-seal skins taken by such prohibited pelagic sealing into any British or United States' port, and by the necessary legislation and enforcement of appropriate penalties thereunder to make such prohibitions effective.

Such prohibition, however, shall not apply to Indians dwelling on the coasts of the territory of the United States or of the dominion of Canada, and carrying on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each, in the way hitherto practised by the Indians without the use of fire-arms, provided such Indians are not in the employment of other persons, nor under contract for the delivery of the skins to any person.

The prohibitions aforesaid which the Government of Great Britain agrees to enact and the penalties which it agrees to enforce shall take effect from the date when payment is made by the United States of the sum of _____ dollars in this Article hereinafter agreed to be paid.

The Government of the United States agrees to pay to the Government of Her Britannic Majesty within _____ months of the exchange of ratifications of this Treaty the sum of _____ dollars as compensation to the British subjects engaged in pelagic sealing, and in settlement of all claims against the United States arising out of the operations of pelagic sealing.

The Government of the United States further agrees to pay annually to the Government of Her Britannic Majesty _____ per cent. of the gross amount in each year, received by the Government of the United States, from the taking of fur-seals on the Pribyloff Islands, or which it is entitled to receive from any persons for or in respect of the right to take the same after deducting from the gross amount aforesaid such proportion thereof as 20,000 bears to the number of seals taken on the said islands. The first annual payment shall be made _____ years from the day of the payment of the sum of _____ dollars above mentioned, and all subsequent payments on or before the same day in each succeeding year.

The prohibitions hereinbefore provided for on the part of the Government of Her Britannic Majesty shall continue in full effect and be enforced so long as such annual payments, as aforesaid, continue to be duly made, and so long as the prohibitions

hereinbefore provided for on the part of the United States continue in full effect and are enforced.

The term "pelagic sealing" as used in this Article is defined to be the killing, capturing, or pursuing, in any manner whatsoever, of fur-seals on the high seas.

All reasonable facilities shall be afforded from time to time by the High Contracting Parties to each other for the settlement and determination of the amount herein agreed to be paid annually and for ascertaining the annual catch which may be taken by the Indians.

Inclosure 3 in No. 146.

Protocol No. 43 of Proceedings of Joint High Commission, Washington, January 5, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 11 o'clock A.M., all the members being present except the Honourable Nelson Dingley and the Honourable John W. Foster, who were prevented by illness from attending, and Sir Wilfrid Laurier, Mr. John Charlton, and Sir James S. Winter.

The Protocol of the last meeting was read and approved.

Arrangements were made for the meetings of the Joint Committees during the day, and the Joint High Commission thereupon adjourned until Friday, the 6th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 4 in No. 146.

Protocol No. 44 of Proceedings of Joint High Commission, Washington, January 6, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except the Honourable Nelson Dingley and the Honourable John W. Foster, who were prevented by illness from attending, and Sir James S. Winter.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees, the Joint High Commission adjourned until Monday, the 9th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 5 in No. 146.

Protocol No. 45 of Proceedings of Joint High Commission, Washington, January 9, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M. The Honourable Nelson Dingley and the Honourable John W. Foster were prevented by illness from attending; Sir James S. Winter was also absent.

The Protocol of the last meeting was read and approved.

After making arrangements for the meetings of the Joint Committees during the day, the Joint High Commission adjourned until Tuesday, the 10th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 6 in No. 146.

Protocol No. 46 of Proceedings of Joint High Commission, Washington, January 10, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M. The Honourable Nelson Dingley and the Honourable John W. Foster were prevented by illness from attending; Sir James S. Winter was also absent.

The Protocol of the last meeting was read and approved.

The Joint High Commission then arranged for the meetings of the Joint Committees during the day, and adjourned until Wednesday, the 11th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 7 in No. 146.]

Protocol No. 47 of Proceedings of Joint High Commission, Washington, January 11, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M. The Honourable Nelson Dingley and the Honourable John W. Foster were prevented by illness from attending; Sir James S. Winter was also absent.

The Protocol of the last meeting was read and approved.

Having arranged for the meetings of the Joint Committees during the interval, the Joint High Commission adjourned until Friday, the 13th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 8 in No. 146.

Protocol No. 48 of Proceedings of Joint High Commission, Washington, January 13, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M. The Honourable Nelson Dingley and the Honourable John W. Foster were prevented by illness from attending; Sir James S. Winter was also absent.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees during the interval, the Joint High Commission adjourned until Monday, the 16th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 9 in No. 146.

Protocol No. 49 of Proceedings of Joint High Commission, Washington, January 16, 1899.

THE Joint High Commission met at 10-30 o'clock in the forenoon at the rooms of the President of the Commission, pursuant to an arrangement made since the last meeting. Sir Richard Cartwright, Sir James S. Winter, the Honourable Charles J. Faulkner, and the Honourable John W. Foster were unable to be present.

The Protocol of the last meeting was read and approved.

The Joint High Commissioners being apprised of the death of their colleague, the Honourable Nelson Dingley, Member of Congress from the State of Maine, adopted the following note, and ordered that it be entered in the Protocol of this day's proceedings, and communicated to his family:—

“The Commissioners have heard with profound sorrow of the death on the 13th instant of their distinguished associate, the Honourable Nelson Dingley, of Maine.

Whilst the death of this eminent and useful statesman is regretted by all his countrymen, the Commissioners feel that they have special reasons to deplore the loss of one who had rendered valuable aid in their Councils, and whose kindly disposition and friendly sentiments had endeared him to his colleagues.

"The Commissioners desire to express to Mrs. Dingley, and to the other members of his family, their sincere and heartfelt sympathy in the affliction which has befallen them."

As a further mark of respect for Mr. Dingley's memory, the Joint High Commission at once adjourned. The next meeting was fixed for Tuesday, the 17th January, at 10 o'clock A.M.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 10 in No. 146.

Protocol No. 50 of Proceedings of Joint High Commission, Washington, January 17, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir Richard Cartwright.

The Protocol of the last meeting was read and approved.

After arranging for the meetings of the Joint Committees during the interval, the Joint High Commission adjourned until Thursday, the 19th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 11 in No. 146.

Protocol No. 51 of Proceedings of Joint High Commission, Washington, January 19, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir Richard Cartwright and the Honourable Charles J. Faulkner.

The Protocol of the last meeting was read and approved.

The Joint High Commission arranged for the meetings of the Joint Committees during the interval, and then adjourned until Saturday, the 21st January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 12 in No. 146.

Protocol No. 52 of Proceedings of Joint High Commission, Washington, January 21, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except Sir James S. Winter and the Honourable Charles J. Faulkner.

The Protocol of the last meeting was read and approved.

After making arrangements for the meetings of the Joint Committees during the interval, the Joint High Commission adjourned until Tuesday, the 24th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 13 in No. 146.

Protocol No. 53 of Proceedings of Joint High Commission, Washington, January 24, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except the Honourable John W. Foster, who was prevented by illness from attending.

The Protocol of the last meeting was read and approved.

Arrangements were made for the meetings of the Joint Committees during the interval, and the Joint High Commission thereupon adjourned until Thursday, the 26th January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 14 in No. 146.

Protocol No. 54 of Proceedings of Joint High Commission, Washington, January 26, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present.

The Protocol of the last meeting was read and approved.

The Joint High Commission arranged for the meetings of the Joint Committees during the interval, and then adjourned until Tuesday, the 31st January, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 15 in No. 146.

Protocol No. 55 of Proceedings of Joint High Commission, Washington, January 31, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms at 10 o'clock A.M., all the members being present except the Honourable John W. Foster and the Honourable John A. Kasson.

The Protocol of the last meeting was read and approved.

Arrangements were then made for the meetings of the Joint Committees during the interval, and the Joint High Commission adjourned until Thursday, the 2nd February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 16 in No. 146.

Protocol No. 56 of Proceedings of Joint High Commission, Washington, February 2, 1899.

THE Joint High Commission assembled at 10 o'clock A.M. at the Conference Rooms pursuant to adjournment, all the members being present, including the Honourable Sereno E. Payne, appointed to fill the vacancy caused by the death of the Honourable Nelson Dingley.

The Protocol of the last meeting was read and approved.

The Full Power of the High Commissioners of the United States, including the Honourable Sereno E. Payne, appointed as aforesaid, was presented and laid on the table.

The Joint High Commission thereupon arranged for the meetings of the Joint Committees during the interval, and adjourned until Tuesday, the 7th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

No. 147.

Question asked in the House of Commons, February 17, 1899.

Dr. Tanner.—To ask the Under-Secretary of State for Foreign Affairs whether the Anglo-American Commission dealing with the fisheries question has fallen through, and what details will be afforded on this question.

Answer.

Negotiations are still proceeding, but I am unable to make any further statement on the subject at present.

No. 148.

Lord Herschell to the Marquess of Salisbury.—(Received February 21.)

(Telegraphic.) P.

Washington, February 21, 1899.

A FEW days after the dispatch of my telegram of the 12th instant the United States' Commissioners stated that they were prepared to proceed with negotiations for a reference of the Alaska boundary question to arbitration.

A proposal based on the Treaty between Great Britain and Venezuela was therefore drawn up and submitted to our American colleagues on the 17th instant. Their counter-proposal which was handed in on the 18th provided for the appointment of three jurists on either side, with no Umpire. It also stipulated that all towns or settlements on tide water, settled under the authority of the United States and under the jurisdiction of the United States, should remain within the territory and jurisdiction of the United States.

In a Memorandum of the same date we stated our objections to the counter-proposal, and said that we must refer the matter to Her Majesty's Government.

An exchange of views ensued, in the course of which the American Commissioners did not show any disposition to accept the appointment of an Umpire unless the selection was made from some country on one of the American continents.

Our reply to this suggestion was to the effect that in view of the policy long maintained and recently reasserted by the Government of the United States towards the other countries on those continents, the selection of an Umpire by any such nation would not offer the requisite guarantee of impartiality.

With respect to a proposal that the Commission should proceed with the remaining questions and leave the Alaska boundary to be settled by direct negotiation between the two Governments, we stated that the manner in which we should be prepared to adjust some of the other important matters under consideration must depend upon whether it were possible to arrive at a settlement of all the questions which might at any time occasion acute controversy and even conflict.

At the final meeting, which took place yesterday, "it was agreed that the Commission should adjourn, to meet at Quebec on the 2nd August next, unless some other date should be agreed upon by the Chairman of the respective Commissions."

The Commission separated on friendly terms. Our American colleagues were most anxious that the negotiations should not be broken off but merely adjourned. I think they hope that a solution of this difficulty may be found by means of diplomatic negotiations, and the other matters may, not improbably, be adjusted without serious difficulty after that has been done.

If it were not for the following reasons I should have been ready to continue the negotiations and press for a settlement. In the first place it was clear that considerable delay must occur before any settlement could be expected. Secondly, it had become imperatively necessary that the Canadian Ministers should return to Ottawa. Thirdly, I considered that in present circumstances there was a better prospect of obtaining a favourable result by outside negotiation than by negotiation in the Commission.

I shall be detained here for several weeks by my accident, which has proved to be serious. If your Lordship sees no objection, I shall make use of this detention to endeavour to do something by means of direct personal negotiations, to which I have reason to believe that the United States' Government would be well disposed,

An official statement has been made public, and it was arranged that all that passed at the meeting of the Commission should be regarded as confidential.

No. 149.

Lord Herschell to the Marquess of Salisbury.—(Received February 22.)

(Telegraphic.) *En clair.*

Washington, February 21, 1899.

FOLLOWING official Statement issued to-day:—

“Commission adjourned to meet Quebec 2nd August, unless Chairmen of respective Commissions shall agree upon another date. Commission has made very substantial progress in settlement and adjustment of many of questions upon which it has been earnestly engaged, but it has been unable to agree upon the settlement of the Alaskan boundary. This problem has been complicated and difficult one, but Commissioners, acting in utmost friendliness and cordiality, have been unable to agree upon satisfactory adjustment. Difficulties, apart from immediate delimitation of this boundary by Commission itself, arise from conditions under which it might be referred to arbitration.

“British Commissioners desired that whole question should be referred on terms similar to those provided in reference of Venezuela boundary-line, and which, by providing an Umpire, would insure certainty and finality. United States' Commissioners, on other hand, thought local conditions in Alaska so different, that some modifications of Venezuela boundary reference should be introduced. They thought reference should be made to six eminent jurists, three chosen by each of High Contracting Parties without providing for an Umpire, they believing that finality would be secured by majority vote of jurists so chosen.

“They did not see any present prospect of agreeing to European Umpire to be selected in manner proposed by British Commissioners, while British Commissioners were unwilling to agree to selection of an American Umpire in manner suggested by United States' Commissioners. United States' Commissioners further contended that special stipulations should be made in any reference to arbitration that existing settlements on tide waters of the coast should in any result continue to belong to United States. To this contention British Commissioners refused to agree. It was, therefore, deemed advisable to adjourn to a convenient date, in order to enable respective Governments to further consider subject, with respect to which no conclusion yet reached.”

No. 150.

*Answer given in the House of Commons to Question asked by Mr. Dalziel,
February 23, 1899.*

THE Anglo-American Commission has adjourned until the 2nd August. In certain points progress has been made towards a settlement, and it is hoped that further negotiations may resolve the questions still in dispute. Meantime the Commissioners have requested that all which passed in the Commission may be considered confidential, so that it will not be possible to lay papers on the subject.

No. 151.

Lord Herschell to the Marquess of Salisbury.—(Received February 27.)

(No. 2.)

My Lord,

Washington, February 17, 1899.

I INCLOSE copies of the documents and letters exchanged between Senator Fairbanks and myself with regard to the Alaska boundary since the 7th instant, when my despatch No. 1 was written.

The situation became so serious, owing to the refusal of the American Commissioners to consent to arbitration on the whole length of the boundary, that I thought it well to telegraph to your Lordship on the 12th instant, reporting what had passed, and asking for instructions as to the course which I should adopt if it were found impossible to come to any agreement for a reference to arbitration. Since that date further correspondence has taken place, concluding with Senator Fairbanks' letter of yesterday, in which he finally declares that the American Commissioners do not regard it at all impossible to devise a method or agree upon a Tribunal of Arbitration by which the rights of both parties may be fairly secured and settled, and that they are prepared to proceed to effect this purpose.

In consequence of this expression of a willingness to proceed with the negotiations, the inclosed draft of an Arbitration Treaty was submitted by us yesterday evening for the consideration of the American Commissioners. Your Lordship will observe that the draft follows with very slight alteration the wording of the Treaty with Venezuela of the 2nd February, 1897.

General Foster, who has been unwell for some time past, left last night for the south, and it is believed that he will take no further part in the proceedings of the Commission, although no statement with regard to his departure has been made to us by our American colleagues. It may be hoped that, in his absence, matters will proceed more smoothly, if we take into account the strong disinclination which he has always shown to submitting the Alaska boundary question to arbitration.

I have, &c.

(Signed) **HERSCHELL.**

Inclosure 1 in No. 151.

ALASKA BOUNDARY.

Memorandum received from United States' Commissioners, February 9, 1899.

Article .—*Alaskan Boundary.*

IN order to facilitate the final adjustment of all points in difference in respect to the boundary-line between the territory of Alaska and the British territory adjacent thereto, the High Contracting Parties mutually agree upon the following provisions:—

1. It is admitted that the territorial line dividing the said possessions of the respective Governments is to be ascertained and established as early as possible in accordance with the definition thereof contained in Articles III and IV of the Convention between Russia and Great Britain, dated the 28th (16th) February, 1825, and reproduced in Article I of the Convention between Russia and the United States, dated the 30th March, 1867.

2. A Commission to consist of four members—two to be named by each Government: one to be a legal expert, and one an expert of established reputation in the science of geography and geodesy—shall be appointed. Their duty shall be to examine all the facts, topographical or historical, submitted to them on the part of either Government, and which bear upon the true application and meaning of the definitive clauses of said Convention of 1825 as accepted by the parties thereto.

Said Commissioners shall make oath in writing to perform their duties under this Article without fear, partiality, or favour. They shall have liberty to visit the localities in dispute if they deem it necessary, and to take evidence.

3. They shall make joint report in quadruplicate, one for each of the Governments and one for the Commissioners of each party, upon all points at issue upon which they shall agree.

4. They shall also make report upon all points on which they fail to agree, showing distinctly their differences in respect to said line of demarcation.

5. If they cannot under their oaths agree upon the true Conventional boundary-line, and can establish and accord upon a convenient compromise line intermediate of the opposing views of said Commissioners, they shall carefully define and report such intermediate line in a special report to each of the two Governments over their signatures.

6. Upon receipt of said reports, the respective Governments will enter into direct negotiations for a Convention establishing a permanent line of boundary.

Said Commissioners shall be appointed within two months from the date of the ratification of this Treaty; shall meet and organize within two months thereafter; and thenceforward shall proceed with all dispatch.

Each of the High Contracting Parties shall present its case in writing for the consideration of said Commission.

Each Government shall pay one-half of the joint expenses of the Commission, including such assistants as they may need, and shall compensate its own Commissioners and pay all expenses incurred in its own behalf.

Said Commission shall make the report or reports hereinbefore required of them within two years from their first meeting.

Inclosure 2 in No. 151.

ALASKA-CANADIAN BOUNDARY.

Memorandum sent to United States' Commissioners, February 9, 1899.

THAT provisions for the delimitation and establishment of the Alaska-Canadian boundary be made in the following manner, that is to say:—

That it be referred to an eminent jurist to be appointed by the President of the United States and an eminent jurist to be appointed by Her Britannic Majesty on the nomination of the Judicial Committee of the Privy Council, and a third eminent jurist (to be named) or (to be agreed upon by the jurists appointed as aforesaid), or in default thereof to be appointed by (), to determine what is the line of demarcation between the possessions of the High Contracting Parties commencing from the southernmost point of the island called Prince of Wales' Island as far as Mount St. Elias, that the jurists appointed as aforesaid shall be assisted by such scientific experts as they see fit to appoint to the end that such line of demarcation as aforesaid may be delimited and established by the jurists appointed as aforesaid in accordance with the legal rights of the High Contracting Parties under or by virtue of the Treaty of 1825.

Provisional arrangements shall be made by the High Commission covering the period until the line is determined as aforesaid.

Inclosure 3 in No. 151.

ALASKA BOUNDARY.

Memorandum communicated by American Commissioners, February 11, 1899.

Proposition for Treaty Provision as to Alaskan Boundary.

A COMMISSION shall be appointed consisting of—

to determine and delineate upon suitable maps the boundary-line between the territory of Alaska and the Dominion of Canada from the southernmost point of Prince of Wales' Island to Mount St. Elias, in accordance with the Treaty between Russia and Great Britain of the 28th February, 1825, under the following terms and conditions:—

1. The Commission shall consider and determine whether the line, to be drawn from the southernmost point of Prince of Wales Island in the parallel of 54° 40' along the Portland Channel to the 56th degree of latitude, passes to the south or to the north of Wales and Pearse Islands.

2. The Commission shall consider and determine where the boundary-line, departing from the point on the 56th degree of latitude above indicated, crosses the Skoot, Stickine, and Taku Rivers, the mountain passes north of the head of Lynn Canal, the Chilkat, Tatshenshini, and Alsek Rivers.

3. Between the points to be determined, as indicated in the last above paragraph, and also between the Alsek River and Mount St. Elias, the Commission shall delineate the boundary as near as may be following intervisible mountain peaks.

The determination and award of the Commission shall be accepted by the Governments of the United States and Great Britain as final and conclusive.

Notes on Proposition.

As a Convention has been entered into and is now pending in the Senate respecting the boundary-line between Mount St. Elias and the Arctic Ocean, no action as to that portion of the boundary is necessary on the part of the Joint High Commission.

The territory which is proposed above to be submitted to arbitration, especially in paragraph 2, is substantially in accord with an arrangement which was proposed by the United States in 1873 and approved by the British Government (see "Canadian Sessional Papers," vol. xi, No. 125, 1878, pp. 10 to 37).

Inclosure 4 in No. 151.

Memorandum sent to United States' Commissioners, February 11, 1899.

THE British Commissioners are unable to accept the proposal made, inasmuch as it assumes in favour of the United States a matter in dispute and limits the arbitration to a portion of the disputed boundary.

They have already stated in previous communications that, in their opinion, they are entitled, in default of an Agreement, to have the whole of the disputed boundary referred to arbitration. By the Protocol in pursuance of which this Commission assembled, provision was to be made for the delimitation and establishment of the Alaska-Canadian boundary, that is, the whole boundary without limitation. In the opinion of the British Commissioners, such provision can only be made in the terms of the Protocol (in default of agreement as to the boundary) by an agreement for some steps to be taken, which will, if taken, necessarily result in a delimitation of the whole boundary, and they know of no other steps which will accomplish this except a reference to arbitration.

Inclosure 5 in No. 151.

Senator Fairbanks to Lord Herschell.

*International Commission, Washington,
February 11, 1899.*

My dear Lord Herschell,

I HAVE the honour to acknowledge the receipt of your note of to-day respecting our proposal of yesterday for settling the Alaskan boundary. The American Commissioners regret that you feel obliged to decline their proposal, and make no suggestion of modification which would be agreeable to you, and which they might further consider.

You would not, we trust, hope that we should recur to your proposal of arbitration submitted on Friday last, which took absolutely no note of the rights and equities which, in other Treaties of Arbitration, have been recognized as necessary.

As we understand, you feel impelled to invite the further instructions of your Government upon the subject. We shall hope that you may be permitted to make such reasonable modifications of either your proposal or the one last submitted to us that we may entertain them, for we are desirous, in our mutual interest, of putting this subject at rest.

May we not suggest that pending your further advices that we proceed with the remaining questions in the Protocol? They are well advanced; in fact, nothing but formal assent is necessary to dispose of several of them. The differences with respect to others have been reduced to a very small number, and in the main do not seem insuperable.

We have not felt that the settlement of any question should depend upon our ability to agree upon wholly unrelated questions. The Protocol does not recognize any such dependency, nor does the course of our negotiations from the beginning give ground for such an interpretation of our duty.

The American Commissioners desire to proceed, if agreeable to you and your colleagues, with the speedy consideration of the remaining questions, while you await the further instructions of your Government, to the end that we may arrive at early conclusions.

We most sincerely hope that we may reach amicable results upon all questions, and if that be impossible at the moment, then, that we may adjust and remove from our paths as many as possible.

I have, &c.
(Signed) CHARLES W. FAIRBANKS.

Inclosure 6 in No. 151.

Lord Herschell to Senator Fairbanks.

My dear Senator Fairbanks,

Washington, February 13, 1899.

I HAVE the honour to acknowledge the receipt of your letter dated the 11th February, which, however, was only delivered to me at 5 o'clock yesterday afternoon. I have shown it to my colleagues.

We are somewhat surprised that the American Commissioners should regret that we feel obliged to decline their proposal of the 10th instant, as though it were unreasonable on our part, but we think that the regret of the American Commissioners cannot have been mingled with any surprise. Many months ago they were made aware of the views of the British Government with regard to the bearing of the Treaty of 1825 upon the territorial rights round the upper part of the Lynn Canal. In support of those views I advanced an elaborate argument founded upon the language of the Treaty. The matter was much discussed. I listened to lengthy arguments advanced on the other side on behalf of the American Commissioners; whilst I admitted that they were weighty and deserving of consideration, I indicated that they did not, in my opinion, displace those which I had put forward. We then proceeded to negotiate with a view to settle the boundary by way of compromise.

On the 14th December last Memoranda were received from the American Commissioners proposing that we should abandon all our claim to territory in the neighbourhood of the Lynn Canal, but that in consideration of this commercial vessels of the Dominion of Canada should have the right to use all ports and harbours on the Lynn Canal as freely and subject only to the same conditions and restrictions as those of the United States. It was also proposed that the Dominion of Canada might establish an office for the collection of customs and superintendence of transit there. In a Memorandum sent by us on the 16th December, it was pointed out that the American proposal assumed the boundary to be fixed in accordance to the contention of the United States and contrary to the contention of Great Britain, and that the British Commissioners were unable to regard this as a fair and equitable settlement of the question of boundary. We proposed that Pyramid Harbour and a strip behind it should belong to Great Britain, and stated that if this were not acceptable there seemed no alternative but to leave the question of boundary to the determination of legal experts.

The American Commissioners afterwards made an offer by way of compromise considerably in advance of their previous proposal. It is not necessary for the present purpose to state the details of the subsequent negotiations. It ultimately seemed impossible to arrive at an agreement. The British Commissioners, therefore, reverted to the suggestion of an arbitration as to the entire boundary-line, which they had made on the 16th December.

The proposal to which your letter refers involves an abandonment by Great Britain, without any consideration, of all claim to land in the neighbourhood of the Lynn Canal, a proposal which had been rejected in December last, even when coupled with the concession of rights at all ports and harbours in the Canal. It tacitly assumes that the

arguments which I advanced were absolutely without foundation in point of law. I do not question the undoubted right of the American Commissioners so to regard them, but it is surely not quite reasonable to expect me to take the same view.

Your letter states that we made no suggestion of modification which would be agreeable to us, and which the American Commissioners might further consider. We submit that this is hardly accurate. In the Memorandum which we handed you in reply to your proposal, we maintain that the whole of the disputed boundary between Prince of Wales Island and Mount St. Elias should be dealt with without assuming any part of the dispute in favour of the United States, as was done by the terms of your proposal. The view indicated in our Memorandum involved the excision of the first two terms and conditions inserted in your proposition, and the consequent modification of the third.

You trust that we would not hope that you should recur to our "proposal of arbitration submitted on Friday last,"* which took absolutely no note of the rights and equities which in other Treaties of Arbitration have been regarded as necessary." We must recall to your recollection the circumstances under which our proposal of arbitration was submitted on Wednesday, not Friday, last. When an agreement to settle the boundary seemed impossible, we repeated our proposal of arbitration, and asked whether you were willing to consent to it. To this we were unable to obtain a distinct reply, either in the affirmative or negative. You asked me to submit a proposition on the subject in writing. I pointed out that it was scarcely fair to expect me to draw out an Arbitration Agreement until I had learnt whether arbitration was accepted in principle. As, however, you pressed the matter, I said I would draw a sketch of an Agreement on the subject, which would be sufficient to ascertain whether the proposal of arbitration was to be agreed to. It never occurred to me, under the circumstances, that I was expected to insert any detailed provisions or more than the barest outline. I may observe that your "proposition for a Treaty provision as to Alaskan boundary" is even more destitute of details than the document I transmitted to you. It was quite open to you, and it would, we suggest, have been the natural course to add to our proposal such provisions relating to "rights and equities" as you refer to in your letter. If an arbitration covering the entire boundary in dispute is assented to in principle, we are prepared at once to discuss all the details of such an arbitration, and to assent on our part to any reasonable provisions which have been recognized as necessary in Treaties of this description. In considering all the details, we shall be prepared to act in the most conciliatory spirit.

In that part of your letter which relates to my inviting the further instructions of my Government, you write under a misconception of the observations I made. I stated that if you refused to settle the dispute between us as to the boundary by arbitration, I should feel it necessary to ask for instructions from my Government. No instructions are necessary for the negotiation of an agreement for arbitration. We have full powers vested in us for that purpose. If then you are prepared to negotiate for such an agreement on the basis of a reference of the entire dispute, we are ready at once to enter on a discussion of the provisions to be contained in it. We think we are fairly entitled to ask for an early answer on this point. We see no advantage in delaying negotiations as to the boundary dispute, and transferring our attention to other subjects which have been under consideration.

We have not suggested that unless every one of the questions submitted to the Commission can be settled, none of them should be; but it appears to us that the Alaska boundary is the one of all others which it is most important to have settled, if good relations are to be maintained between Great Britain and the United States. The nature of the difference is such, that from circumstances which may arise at any moment, and which are too obvious to need statement, acute controversy, and even the risk of conflict, may ensue.

Moreover, it is a question which there will be no better chance of settling at a future time than there is now, and one which, in our opinion, may be settled without difficulty by nations acting in a friendly spirit. On other points we are asked to make concessions with a view to avoid friction and differences in the future. We are willing to do so, but we cannot feel it reasonable that we should be required to take such a course, if this far greater cause of danger is to remain in existence when, in our opinion, it might quite well be removed.

We cordially reciprocate your expression of sincere hope that we may reach amicable results on all questions.

(Signed) HERSCHELL.

Inclosure 7 in No. 151.

Senator Fairbanks to Lord Herschell.

My dear Lord Herschell,

Washington, February 14, 1899.

I HAVE had the honour to receive your note of yesterday, which I have submitted for the consideration of my colleagues. I observe that you directed the attention of your colleagues to my letter of the 11th instant. This was quite correct, as I committed it entirely to your discretion.

You are fully warranted in assuming that your declination of our last proposal did not excite surprise (although we received it with regret), for we had been made aware of the present views of the British Government "with regard to the bearing of the Treaty of 1825 upon the territorial rights round the upper part of the Lynn Canal." Our first advices upon this subject were received at your hands since our Sessions began at Quebec, and were so recent that they were distinctly impressed upon our minds. But we had hoped that our views advanced in opposition to your very able and earnest presentation had modified your views in some degree. We had indulged the conviction that you would arrive at the conclusion to which we had come, viz., that we should embody as the subject matter of the arbitration such matters only as were in dispute between our Governments at the date the Joint High Commission was created; and not merely such questions as might be raised by the respective Commissions in the progress of our deliberations. We had understood that we were to consider and determine the disagreements of our respective Governments (unless otherwise mutually agreed) which had engaged their attention prior to the signature of the Protocol of the 30th May, 1898. The various subjects of the Protocol were, as we believed, to be read in connection with the actual controversies and contentions existing at the date it was adopted. This interpretation is definite and specific; any other leads to doubt and confusion.

The American Commissioners have not felt justified in agreeing to the submission to arbitration of that part of the boundary for the first time put in actual dispute since we assembled at Quebec, and now contemplated in your last proposal. They feel that their position is founded in good reason.

Since the Treaty of 1825 Russia and the United States have claimed and exercised undisputed sovereignty over and possession of the territory to which you have lately for the first time made claim, and we submit that the British Government and authorities have acquiesced therein. No suggestion by your Government has ever been made to either Russia or the United States, so far as we are aware, from 1825 until our Commission assembled, that the British Government at any time either exercised or asserted right of dominion and possession over that portion of the territory excluded from arbitration by our suggested submission.

In our conferences we have invited you to recall a single instance in history where a nation has been either asked or has consented to arbitrate its right to territory over which it has exercised unchallenged sovereignty for so long a period of time.

We have not failed to recognize that some difference of views had arisen long prior to our assembling as to where the international boundary-line inland crosses certain rivers and mountain passes; and our proposal provides for the submission to arbitration of all questions and of all points which have been the subject of correspondence between the two Governments up to the time of the assembling of the Joint High Commission. Beyond that we have felt that you could not with good reason expect us to go.

If the views you now present have been urged upon the attention of the Government of the United States at any time prior to the original Protocol, we shall esteem it a favour if you will be good enough to direct us to the fact and date; further, we shall be pleased if you will advise us at what time since 1825 the British Government made claim on either Russia or the United States to any territorial rights round the upper part of the Lynn Canal.

We regard our proposition for arbitration as embracing the entire subject-matter of dispute when the Protocol was executed by the two Governments; that it is entirely just and equitable in its recognition of long-established rights, and we earnestly trust that it may yet commend itself to your favourable consideration and acceptance.

It is, of course, to be understood that pending arbitration the Government of the

United States will continue in force the present very liberal provisions for the accommodation of British commerce at the head of Lynn Canal.

I am pleased to be corrected with respect to my impression as to your intention of inviting the further instructions of your Government. We are prepared to proceed with all proper dispatch.

I am pleased to observe that we quite misunderstood you as holding "that unless every one of the questions submitted to the Commission could be settled, none of them should be." We grant that the question of the Alaskan boundary is a very important one, though we do not regard it as the one of most importance. However, you do not too much emphasize the need of its settlement, and we shall hope that in the friendly spirit which you express we may yet see our way to its solution. Upon this question, as upon others, we do not ask you to make concessions with a view to avoid friction and differences in the future, where we are not at all times ready to make in the very amplest measure equivalent concessions.

If our last proposal is incapable of reasonable modification in your view, it may be well to put aside the boundary question for the moment and resume the consideration of the several other questions committed to us and confessedly of great importance. Some of them in our view are of more practical importance to the neighbouring peoples than the boundary question.

I have, &c.
(Signed) CHARLES W. FAIRBANKS.

Inclosure 8 in No. 151.

Lord Herschell to Senator Fairbanks.

My dear Senator Fairbanks,

Washington, February 15, 1899.

YOU state in your letter of the 14th February that the American Commissioners have not felt justified in agreeing to the submission to arbitration of that part of the boundary question for the first time put in actual dispute since we assembled at Quebec, and now contemplated in our last proposal. The part of the boundary referred to is that in the neighbourhood of the Lynn Canal. You intimate that you had indulged a conviction that we should arrive at the conclusion to which you had come, that we should embody as the subject-matter of the arbitration such matters only as were in dispute between our Governments at the date that the Joint High Commission was created, and that the various subjects of the Protocol were to be read in connection with the actual controversies and contentions existing at the time it was adopted. You state further that your first advices as to the views of the British Government with regard to the upper part of the Lynn Canal were received at our hands after our Sessions began at Quebec.

The statement that the views of the British Government had not been made known till that time is erroneous. The instructions given us by the British Government made it perfectly clear that the upper part of the Lynn Canal was claimed as British territory. It is pointed out that the boundary-line must nowhere exceed 10 marine leagues from the ocean, and that the provisional line adopted at the summit of the passes above the Lynn Canal being more than 100 miles from the ocean, a provisional line more in accordance with the Treaty stipulations should, pending a definite settlement of the question, be adopted, which would allow the occupation by Canada of one at least of the ports on that inlet.

A copy of these instructions was sent on the 1st August to the United States' Secretary of State. On the 5th August he acknowledged the receipt of "the instructions in which are embodied the views of Her Majesty's Government on the subjects set forth in the Protocol of the 30th May." No suggestion was made by the Secretary of State that the views on the Alaska boundary embraced matters outside the Protocol. On the contrary, after he had been made aware of the views of Her Majesty's Government as to the Alaska boundary, he forwarded to the British Government a Memorandum "on the part of the Government of the United States containing its views on the subjects set forth in the Protocol signed on the 30th May, 1898." With regard to Alaska boundary, he says:—

"The Report of the Joint Commission is now available, and has made it possible for the two Governments to carry out the stipulation of the last clause of Article I of

the Treaty of the 22nd July, 1892, to 'proceed to consider and establish the boundary in question.'" That is to say, as a reference to the Treaty will show, the boundary commencing at the southern point of Prince of Wales' Island and terminating at Mount St. Elias.

"The Government of the United States will expect the Joint High Commission to seek to execute this stipulation by an agreement as to the boundary as fixed by the Anglo-Russian Treaty of 1825, and by the American-Russian Treaty of 1867 and as far as possible to delineate the same upon proper maps."

The British instructions and the Memorandum on the part of the United States' Government were in your hands prior to our first meeting. On the 30th August I brought before the Commission the claims of the British Government as to the course which the boundary-line ought to take, and even at that early date pointed out that, failing agreement, the question could only be settled by arbitration. General Foster stated the opposing views of the United States' Government. The discussion occupied two days. No suggestion was then made that the claim to the upper part of the Lynn Canal, the argument with respect to which took a great part of the time, was a matter which, by the terms of the Protocol, was not submitted to us for determination. The matter was referred to a Sub-Committee, and this particular part of the question was again argued for many hours without any such point being raised. After that, the negotiations proceeded on the basis of an endeavour to arrive at an agreement as to the course of the boundary-line, and those negotiations related mainly to the boundary in the neighbourhood of the Lynn Canal. We maintained that in respect of our territorial claim in that region we ought to possess a port on the canal, and suggested that if this were not agreed to there should be an arbitration as to the boundary-line. The American Commissioners offered us certain rights in ports on the Lynn Canal in consideration of our giving up our territorial claims around a portion of it, which, however, seemed to us insufficient.

In your letter of the 24th December, 1898, you speak of the contention with regard to the upper part of the Lynn Canal as "the really material difference between us with respect to the Alaskan boundary." You say that the question of that boundary "is a grave one at present. The difficulties which surround its solution will only increase by the lapse of time, and it seems to me we will be recreant to our duty if we do not effect a solution and embody it in a Treaty for the ratification of our respective Governments." You proposed that we should have Pyramid Harbour, with everything but the sovereignty of the soil, all being granted that was of any commercial or practical value, to wit: port customs and transit privileges." Not a suggestion at that time that our claim to a part of the Lynn Canal was not a matter for determination under the terms of the Protocol. The negotiations proceeded for weeks after our return in January, and, indeed, until Wednesday last, on the same basis. When on that day an agreement seemed impossible, and we asked for an arbitration, we were not even then told that a part of our claim was not within the terms of the Protocol; and as late as last Friday, when a proposal was made by you for a Joint Commission of experts to report with a view to a Convention, the first clause of that proposal contained a formal admission that the territorial line dividing the possessions of the respective Governments was to be ascertained and established as nearly as possible in accordance with the definition thereof contained in Articles III and IV of the Convention between Russia and Great Britain of 1825. And now, after months of negotiation, chiefly with reference to the part of the boundary near the Lynn Canal, we are told that this is a matter not within the purview of our negotiations, and with which you are, therefore, not competent to deal by way of arbitration.

We cannot but feel seriously aggrieved by the course which has been taken. A vast amount of time, valuable to us, has been wasted. We think we ought in common justice to have been informed at the very outset that this view was to be insisted on, if it is now to be maintained, and not allowed to waste our time and our trouble in advancing arguments upon a question which, after six months, we are told was not before the Commission. You do not state when you arrived at the conclusion that this was not a matter within the purview of the Protocol. We at least have made it perfectly clear throughout that we took a contrary view, and you have not until yesterday done or said anything to disabuse us of it.

We are quite unable to concur in your construction of the Protocol. The words are "provisions for the delimitation and establishment of the Alaska-Canadian boundary." The natural meaning of this is the entire boundary. You seek to limit it to those parts of the boundary as to which there had been actual controversy prior to the Protocol. This seems to us an impossible construction, and one which could not

have been in the contemplation of the parties, and which we have conclusively shown was not on the 5th August regarded by the United States' Government as having been in their contemplation. So far as we are aware, there had been no controversy in terms between the two Governments as to any specific parts of the boundary, except on the Stikine in 1876 and recently at the top of the pass above Dyea. If your view of the Protocol be correct, it would exclude from treatment the whole of the boundary except at these two points. The fact is that Great Britain has never placed before the Government of the United States in detail its contention as to the line which the boundary should take. No occasion necessitating this has ever arisen, but she has always maintained that the boundary when dealt with must be adjusted in accordance with whatever was the true effect of Articles III and IV of the Treaty of 1825. Nor has the United States ever submitted to the British Government any complete statement of her claim. It is true that in 1873 General Grant suggested a joint survey to mark the boundary at points on certain rivers, one of which indicated that in his view the boundary ran there above the Lynn Canal, but no appropriation for this purpose having been obtained, the matter dropped and the British Government never expressed its assent to the view indicated by General Grant.

When in 1885 Mr. Bayard again brought the matter before the British Government, the only part of the boundary to which he specifically referred is that which passes along the Portland Canal, the point of his argument being that the rest of the boundary was incapable of delineation in strict accordance with the Treaty. In 1892 a Convention was made between Great Britain and the United States respecting the Alaska boundary. By the first Article it was agreed that a joint survey should be made of the part of the boundary line from the latitude of $54^{\circ} 40'$ to the 141° of longitude, with a view to the ascertainment of the facts and data necessary to the permanent delimitation of the boundary-line "in accordance with the spirit and intent of the existing Treaties in regard to it between Great Britain and Russia, and the United States and Russia." Not a hint is there given that the United States, as late as the year 1892, questioned the right of Great Britain to have the boundary-line between the points named permanently delimited in accordance with the spirit and intent of the Treaty. Indeed, their right to have it so delimited is expressly recognized. The surveys provided for in order to accomplish that object have been completed, and we are now told that even if the contention of Great Britain, which has been placed before the Commission, be correct, she is not entitled to have part of that boundary-line delimited in accordance with the spirit and intent of the Treaty. The British Commissioners do not for a moment wish to exclude the United States from the contention that, even though the Treaty bear the meaning contended for by Great Britain, the United States has, by prolonged occupation, or in any other way, obtained a title to territory which would otherwise be British. We have had no evidence brought before us that, since the Treaty of 1825, Russia and the United States have, as alleged, exercised undisputed sovereignty over, and possession of, the territory now under discussion. We do not admit it to be the fact. The only evidence adduced appears to us to prove the contrary, and to show that such possession as there has been is only of recent date, and we believe that the suggestion by the United States that she may have acquired a title otherwise than under the terms of the Treaty by any assent and acquiescence of Great Britain is a very recent one indeed. We repeat, however, that as to this point also, we are desirous that the United States should have the full benefit of any right she possesses, whatever be its origin.

When we proceeded to discuss the boundary-line, it became evident that the difference between us depended upon a divergence of views as to the true interpretation of the terms of the Treaty. It will not, we imagine, be questioned that there is in the language used fair ground for a difference of opinion. At all events it will not, we trust, be doubted that our view is as honestly held as your own. As far as regards myself personally, I am bound to confess that your hope that General Foster's argument had altered my views has not been realized. What then is to be done when two friendly nations differ as to the construction of a Treaty or as to matters of fact, or their legal effect, which are alleged to have modified the rights which it originally created? We know of nothing except to obtain the opinion of a capable Tribunal, both independent and impartial. A delay will not render the matter more easy, and it is impossible to exaggerate the gravity of the dangers which may arise if it be left unsettled. Agreement being declared impossible, we see no alternative, if arbitration is rejected, but a perpetual risk of conflict. You have suggested no other means of obviating it. Great Britain has no desire to secure any part of the territory in dispute, which does not belong to her. Differing as she does from the view of the United States as to the true

effect of the Treaty and other circumstances, she asks that these differences may be referred for decision to an impartial Tribunal.

We trust you will give to the observations we have made your most earnest consideration.

Yours, &c.
(Signed) **HERSCHELL.**

Inclosure 9 in No. 151.

Senator Fairbanks to Lord Herschell.

My dear Lord Herschell,

Washington, February 16, 1899.

IT is quite true, as stated in your letter of yesterday, that the instructions of your Government were sent to our Government a few days before the Quebec meeting, but they did not in fact come to the attention of the Commissioners until they assembled at Quebec. You will no doubt recall the observation made by General Foster during your presentation of the British Case upon the boundary that the view then advanced by you respecting the head of Lynn Canal was the first distinct statement of the British claim. I do not recall that you seriously disputed it. However, this is of little practical moment. It is a non-essential detail. The pregnant fact was stated in my letter as follows:—"We had understood that we were to construe and determine the disagreements of our respective Governments (unless otherwise agreed) which had engaged their attention prior to the signature of the Protocol of the 30th May, 1898."

The views you have urged with respect to the Lynn Canal had not been presented to the United States prior to the signature of the Protocol, nor at any time prior to the instructions of your Government, which came to our Commissioners substantially at the opening of the Quebec meeting.

I shall not detain you by recurring to many of the details of your letter, about some of which we are not in entire agreement, for it seems to me it would not advance the end we each desire.

It seems to the American Commissioners that there is nothing in the proposals which the two Commissioners have exchanged in the progress of our negotiations which can be fairly construed against either, for it was distinctly understood at the outset that all proposals were to be made without prejudice. We could not well negotiate upon any other basis. The concessions which the American Commissioners have been pleased to offer have been made solely in the interest of an amicable settlement and irrespective of strict rights.

The first clause of the proposal of last Friday for a Joint Commission of "Experts contained a formal admission that the territorial line dividing the possessions of the respective Governments was to be ascertained and established" in the manner you suggested. But the proposal was rejected. The "admission" was purely tentative and was submitted under the general understanding without prejudice. We had not supposed until the receipt of your letter that a contrary view was entertained.

We indeed regret that you should feel any measure of personal disappointment at the course of the negotiations. We have always accommodated ourselves, so far as possible, to your convenience as to procedure. I am not aware that we have at any time failed to accede to your wishes with respect to the precedence to be given in the consideration of the various subjects of the Protocol.

It was agreed on all hands that a compromise of the boundary was preferable to arbitration. Until recently we did not despair of reaching an adjustment without resort to the alternative of arbitration. It is, of course, possible we should have earlier abandoned an effort to compromise this troublesome problem.

So soon as arbitration became inevitable, and it was necessary to agree upon the subject-matter of arbitration, you were promptly advised as to our views with respect to its scope. To have advanced them before we abandoned all effort at compromise would have been obviously premature.

You say, "So far as we are aware, there has been no controversy in terms between the two Governments as to any specific parts of the boundary, except on the Stikine in 1876, and recently at the top of the pass above Dyea. . . . The fact is that Great Britain has never placed before the Government of the United States in detail its contention as to the line which the boundary should take."

This is precisely our claim. We have insisted that Great Britain has not questioned

the right of the possession of the United States to the territory at the head of Lynn Canal until since the original Protocol. We have continuously insisted that Russia and the United States have, since 1825, possessed the waters and land about the head of Lynn Canal; that during more recent years Skagway and Dyea have been built, and no question has been raised until since the original Protocol as to whether or not they were within the territorial limits of the United States. This is a fact of moment.

You say, "Nor has the United States ever submitted to the British Government any complete statement of her claim." We are unadvised as to this, otherwise than by your letter. Being in undisputed possession of the territory, it would seem that there was little occasion for the Government of the United States to define her claims.

We have felt that you would be disposed to recognize the territorial rights which the United States have acquired by occupation, regardless of Treaty provisions, and are gratified to be assured by your letter that such is your purpose.

You say, "We have had no evidence brought before us that since the Treaty of 1825, Russia and the United State have, as alleged, exercised undisputed sovereignty over and possession of the territory now under discussion. We do not admit it to be the fact." Without entering further into the discussion upon the subject of adverse possession by Russia and continued by the United States, we but repeat that there is, in our opinion, ample evidence of adverse possession from an early date. It would be of little profit to further amplify this subject, except to observe that there is no one so far as we are aware, other than Russia and the United States, who claims to have had possession from 1825 down to the present moment.

We are not in accord with your view that we have suggested no other means of avoiding conflict than arbitration, in view of our several propositions hitherto submitted to you.

We do not regard it at all impossible for the Commissioners, really desiring an adjustment, to devise a method, or agree upon a tribunal arbitration by which the rights of both parties may be fairly secured and settled. We are prepared to proceed with you at any time to effect this purpose.

I have, &c.
(Signed) CHARLES W. FAIRBANKS.

Inclosure 10 in No. 151.

Draft Arbitration Treaty.

ARTICLE I.

An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the Territory of Alaska and the Dominion of Canada within the limits defined in Article III.

ARTICLE II.

The Tribunal shall consist of three jurists of repute—one on the part of Great Britain, nominated by the members for the time being of the Judicial Committee of Her Majesty's Privy Council; one on the part of the United States, nominated by the President; and of a third jurist, to be selected by the two persons so nominated, or in the event of their failure to agree within three months of the exchange of ratifications of the present Treaty, to be selected by

In case of the death, absence, or incapacity to serve of either of the two Arbitrators nominated aforesaid, or in the event of either of such Arbitrators omitting or declining or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place. If such vacancy shall occur in the case of the Arbitrator nominated by Great Britain, the substitute shall be appointed by the members for the time being of the Judicial Committee of the Her Majesty's Privy Council. If such vacancy shall occur in the case of the Arbitrator nominated by the United States, he shall be appointed by the President. In case of the death, absence, or incapacity to serve of the third

Arbitrator selected as aforesaid, or in the event of such Arbitrator omitting or declining or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place who shall be selected by the two other Arbitrators, or in the event of their failure to agree within one month of such vacancy occurring, by

ARTICLE III.

The Tribunal shall determine and delineate on suitable maps the boundary-line between the Territory of Alaska and the Dominion of Canada from the southernmost point of Prince of Wales Island to Mount St. Elias, in accordance with the Treaty between Russia and Great Britain of the 28th February, 1825.

ARTICLE IV.

In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case:—

Rules.

(a.) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding, or to make title by prescription.

(b.) The Arbitrators may recognize and give effect to rights and claims resting on any other grounds whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing Rule.

(c.) In determining the boundary-line, if territory of one Party be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require.

ARTICLE V.

The Arbitrators shall meet at _____ within sixty days after the delivery of the printed Arguments mentioned in Article VIII, and shall proceed impartially and carefully to examine and decide the matters submitted to them as herein provided on the parts of the Governments of Her Britannic Majesty and the United States of America respectively.

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place or places which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

ARTICLE VI.

The printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators, and to the Agent of the other Party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding _____ months from the date of the exchange of the ratification of this Treaty.

ARTICLE VII.

Within _____ months after the delivery on both sides of the printed Case, either Party may in like manner deliver in duplicate, to each of the said Arbitrators and to the Agent of the other Party, a Counter-Case and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other Party.

If, in the Case submitted to the Arbitrators, either Party shall have specified or alluded to any Report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after the delivery of the Case, and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after the receipt of notice.

ARTICLE VIII.

It shall be the duty of the Agent of each Party, within _____ months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a printed Argument showing the points and referring to the evidence upon which his Government relies.

The Arbitrators may, if they desire any further elucidation with regard to any point, require oral argument by Counsel upon it, or a written or printed statement or argument, but in such case the other Party shall be entitled to reply either orally or by written or printed statement or argument, as the case may be.

ARTICLE IX.

The Arbitrators may, for any cause deemed by them sufficient, enlarge the periods fixed by Articles VI, VII, and VIII, or any of them, by the allowance of thirty days additional.

ARTICLE X.

The decision of the Tribunal shall, if possible, be made within three months from the close of the arguments on both sides.

It shall be made in writing, and dated, and shall be signed by the Arbitrators who may assent to it. The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States of America for his Government.

ARTICLE XI.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them. They may also employ any scientific experts whose assistance they may deem necessary for the discharge of the duty intrusted to them.

ARTICLE XII.

Each Government shall pay its own Agent, and provide for the remuneration of the Counsel employed by it, and of the Arbitrators appointed on its behalf, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII.

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all questions referred to the Arbitrators.

ARTICLE XIV.

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged in London or in Washington within months of the ratification thereof.

No. 152.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received February 27.)

(No. 16.)

(Telegraphic.) P.

Washington, February 27, 1899.

MEAGHER abduction: My despatch No. 30 of the 23rd January.

I communicated the answer of the United States' Government to the Government of Canada. The latter, without prejudice to any possible claim for illegal detention, have requested me to express their entire satisfaction at the terms of the reply.

I have accordingly addressed a note in this sense to the Secretary of State.

No. 153.

Lord Herschell to the Marquess of Salisbury.—(Received March 4.)

(No. 3.)

My Lord,

Washington, February 24, 1899.

WITH reference to my despatch No. 2 of the 17th instant, I have the honour to inclose copies of the Protocols down to the date of the adjournment of the Commission.

I also transmit some notes of the proceedings at the meeting on the afternoon of the 18th instant, after the delivery of our Memorandum in reply to the American counter-proposal as to the terms of an Arbitration Treaty.

The last meeting was held on Monday, the 20th instant, for the purpose of determining the manner in which the agreement to adjourn should be recorded in the Protocol of the previous Saturday.

The following statement, which I prepared and which was read to the Commission on Monday, will best explain the circumstances under which it was deemed advisable to arrange for an adjournment:—

“When it became apparent ten days ago that the prolonged negotiations for the settlement of the Alaska boundary question by way of compromise would not result in an agreement, the British Commissioners at once proposed that the boundary-line should be settled by arbitration. By the Treaty between the two Powers of the 22nd June, 1892, it was agreed that the necessary surveys should be made in the neighbourhood of the boundary-line with a view to its delimitation in accordance with the true spirit and intent of the Treaty of 1825. Unfortunately a difference of opinion exists as to the construction of that Treaty, and therefore as to what is required to give effect to its true spirit and intent. Until this difference is solved it is impossible to say how the line ought to be drawn. There seemed to the British Commissioners no means of arriving at a solution except by arbitration, and arbitration of such a nature as must necessarily result in a determination of the matters in controversy. Until this was done, delimitation was impossible and the boundary-line must remain in dispute. They were quite willing that the whole question should be adjusted with a full regard to what justice and the equities of the case required. They thought that the Venezuelan Boundary Agreement might well be taken as a precedent, and suggested arbitration on those lines.

"The United States' Commissioners have made a counter-proposition that the question should be left to a body of jurists nominated in equal numbers by each country. They also require that all towns and settlements on tide-water, settled under the authority of the United States should continue to be United States' territory, even though they should prove to be on the British side of the line.

"The objections of the British Commissioners to these proposals were that after much time had been occupied and expense incurred, we might be no nearer to the solution of our differences or to the delimitation of the boundary than at present, and that although some boundary disputes might be left undetermined even for a long period without danger, the speedy delimitation of this boundary was, under existing circumstances, of urgent importance. They also pointed out that the form of arbitration which they had proposed provided that such effect should be given to United States' occupation of what proved to be British territory as justice, reason, and the equities of the case required.

"A discussion of the differences between the British and United States' Commissioners made it clear that a solution of them was not to be looked for in the near future. The United States' Commissioners objected on principle to a European Umpire. Whilst the British Commissioners had no objection in principle to the appointment of an Umpire belonging to the American continents, they pointed out that whereas many jurists of the highest eminence and repute were to be found in Europe, this was not the case as regards the continents of America outside the United States and Canada.

"The Canadian Commissioners, of whom one is the Prime Minister, and two others occupy important offices in the Cabinet, have remained absent from the seat of their Government at great inconvenience for several months. Their return without further delay is now urgently necessary. In view then of the prospect that, even if an agreement as to the mode of settlement of the Alaska boundary can be ultimately arrived at, there is no near prospect of such a result, the British Commissioners have come to the conclusion that it would be better to suspend the negotiations for the present.

"It was suggested by the United States' Commissioners, that even if agreement on the Alaska boundary were for the present impossible, an endeavour should be made to arrive at an agreement on the other subjects in the Protocol. The British Commissioners do not consider it practicable to adopt that course. The manner in which they would be prepared to adjust some of the other important matters under consideration must depend in their view upon whether it is possible to arrive at a settlement of all the questions which might at any time occasion acute controversy, and even conflict. Of these the Alaska boundary question, in their opinion, stands in the forefront."

A long discussion ensued, and it was eventually agreed on both sides to insert in the Protocol only a short account of what passed in order to avoid as much as possible any record of divergent views which might necessitate further arguments and rejoinders.

I telegraphed to your Lordship on the 21st instant a summary of the final proceedings, and gave the reasons which had led me to consent to the adjournment.

I have, &c.
(Signed) HERSCHELL.

Inclosure 1 in No. 153.

Protocol No. 57 of Proceedings of Joint High Commission, Washington, February 7, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present except Honourable Charles J. Faulkner.

The Protocol of last meeting was read and approved.

The Joint High Commission made arrangements for the meetings of the Joint Committee during the interval, and then adjourned until Friday, the 10th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
 HENRI BOURASSA.

Inclosure 2 in No. 153.

Protocol No. 58 of Proceedings of Joint High Commission, Washington, February 10, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present.

The Protocol of the last meeting was read and approved.

The Joint High Commission, after arranging for the meetings of the Joint Committees during the interval, adjourned until Tuesday, the 14th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 3 in No. 153.

Protocol No. 59 of Proceedings of Joint High Commission, Washington, February 14, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present except Mr. John Charlton, Honourable John W. Foster, and Honourable T. Jefferson Coolidge.

The Protocol of the last meeting was read and approved.

The Joint High Commission thereupon adjourned until Wednesday, the 15th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 4 in No. 153.

Protocol No. 60 of Proceedings of Joint High Commission, Washington, February 15, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present except Mr. John Charlton and Honourable T. Jefferson Coolidge.

The Protocol of the last meeting was read and approved.

The Joint High Commission thereupon adjourned until Thursday, the 16th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 5 in No. 153.

Protocol No. 61 of Proceedings of Joint High Commission, Washington, February 16, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present except Lord Herschell and Honourable John W. Foster, who were detained by illness.

The Protocol of the last meeting was read and approved.

A recess was then taken until 5 o'clock in the afternoon, and upon reassembling the subject of the Alaskan-Canadian boundary was taken up for discussion.

The Joint High Commission thereupon adjourned until Friday, the 17th February, at half-past 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.
HENRI BOURASSA.

Inclosure 6 in No. 153.

Protocol No. 62 of Proceedings of Joint High Commission, Washington, February 17, 1899.

THE Joint High Commission assembled pursuant to adjournment, at 10.30 A.M., at the Conference Rooms, all the members being present except Lord Herschell and the Honourable John W. Foster, who were detained by illness.

The Protocol of the last meeting was read and approved.

The subject of the Alaskan-Canadian boundary was taken up for discussion, after which the Joint High Commission adjourned until Saturday, the 18th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.

Inclosure 7 in No. 153.

Protocol No. 63 of Proceedings of Joint High Commission, Washington, February 18, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 o'clock, A.M., all the members being present except Lord Herschell and the Honourable John W. Foster, who were detained by illness, and Sir Richard J. Cartwright.

The Protocol of the last meeting was read and approved.

The question of the boundary between Alaska and Canada was again taken up for discussion.

The British Commissioners represented that the Commission having been unable to agree on that question, it should be referred to arbitration. They therefore made the following proposition as a basis to be proceeded upon in framing a Treaty:—

Article 1. An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the territory of Alaska and the Dominion of Canada, within the limits defined in Article 3.

Art. 2. The Tribunal shall consist of three jurists of repute: one on the part of Great Britain, nominated by the members for the time being of the Judicial Committee of Her Majesty's Privy Council; one on the part of the United States, nominated by the President; and of a third jurist to be selected by the two persons so nominated, or in the event of their failure to agree within three months of the exchange of ratifications of the present Treaty, to be selected by

In case of the death, absence, or incapacity to serve of either of the two Arbitrators nominated as aforesaid, or in the event of either of such Arbitrators omitting or declining, or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place. If such vacancy shall occur in the case of the Arbitrator nominated by Great Britain, the substitute shall be appointed by the members for the time being of the Judicial Committee of Her Majesty's Privy Council. If such vacancy shall occur in the case of the Arbitrator nominated by the United States, he shall be appointed by the President. In case of the death, absence, or incapacity to serve of the third Arbitrator, selected as aforesaid, or in the event of such Arbitrator omitting or declining, or ceasing to act as such, another jurist of repute shall be forthwith substituted in his place, who shall be selected by the two other Arbitrators, or in the event of their failure to agree within one month of such vacancy occurring, by

Art. 3. The Tribunal shall determine and delineate on suitable maps the boundary-line between the territory of Alaska and the Dominion of Canada from the southernmost point of Prince of Wales Island to Mount St. Elias, in accordance with the Treaty between Russia and Great Britain of the 28th February, 1825.

Art. 4. In deciding the matters submitted, the Arbitrators shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case.

Rules.

(a.) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.

(b.) The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing rule.

(c.) In determining the boundary-line, if territory of one party shall be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the Tribunal, require.

Art. 5. The Arbitrators shall meet at _____ within sixty days after the delivery of the printed Argument mentioned in Article 8, and shall proceed impartially and carefully to examine and decide the matters submitted to them as herein provided, on the parts of the Governments of Her Britannic Majesty and the United States of America respectively:

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place or places which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

Art. 6. The printed Case of each of the two Parties accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other Party, as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding _____ months from the date of the exchange of the ratifications of this Treaty.

Art. 7. Within _____ months after the delivery on both sides of the printed Case, either Party may, in like manner, deliver in duplicate to each of the said Arbitrators and to the Agent of the other Party, a Counter-Case and additional documents, correspondence, and evidence in reply to the Case, documents, correspondence, and evidence, as presented by the other Party.

If in the Case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after the delivery of the Case, and the original or copy so requested shall be delivered as soon as may be and within a period not exceeding forty days after the receipt of notice.

Art. 8. It shall be the duty of the Agent of each Party within _____ months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a printed Argument showing the points and referring to the evidence upon which his Government relies.

The Arbitrators may, if they desire any further elucidation with regard to any point, require oral argument by Counsel upon it, or a written or printed statement or argument, but in such case the other Party shall be entitled to reply either orally or by written or printed statement or argument, as the case may be.

Art. 9. The Arbitrators may, for any cause deemed by them sufficient, enlarge the periods fixed by Articles 6, 7, and 8, or any of them, by the allowance of thirty days additional.

Art. 10. The decision of the Tribunal shall, if possible, be made within three months from the close of the arguments on both sides.

It shall be made in writing, and dated, and shall be signed by the Arbitrators who may assent to it. The decision shall be in duplicate—one copy whereof shall be

delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States of America for his Government.

Art. 11. The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them. They may also employ any scientific experts, whose assistance they may deem necessary for the discharge of the duty intrusted to them.

Article 12. Each Government shall pay its own Agent, and provide for the remuneration of the Counsel employed by it, and of the Arbitrators appointed on its behalf, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

Art. 13. The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all questions referred to the Arbitrators.

The Commissioners of the United States announced that they accepted the proposals made as the basis of adjustment, but desired an amendment in relation to the Arbitral Tribunal and a modification of Rule (c) to make it conform to the present local conditions in Alaska.

They then presented the Project of Articles, as modified, which was as follows:—

Article 1. An Arbitral Tribunal shall be immediately appointed to determine the boundary-line between the territory of Alaska and the Dominion of Canada within the limits defined in the following Article 3.

Art. 2. The Tribunal shall consist of six impartial jurists of repute, three on the part of Great Britain, nominated by the members for the time being of the Judicial Committee of Her Majesty's Privy Council, and three on the part of the United States, nominated by the President.

In case of the death, absence, or incapacity to serve of either of the Arbitrators nominated as aforesaid, or in the event of either of such Arbitrators omitting or declining or ceasing to act as such, another impartial jurist of repute shall be forthwith nominated in his place by the same authority which appointed his predecessor.

Art. 3. The Tribunal shall determine and if practicable delineate on suitable maps the boundary-line between the territory of Alaska and the Dominion of Canada from the southernmost point of Prince of Wales Island to Mount St. Elias in accordance with the Treaty between Russia and Great Britain dated the 28th (16th) February, 1825, and the Treaty of cession from Russia to the United States dated the 30th March, 1867, or as the same shall be established by said Tribunal under the Rules hereinafter provided.

Art. 4. Before deciding the matters submitted, the Arbitrators shall ascertain all geographical, historical, and other facts which they deem necessary to a decision of the controversy, and shall be governed by the following Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to be applicable to the case.

Rules.

(a.) Adverse holding or prescription during a period of fifty years shall make a good title. The Arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding, or to make title by prescription.

(b.) The Arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to international law, and on any principles of international law which the Arbitrators may deem to be applicable to the case, and which are not in contravention of the foregoing Rule.

(c.) In considering the "coast," referred to in said Treaties mentioned in Article 3, it is understood that the coast of the continent is intended. In determining the boundary, if territory of one Party shall be found by the Tribunal to have been at the date of this Treaty in the occupation of the subjects or citizens of the other Party, such effect shall be given to such occupation as reason, justice, the principles of inter-

national law, and the equities of the case shall, in the opinion of the Tribunal, require; and all towns or settlements on tide-water, settled under the authority of the United States and under the jurisdiction of the United States at the date of this Treaty, shall remain within the territory and jurisdiction of the United States.

Art. 5. The Arbitrators shall meet at _____ within sixty days after the delivery of the printed arguments mentioned in Article 8, and shall proceed impartially and carefully to examine and decide the matters submitted to them, as herein provided on the parts of the Governments of Her Britannic Majesty and the United States of America respectively:

Provided always that the Arbitrators may, if they shall think fit, hold their meetings, or any of them, at any other place or places which they may determine.

All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall name one person as its Agent to attend the Tribunal, and to represent it generally in all matters connected with the Tribunal.

Art. 6. The printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators, and to the Agent of the other Party, as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding _____ months from the date of the exchange of the ratifications of this Treaty.

Art. 7. Within _____ months after the delivery on both sides of the printed Case, either Party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other Party, a Counter-Case and additional documents, correspondence, and evidence, in reply to the Case, documents, correspondence, and evidence so presented by the other Party.

If, in the case submitted to the Arbitrators, either Party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after the delivery of the Case, and the original, or copy, so requested, shall be delivered as soon as may be, and within a period not exceeding forty days after the receipt of notice.

Art. 8.—It shall be the duty of the Agent of each Party within _____ months after the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other Party, a printed statement or argument showing the points and referring to the evidence upon which his Government relies. The other Party may submit reply thereto.

The Arbitrators may, if they desire further elucidation with regard to any point, require oral argument by Counsel upon it, or a written or printed statement or argument, but in such case the other Party shall be entitled to reply either orally or by written or printed statement or argument, as the case may be.

Art. 9.—The Arbitrators may, for any cause deemed by them sufficient, enlarge the periods fixed by Articles 6, 7, and 8, or any of them, by the allowance of thirty days additional.

Art. 10.—The decision of the Tribunal shall, if possible, be made within three months from the close of the arguments on both sides.

It shall be made in writing, and dated, and shall be signed by the Arbitrators who may assent to it. The decision shall be in duplicate—one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States of America for his Government.

Art. 11.—The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them. They may also employ any scientific experts whose assistance they may deem necessary for the discharge of the duty intrusted to them.

Art. 12.—Each Government shall pay its own Agent and provide for the remuneration of the Counsel (if any) employed by it, and of the Arbitrators appointed on its behalf, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the Arbitration shall be defrayed by the two Governments in equal moieties.

Art. 13.—The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all questions referred to the Arbitrators.

A recess of the Joint High Commission was then taken until 3 o'clock, p.m. Upon reassembling the British Commissioners stated that they were absolutely unable to accept the modification to their proposition, suggested by the American Commissioners, and gave the reasons of their dissent as follows:—

The British Commissioners having considered the amendments suggested to their proposal of yesterday, for a reference to arbitration of the Alaska-Canadian boundary-line by the United States' Commissioners, regret that they are unable to agree to the same for the following reasons:—

1. Because the suggested amendment to Article 2 does not provide a Tribunal which would necessarily, and in the possible event of differences of opinion, finally dispose of the question. On the 11th February, the British Commissioners submitted that, in their opinion, "such provision can only be made in the terms of the Protocol (in default of agreement as to the boundary) by an agreement for some steps to be taken, which will, if taken, necessarily result in a delimitation of the whole boundary." They adhere most strongly to this opinion, and cannot depart from it.

2. Because the suggestion in sub-section (c) of Article 4, that "all towns or Settlements on tide-water, settled under the authority of the United States and under the jurisdiction of the United States at the date of this Treaty, shall remain within the territory and jurisdiction of the United States" is a marked and important departure from the Rules of the Venezuela boundary reference, which provided that all equities arising from possession or other facts alleged by either of the Parties to the reference should be left for the consideration and determination of the arbitration, and be given by them such weight as reason, justice, and the principles of international law and the equities of the case should require. The words added by the United States' Commissioners claim that an effect should be given to their occupation of land in British territory which justice, reason, and the equities of the case do not require.

The British Commissioners further object to the declaration added to the first part of Article (c), as follows:—

"In considering the 'coast' referred to in said Treaties mentioned in Article 3, it is understood that the coast of the continent is intended."

While it was probably only intended by this clause that the line should be drawn upon the continent, the language used is open to misconstruction.

Holding these views, the British Commissioners are of the opinion that no useful end will be served by further pressing at the present time the negotiations, and must refer the matter to their Government.

In the exchange of views in respect to the constitution of the Arbitral Tribunal which followed this communication, inquiry was made by the United States' Commissioners whether the British Commissioners had considered the question of selecting an Umpire from the American continents.

To this it was replied that they had considered it, and thought it most objectionable, in view of the policy long maintained and recently reasserted by the Government of the United States towards the other countries on the said continent. The selection of an Umpire by any such nation would not, in their opinion, offer the guarantee of impartiality, which is the first qualification requisite for the discharge of the duties intrusted to him.

In view of the reference of the subject to their Government, as announced by the British Commissioners, the Commissioners of the United States regarded it unnecessary to make any further observations upon the subject of the Alaskan boundary.

They then proposed that the Joint High Commission should proceed to a determination of the remaining subjects of difference named in the original Protocol. They regarded it as unwise to further defer the adjustments so nearly concluded after full consideration. Several subjects were so far advanced as to assure the probability of a settlement. If, then, all differences except one could now be adjusted, would it not be a most commendable advance in neighbourly friendship? Could not our respective Governments be trusted to settle the principal remaining difference by direct negotiation?

The United States' Commissioners further regretted the suspension for any long

time of the negotiations in view of the progress already made in solving the differences.

They, therefore, urged that the Joint High Commission should advance to a conclusion their negotiations upon the remaining subjects as early as possible.

The British Commissioners replied that all such questions should be deferred until the boundary question had been disposed of, either by agreement or reference to arbitration. The manner in which they would be prepared to adjust some of the other important matters under consideration must depend, in their view, upon whether it is possible to arrive at a settlement of all the questions which might at any time occasion acute controversy, and even conflict.

The Joint High Commission thereupon adjourned until Monday, the 20th February, at 10 o'clock in the forenoon.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.

Inclosure 8 in No. 153.

Protocol No. 64 of Proceedings of Joint High Commission, Washington, February 20, 1899.

THE Joint High Commission assembled pursuant to adjournment at the Conference Rooms, at 10 A.M., all the members being present except Lord Herschell and Honourable John W. Foster, who were detained by illness, and Sir Richard J. Cartwright.

The Protocol of the last meeting was read and approved.

It was agreed that the Commission should adjourn to meet at Quebec, the 2nd August next, unless some other date should be agreed upon by the Chairmen of the respective Commissions.

(Signed) W. CHAUNCY CARTWRIGHT. CHANDLER P. ANDERSON.

Inclosure 9 in No. 153.

Notes of Proceedings at the Second Meeting of February 18, 1899.

Senator Fairbanks proceeded to explain the American counter-draft for arbitration presented this morning. He said that the United States had proposed a Tribunal similar to that mentioned, and strongly adhered to by Lord Salisbury in his negotiations with Mr. Olney. Moreover, Venezuela was not in the same close relation to Great Britain as the United States. He thought Great Britain might well accept arbitration without provision for a foreign Umpire. His opinion was that the six Arbitrators would arrive at a result, if it were agreed that the finding of the Board should be final. The American Arbitrators would be chosen from parts of the country far removed from the localities interested in the dispute. They might certainly have some bias if they came from the Pacific Coast, but jurists from the Eastern States would be quite impartial. If the Arbitrators failed to come to a decision, the matter might be taken up anew.

With regard to the proposed additions to Rule (c), he said that the force of the provision already inserted respecting the equities of the case, &c., was fully recognized; but the two American towns on the Lynn Canal could not be left in uncertainty as to their disposal. They had been built within the last few years by United States' citizens, who relied on their being situated in American territory. Great Britain had permitted these people to acquire rights there without protest; she might have protested at once. It would be a misfortune for Canada itself if these places came into its possession. It was impossible to remove the prejudices of the people. If after all these years a change were made, the same trouble would exist as in Alsace-Lorraine. If these towns were ultimately to be left to the United States by the process of arbitration, why not say so at once, and avoid the excitement which would be aroused by public sentiment and prejudice?

The Senator commenced some observations with respect to the interpolation in Rule (c) respecting the meaning of the word "coast," as used in the Treaty of 1825; but it was considered unnecessary to discuss that point at the present moment.

He said, in conclusion, that it would be well to agree on the rest of the boundary-line, leaving only the questions in Portland Canal and Lynn Canal to arbitration.

Sir W. Laurier replied that we had reached a stage at which arguments had become useless. *Mr. Fairbanks'* remarks did not convince him that the draft proposal for arbitration handed in by the British Commissioners ought not to be adhered to. The final voice in the matter should rest with some person who had nothing to do with the question at issue. The nationality of the Arbitrator must give him some bias. In six months this Commission had failed to settle even the terms of reference to arbitration on this question, although no body of men could be more anxious to come to an agreement.

The Umpire might be taken from any country in Europe, and there was no reason to depart from so recent a precedent as the Venezuelan affair. He admitted that the Americans at Dyea and Skaguay might feel aggrieved, but we had offered from the first that these two places should be left to the United States on condition of a port being ceded to us.

Senator Fairbanks pointed out that the Arbitrators could give a final decision, whereas the Commissioners had been obliged to take into consideration the possible action of the Senate.

Senator Faulkner observed that the Arbitrators could first make up their minds as to the legal position, and then apply any principle of equitable adjustment which might be found necessary.

Mr. Kasson agreed with *Sir W. Laurier* that arguments were now useless. He asked, however, whether an Umpire from the American continents would be acceptable.

Sir W. Laurier replied that the history of the Latin nations on those continents was not such as to justify such a selection.

Mr. Kasson mentioned Mexico as a country where a good Umpire could be found. He then suggested that the Governments might name an Umpire, in case the Arbitrators failed to arrive at a decision.

Sir W. Laurier said he was prepared to trust to the two Governments to settle everything. He fervently hoped that, in view of the present failure, both countries would press their respective Governments to come to an understanding.

Mr. Kasson believed that the Governments would be able to settle any points which the Arbitrators left undetermined.

Senator Fairbanks then spoke of the serious effect which might be produced by the breaking up of this Commission. The attention of the world would be called to it. It was very desirable that nothing should occur to interrupt the friendly feeling now growing up between the two countries. To separate without any agreement would lead to a renewal of the old feeling, and of the controversies and recriminations of former years. It was a matter to be deeply considered. Arbitration might be made impossible in the future. If all the questions except the Alaska boundary were dealt with, the mischief-makers would be silenced. If an arbitration could not be agreed upon now, the settlement of the other questions would help the settlement of this one also. "We ought to give something to the world."

Sir W. Laurier observed that the United States would neither agree to any settlement nor refer to arbitration.

Senator Fairbanks said it was true that the Americans would not have a European Umpire, but the British likewise refused to accept an American.

Mr. Payne said that the Commission might agree on all questions except the Alaska boundary. That question was vital, and could not be compromised. The United States proposed the same form of Tribunal as had been proposed by Lord Salisbury, who adduced cogent arguments in its favour. There was no saying whether the plan might not succeed.

Sir L. Davies stated that *Sir W. Laurier* was obliged to go back to Ottawa at once, and that the Commission was quite justified in separating, in view of all the existing circumstances.

No. 154.

Sir J. Pauncefote to the Marquess of Salisbury.—(Received March 13.)

(No. 69.)

My Lord,

Washington, February 25, 1899.

WITH reference to my despatch No. 30 of the 23rd ultimo, respecting the arrest of Thomas Meagher, I have the honour to transmit herewith copy of a despatch from the Governor-General of Canada, to whom I had communicated Mr. Hay's note No. 1324.

I have addressed a note this day to the United States' Secretary of State in the sense of the last paragraph of Lord Minto's despatch.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 154.

The Earl of Minto to Sir J. Pauncefote.

Sir,

Government House, Ottawa, February 20, 1899.

I DULY communicated to my Ministers your Excellency's despatch No. 7 of the 23rd ultimo, inclosing copy of a note from the United States' Secretary of State, in which he stated that Thomas Meagher, who had been arrested in Canadian waters by a United States' official, and deported into the United States, had been discharged from arrest, and from the bail given for his appearance, and disavowed on behalf of the United States' Government, any act of force against Meagher in Canadian waters, at the same time expressing regret for the unfortunate occurrence; and I am now advised by my Ministers that this Government is entirely satisfied with these explanations and expressions of regret, and does not propose to take any further action in the matter.

In conveying this expression of satisfaction to the United States' Government, I would request your Excellency to explain that the Canadian Government does not desire to express any opinion which might interfere with any claim Mr. Meagher might make for illegal detention.

I have, &c.

(Signed) MINTO.

No. 155.

Mr. Cartwright to the Marquess of Salisbury.—(Received March 13.)

(No. 4. Confidential.)

My Lord,

Washington, March 3, 1899.

IN order to complete the history of the negotiations of the Anglo-American Commission at Washington, I have the honour to inclose copies of some further documents which were exchanged between Lord Herschell and Senator Fairbanks. A despatch in this sense was prepared for Lord Herschell's signature, but, as his death supervened so suddenly, it had not yet been submitted to his approval. In view, however, of the adjournment of the Commission, I feel it my duty to forward the papers, which have been in my possession for some time past.

In his despatch No. 2 of the 17th February, Lord Herschell inclosed, with other documents, a copy of a communication addressed by him to Senator Fairbanks, in which reference was made to Mr. Fairbanks' letter of the 24th December. I now transmit a copy of that letter, and of a supplementary one of the 26th December, both of these being in reply to Lord Herschell's letter of the 21st December, of which a copy was inclosed in his Lordship's despatch No. 15 of the 22nd.

There follows a copy of Lord Herschell's further letter of the 31st December from Ottawa, forwarding Memoranda with regard to bonding privileges and to the Alaska boundary. No answer was returned by Senator Fairbanks, because the Commission reassembled a few days afterwards.

The next paper is a copy of a Memorandum respecting the carrying trade between the United States and its newly-acquired possessions of Porto Rico and Hawaii. This Memorandum was sent to Senator Fairbanks by Lord Herschell on the 30th December, in explanation of the proposal with reference to British vessels

trading between those islands and 'United States' ports on the continent of America. Mr. Fairbanks had already been supplied with a copy of the proposed clause, the terms of which were approved by your Lordship in a telegram to Her Majesty's Ambassador dated the 15th December.

Lord Herschell had again occasion to write privately to Senator Fairbanks about the work of the Commission on the 24th January. A copy of that letter is also inclosed.

The accompanying letter, marked Private and Confidential, was addressed to Lord Herschell by Senator Fairbanks on the 9th February, having reference to the Alaska boundary. The Memoranda exchanged on that day were sent home in Lord Herschell's despatch No. 2 of the 17th February.

I have, &c.

(Signed) W. CHAUNCY CARTWRIGHT.

Inclosure 1 in No. 155.

Senator Fairbanks to Lord Herschell.

Dear Lord Herschell,

Washington, D.C., December 24, 1898.

YOUR note of the 21st instant reached me after your departure for Ottawa.

I have read with interest your views with respect to three of the questions submitted to the Commission, namely, the Atlantic fisheries, the seal question, and the Alaska boundary, questions of confessedly of great importance, though I do not think they outrank the transportation question, of which you make no mention.

You seem to hold the view that in the consideration of the matters submitted for our determination, we had not been as liberal in concessions as yourself and your colleagues. It seems to me, on the contrary, that the American Commissioners have yielded many points; and with respect to the three questions which you have given exceptional prominence, they have made very substantial concessions in the interest of a just settlement, not all, of course, that you could wish, but, speaking largely, all that thus far they have felt justified in making.

You need no reassurance that there is not one of the American Commissioners who is not quite as heartily in favour of an amicable settlement of the questions committed to our consideration as either yourself or your colleagues; and they at no time have lost sight of the fact that no adjustment could be effected except by observing the "give and take" policy to which you refer. I may further say that they desire no settlement whatever which shall not be absolutely as just and equitable to British as to American interests. They will have failed of their purpose if the letter of the Treaty shall contravene those broad principles of justice and right which must be the foundation on which any permanent adjustment rests.

I observe your suggestion that the British Commissioners had early hoped that the Atlantic fisheries' question might be adjusted upon the basis of the Agreement between the two Governments in 1888, or by the provision for "free fish."

The very decisive vote by which the Arrangement of 1888 was rejected in the Senate would seem to give little warrant for the belief that we would be able to carry its provisions into a new Treaty. It failed to receive a majority vote of the Senate; whereas, by our Constitution, as you are well aware, a two-thirds vote was necessary for ratification.

To the proposition for "free fish" the American Commissioners have given the most attentive consideration. You very promptly advised at the outset of the negotiations that it was doubtful if free fish could be granted. Our refusal to agree to your proposition was not altogether because the Gloucester fishermen objected to it, but because the American Commissioners did not think that it was accompanied by an offer of equivalent concessions.

Pending an arbitration as to what were the respective rights of the two Governments, under the Treaty of 1818, &c., the American Commissioners have agreed to pay to Canada the licence fees required, while our contention is that they are unwarranted under the Treaty in dispute. Can it be that this concession, which is for the time being an abandonment of the claims of the American fishermen, is not a real and substantial one? If the American Commissioners accept the

modus vivendi pending arbitration as to their actual rights in the premises, and oblige their Government to pay to Canada the licence fees required, is there just ground for questioning their liability?

I observe your suggestion that it has not been possible thus far to obtain consent to the free admission of lumber and certain staple agricultural products, as desired by the British Commissioners, although a considerable list of articles has been agreed upon by the Sub-Committee charged with considering the subject of reciprocity.

The difficulties with which we have to deal are not new to the present negotiations. For some fifty years the statesmen of the two countries, except during the existence of the Treaty of 1854, have been engaged in the consideration of the subject of improving the commercial relations between them. It will be observed that the chief articles which are desired to be admitted free now have been frequently urged for free admission hitherto. Like articles are produced in abundance in this country, and the difficulty of placing them in a reciprocal schedule have been so frequently emphasized that nothing further need be said with reference thereto. The pending negotiation has, it seems to me, established the fact that we can safely agree upon a larger measure of reciprocity than has been possible at any time except in 1854.

The seal question has deservedly received much of our attention. Our views have widely differed as to the ultimate effect of pelagic sealing upon the sealing industry. A modification of the Regulations as contemplated by the Award of the Paris Tribunal has seemed impossible, and the only rational alternative has seemed to be the absolute cessation of pelagic sealing. In this aspect of the case but two questions are presented: First, what is the value of the national interest which Great Britain surrenders? and, secondly, what should be the basis of compensation to those who shall be obliged to withdraw from the industry?

I frankly admit that, under the Paris Award, Great Britain has a national right, for which she is entitled to some concession. In our view of the history of the industry, however, and the inevitable result if present practices are not stopped, I regard it as a nominal rather than a substantial interest. What the future of the industry will be is purely speculative—purely problematical. I am not one of those prepared to admit that it will be restored to any great measure of prosperity—at least, for many years to come.

I quite concur with you in the fact that there should be adequate compensation made to those engaged in the sealing industry. In considering a basis of compensation to them, we have not lost view of the necessity which rests upon our Canadian friends to satisfy those who are to be prevented from further pursuing their calling. We have, therefore, proposed not only that they should be paid for the fair present value of their vessels in commission and those out of commission, because of the unprofitable nature of the industry—in short, we not only propose to purchase the entire fleet at its present value, pay one year's profits to the owners, one year's wages to the captains, &c., but leave the fleet in the hands of the owners. As you are aware, fully 40 per cent. of the fleet has been out of commission during several years past. Why? Obviously because there was, and is, no reasonable or profitable demand for it. With a continued diminution of the seal herd, it is not fair to presume, not only that the vessels not in commission will continue inactive, but that the number in commission will diminish. Our original contention was that the unused vessels should not be taken into account; but the American Commissioners have conceded this point, desiring to deal fairly with all those engaged or prepared to engage in the sealing industry who might have an equitable claim upon the consideration of the British Government.

You inquire, "May I not, in fairness, ask that our position should also sometimes be taken into account?" In what precedes you will observe that we have endeavoured to take into account your position. We offer to provide compensation in fair measure for all interests, as I have above indicated, having any equitable claim, in order that there may be no just ground of complaint upon the part of any of the subjects of Great Britain.

You will not overlook the fact that the Congress of the United States has but recently appropriated 473,000 dollars to those who will be chiefly the beneficiaries of the proposed settlement.

The provision for the per centum of the receipts of the Pribyloff Islands is a concession which has been heretofore urged, but, until now, always refused by our Government. Your renewal of the suggestion at the present advanced stage of our

negotiations seems to us to offer a solution compatible with the mutual interests of the two countries. I am pleased to know that the views of our Government have so far changed as to make possible a settlement of this feature of the question in conformity with your general wishes. The fund which will be derived upon the basis of our present proposal will be considerable from the outset, and, if your views of a complete restoration of the herd are happily well founded, will continue to increase, and might well constitute a bounty fund for the Victoria seafaring population. It is gratifying to observe that you are inclined to believe that, although our views as to a settlement of the sealing question are still considerably apart, there may yet be an agreement.

I must beg leave to disagree with you as to the effect of our proposition for the settlement of the Alaskan boundary. I feel that we have made a very important concession. The question is a grave one at present. The difficulties which surround its solution will only increase by the lapse of time, and, it seems to me, we will be recreant to our duty if we do not effect a solution and embody it in a Treaty for the ratification of our respective Governments. We have been disposed to treat this subject with all possible liberality and to meet you upon some common ground.

Are you quite right in your conclusion that we have proposed no substantial concession?

You say to us, "Your contention is that the line ought to be drawn so as to include the whole of the land bordering on the Lynn Canal within the United States." This is an accurate statement of our contention with respect to the really material difference between us with reference to the Alaskan boundary. I beg to recur to our proposal. We distinctly offered the fullest and freest possible use of Pyramid Harbour (an offer we would, I dare say, be willing to extend to some other equally acceptable harbour) at the head of the Lynn Canal for customs purposes. This offer embraced all but the sovereignty of the soil. It has seemed to us that it is a practical compliance with the wishes of your Commission. It grants all that is of any commercial or practical value, to wit, port, customs, and transit privileges, and avoids the rock upon which the Treaty would undoubtedly suffer shipwreck in the United States' Senate.

No one can appreciate more sensibly than yourself and your distinguished colleagues the gravity of ceding sovereignty to a foreign Power over a port or harbour midway of the American domain upon the coast.

By accepting this proposal of settlement, you would not be without defence, as you seem to apprehend, as you will have secured, according to our view, a very substantial concession of rights and privileges, tantamount almost to the sovereignty, which is all that we will hold. You are, of course, aware that our Government has never, prior to our present negotiations, been disposed to grant so much.

In your Memorandum respecting the Alaskan boundary, of even date with your letter, you say:—

"It has been suggested that the view of Great Britain that the upper part of the Lynn Canal is within her boundary is an afterthought, and only recently adopted. This is quite a mistake. In a Report made in 1886 by an official who had been instructed by the British Government to investigate and report on the question of the Alaskan boundary, reasons were stated at great length for coming to the conclusion that the upper part of the Canal was within British territory. More recently an official of the Colonial Office, reporting on the question, whilst not adopting in its entirety the Canadian view after the boundary generally, maintained strongly, and gave his reasons for so doing, that the upper part of the Lynn Canal was within the British boundary."

It is not claimed, I believe, that the Report of 1886 was ever brought to the attention of the Government of the United States; nor is it pretended that the subsequent Report was ever called to its notice.

It has seemed to me that this is a fact of much significance. The developments within the zone of the present dispute have been carried forward rapidly for several years, and the attention of the civilized world has been fixed upon Alaska as never before.

Dyea and Skagway rapidly grew in population and importance, and not until comparatively recently was there any well-defined and positive claim made by Great Britain that they were upon British soil. Why this delay in calling the attention of the United States to its trespass, if such it was? Here was a palpable invasion of British rights, if our contention is ill-founded; and no adverse claim was asserted

until years after the Report of 1886. Taking into account all the attendant circumstances, is the suggestion that the claim of 1898 is an afterthought a rash one, to say the least?

I indulge the hope that a careful consideration of the concession of privileges, &c., which we propose for the accommodation of British commerce across American territory and within some suitable harbour, will commend itself to your good judgment.

You will receive a Memorandum upon the subject of arbitration supplemental to what we have hitherto submitted, so that I need make no further observation on that subject at this moment.

As I said at the outset, I regard the transportation question of equal rank, in importance, with the three questions to which you have addressed yourself.

We have not been prepared to accept the view that, in enabling Canadian Transportation Companies to engage in what is American domestic traffic, we were not granting concessions of very great importance. What is now being done by sufferance we are willing should become a right fixed by Treaty. There is only one condition on which the right is to be granted, and that is that Canadian carriers shall observe, so far as practicable, the same conditions imposed upon American carriers under similar circumstances. They shall make public their rates, changing them only as our laws prescribe; they shall not pay rebates, or favour special shippers or communities to the injury of others, &c. Any infraction of the laws to be punished after proper hearing, by the withdrawal for the time being of the bonding privilege. The fact that the Canadian Companies have their sites outside of the United States renders it impossible for our Courts to enforce the same penalties that are imposed upon the American Railroad Companies and their officers for violating the laws. The fear that the reserved right to suspend the bonding privilege might be exercised at the instance of American competitors and harshly is to impeach the high character of the authorities charged with the administration of our inter-State commerce laws. We desire that the Canadian Railroad Companies shall enjoy the freest possible competition for American traffic consistent with the laws which operate upon their American competitors. This is the sentiment of important sections of the United States, which will stand guarantors, I dare say, against any injustice or oppressive use of the power reserved to secure the proper enforcement of our laws.

American railroads participating in the transportation of Canadian traffic shall in a reciprocal manner be subject to the jurisdiction of Canadian authorities.

In what I have said I have not intended to put any limitation upon your purpose to meet all the questions engaging us in the very fullest, broadest, and most equitable spirit. We have the amplest evidence of your desire to effect a just settlement.

In the light of what you have said, I believe that on our reassembling a further comparison of our views will enable us to reach a solution of the questions which have so long and so seriously taxed our attention.

I have, &c.

(Signed) CHARLES W. FAIRBANKS.

Inclosure 2 in No. 155.

Senator Fairbanks to Lord Herschell.

Dear Lord Herschell,

Washington, December 26, 1898.

I AM in receipt of your Memorandum as to the proposed Agreement for fixing the Alaska boundary, dated the 21st instant.

I inclose you herewith our supplemental Memorandum bearing upon the same subject for your consideration.

Very respectfully,
(Signed) CHARLES W. FAIRBANKS.

Inclosure 3 in No. 155.

Supplemental Memorandum.

THE intention of the proposal submitted by us was to provide for fixing the whole of the southern and eastern boundary of Alaska as far as Mount St. Elias. The boundary beyond that point to the Arctic Ocean has been already arranged by a Convention now pending in the Senate of the United States. It is quite possible, and very desirable, for the Joint Commission, if there should be a concurrence or reconciliation of views, to delineate upon maps the entire course of this boundary, with the aid of the joint surveys and experts at hand, and the American Commissioners are quite ready to enter upon that work.

The proposal made by us was coupled with the offer of the use of a port or harbour at the head of Lynn Canal for customs or transit purposes. It was hoped that offer would be accepted as a concession on the part of the United States of sufficient value to induce the British Commissioners to return to the method of settlement contemplated by their Government in 1873-75 for a location of boundary-marks on the rivers named, and a sufficient number of other points between the head of Portland Channel and Mount St. Elias, which, in the opinion of Surveyor-General Dennis, might be sufficient for all time (Sess. Papers, cited p. 28). The advantage of such a basis of settlement, in the absence of a better, is that in case of a disagreement as to any point of the line contemplated the particular disagreement might be submitted to arbitration, together with the line along the approach to Portland Channel.

An examination of the Protocol shows that the words "by legal aid and scientific experts, if the Commission shall so decide, or otherwise" was an amendment at the instance of the Canadian conferee, and that the American conferees accepted it as neither enlarging or restricting the powers of the Commissioners as already agreed upon. The instructions of the American Commissioners are to seek to execute the stipulations of the last clause of Article I of the Treaty of the 22nd July, 1892, by an agreement as to the boundary, and, as far as possible, to delineate the same upon proper maps; and, further, to provide for the fixing of boundary-marks by a Joint Commission to be hereafter appointed.

We are not aware of any proposition of the British Government embodying its views or wishes as to that portion of Alaskan boundary now in dispute other than or different from that made in 1873-75 and cited in our first proposal, until the subject was presented in the Conferences at Quebec. If any report by an official of an investigation made in 1886, or of a later date by a Colonial Office official, claiming any portion of the Lynn Canal, has been adopted by the British Government, that fact has not been communicated by it to the Government of the United States.

 Inclosure 4 in No. 155.
Lord Herschell to Senator Fairbanks.

*Governor-General's Office, Canada,
December 31, 1898.*

Dear Senator Fairbanks,

IF I reply to your letter it is not in any controversial spirit, but because I think a frank interchange of views is calculated to promote agreement, if that be possible, or if it be impossible, which I most earnestly trust may not prove to be the case, to enable us to ascertain this at an early date. If a Treaty can be reached, I shall not grudge a moment of the time I have spent on this side of the Atlantic, but, if it cannot, you will think it but natural that I should be averse to prolonging my stay.

You intimate that I do not sufficiently appreciate the concessions you are prepared to make. I will deal with these in turn in reference to the several subjects discussed in reference to your letter; but I cannot avoid making this general observation. The foundation of the view that what you offer are concessions appears to me to be—and I ask you to consider whether this is not so—that where we differ as to the respective rights of the two countries, the contention of the United States is always the correct one, and that the British claim is always without any foundation.

1. As regards the Atlantic fisheries you refer to the vote, by which the Arrangement of 1888 was rejected by the Senate, as conclusively showing that a two-thirds majority

could not be obtained for any such Agreement at the present time. I cannot so regard it. I believe I am right in thinking that the division in 1888 proceeded upon strict party lines. The vote was quite as much directed against the Administration as against the Treaty. The appointment of the Commission and its negotiations were denounced as unsanctioned by the Legislature, and, indeed, contrary to its express desire. Many of the arguments most forcibly urged against ratification would be wholly inapplicable to an arrangement entered into by our Commission. Moreover, the state of feeling then existing between the two countries was very different from that which we have been led to believe happily prevails at present. You say that, pending the arbitration "the American Commissioners have agreed to pay to Canada the licence fees required, while our contention is that they are unwarranted under the Treaty in dispute," and you treat this as an abandonment for the time of the claim of the American fishermen. Our point of view is different. We regard the fishermen as obtaining, by virtue of a licence, what is more than an equivalent for the small sum which it costs, and they undoubtedly, by virtue of it, gain privileges to which they have no claim whatever on any possible aspect of the Treaty relations between the two countries. The matter is after all a small one, for it relates only to a *modus vivendi* until the arbitration is concluded, which must necessarily cover but a very short period of time. But I do not understand the American Commissioners to have agreed to pay "the license fees required." This was the original suggestion. The American Commissioners who are members of the Sub-Committee dealing with the question expressed themselves unwilling to agree to this, and were prepared to go no further than to agree to the payment of a lump annual sum, arrived at by taking the average over a series of years of the number of vessels in respect of which a licence had been taken out, and required that, in consideration of this payment, all United States' fishing-vessels, without any limit as to number, should be entitled to the privileges which a license covers. This is a very different proposal. It is obvious that if the Government were to pay the license fees, a much larger number of fishing-vessels might take advantage of the arrangement than have hitherto taken out licences, with the result that a much smaller sum per vessel might be received for the licences than at present. You will, I am sure, see on reflection that such a proposal, which could only be given effect to in this country by legislation, would encounter vehement opposition from the fishing interests. In my view it would be far preferable to this that the *modus vivendi*, which has been in operation now for several years should continue unchanged, pending the arbitral decision. The design of the original proposal was to secure that a licence fee should be paid in respect of all fishing-vessels alike, which is, of course, only fair, without the necessity of resorting to penal proceedings against those who attempted to obtain, without payment, what others had to pay for.

2. I cannot quite read the history of the last fifty years relating to commercial intercourse between the two countries as you do. It seems to me that political leaders in both countries have, more especially since the Treaty of 1854 came to an end, for the most part been seeking to erect barriers to obstruct commercial intercourse between the two countries. I will not dwell further, however, on this difference of view, which is of no practical importance, except in so far as the policies adopted render an agreement for freer interchange of commodities less easy. I fully appreciate the formidable obstacles in the way of a change, and do not wish to underrate your difficulties; but the fact remains that the reciprocity provisions, to which so far you have been able to agree, will not excite any substantial interest or support in Canada; and you are, I feel sure, alive to the grave difficulties to which the present Tariff Law relating to lumber has given rise, and to the importance of removing this source of irritation if it can be done—as I believe it can—with results on the whole beneficial and not prejudicial to the United States.

3. It seems to me that you do not attach sufficient weight to the fact that you have no right to require us to stop pelagic sealing, and to put an end at once to an industry at present carried on by our subjects. It is said that pelagic sealing and land sealing, if both carried on, would eventuate in a destruction of the entire industry. You suggest that, under these circumstances, we should for a consideration give up exercising our right of pelagic sealing. Another solution would be that we should acquire your right to take the seals on land. If this were the basis of our negotiations, would not you insist that the consideration should be rather what you thought fair, than what we thought fair? May not we, then, justly claim the same? This is the real point at issue. One or two of your other remarks, however, demand observation.

You intimate personal doubts as to the future of the industry if pelagic sealing is abandoned. We are, however, surely entitled to negotiate on the basis of the views repeatedly pressed upon us by the United States' Government, and repeated by them down to the present time, and not on individual opinions. I rather demur, therefore, to your

saying, "if your views of the complete restoration of the herd are happily well-founded." You treat one year's profits as reasonably sufficient to compensate those whose business is to be stopped. I think this quite inadequate, having due regard to all the circumstances. I do not think three years' profits would be extravagant. I must add that I cannot see that the recent appropriation by Congress of 473,000 dollars is at all relevant. Although the appropriation was recent it had reference to events which took place many years ago, and covered merely compensation in respect of wrongs then sustained.

4. As to the Alaskan boundary: Here again it seems to me with deference that you decide in your own favour the question as to the territory in dispute, treating the British claim to it as absolutely without foundation, and practically ask me to do the same. For you ask me to be content with the concession of privileges "for the accommodation of British commerce across American territory and within some suitable harbour." I am afraid I cannot agree with you in regarding the possession by Canada of a port on the Lynn Canal as a grave matter which might seriously prejudice the interests of the United States. Honestly, I do not see how it could be so. It is not, I think, quite accurate to speak of such a port as "midway of the American domain on the coast." The coast proper is to the south on either side of the entrance to the canal. Seeing that this entrance from the ocean is very narrow, and would be commanded on both sides by undoubted United States' territory—that is to say, that the United States could, in case of war, absolutely control what may be termed the neck of the bottle, how could it be to their detriment, or to the advantage of Canada in such a case to possess a port at what I may call the bottom of the bottle?

You are quite right in saying that neither of the Reports I referred to had ever been communicated to the United States. I never suggested that they had been. Such a course would have been very unusual. I only alluded to them for the purpose of showing that from the time when the matter was first seriously investigated the British Government had held the opinion I submitted to you. I do not for a moment maintain that this affects the rights of the parties, which depend on the true construction of the Treaty of 1825, and whilst I still assert that the idea that the present claim is an afterthought is unfounded, I insist that my argument, if a valid one, would be none the less sound—even if the contrary were the case. It must be remembered that in 1886 Mr. Bayard, on behalf of the United States, put forward the view that north of the Portland Canal the boundary-line could not be drawn in strict accordance with the terms of the Treaty, and that some conventional line ought to be agreed upon. Since that date, so far as I am aware, neither Government has communicated to the other a statement of the course which, in their opinion, that line ought to take between the Portland Canal and Mount Elias. It is only "comparatively recently" that Dyea and Skagway have come into existence and have prominently invited attention.

5. I do not differ as to the importance of the transportation question. It may truly be said to be of as great importance as some of those with which I have dealt, but it seems to me to fall within an entirely different category. As to the others, differences—and acute differences—have arisen, and must continue to arise, unless some agreement be arrived at, but as regards the question of transportation, it is not so. There is no controversy as to the rights of the parties. We are in complete agreement as to them. As regards the proper aspect of the bonding privileges, I admit that we are not at one. You consider that in "enabling Canadian Transportation Companies to engage in what is American domestic traffic," you are "granting concessions of very great importance." I am unable to regard the bonding arrangement as mainly designed to enable Canadian Companies to compete for American traffic. The goods bonded belong to United States' citizens. They send them by a Canadian route because they deem it to their profit and advantage to do so. If they could be more advantageously sent by another line, that would be their route. The effect of the bonding is to enable United States' citizens to transmit their goods by the most convenient and advantageous route without being subjected to the payment of duty. The Canadian Company does not possess itself of the property of United States' citizens and transport it whether they will or no. The United States' citizens are the motive power creating the traffic. The Canadian Transportation Company, of course, incidentally benefits from this by earning freight which it otherwise would not; but you must pardon me for doubting whether the bonding arrangement has been continued out of regard for Canada, or as a concession to Canadian Companies to enable them to engage in this traffic.

It must be remembered that precisely the same advantages are possessed by United States' Transportation Companies carrying between two points in Canada, owing to the existing bonding arrangements, as are possessed by Canadian Companies conveying goods from the United States through Canada to a United States' destination. The

amount of freight thus earned has, I think, been under-estimated by you. The information I have received tends to show that as regards one of the Canadian Companies, namely, the Canadian Pacific Railway, the abolition of bonding on both sides would not be to their detriment. I, however, do not regard the bonding through Canadian territory as a concession to United States' Companies by Canada any more than I do the bonding through the United States as a concession by the United States to Canadian Companies. Here, happily, our differences cease. We are quite agreed that it would be unreasonable that Canadian Transportation Companies should be able to carry between two United States' places without being as effectually bound by the laws which regulate such traffic, when conveyed by United States' Transportation Companies, as those Companies are. I think it will be more convenient if I say nothing further on the subject here, but embody my views on your suggested clause in a separate Memorandum. I also send some observations on your separate Memorandum as to the Alaskan boundary.

In conclusion, let me assure you that I have anxiously studied all you have said in your letter. I have again surveyed all the questions, with a sincere attempt to do so without partiality or prejudice; but I cannot satisfy myself that if I were to give my adhesion to your proposals, as they stand at present, I should be concurring in a just and equitable settlement of our differences, and one which I could with a clear conscience defend.

Inclosure 5 in No. 155.

Memorandum respecting Transportation Privileges sent to Senator Fairbanks.

WHILST I cannot but entertain grave objections to the clause proposed, with reference to bonding and transportation, it is certainly not because I differ at all as to the justice and propriety of the object sought to be obtained. I fully agree that Canadian Transportation Companies carrying between two points in the United States ought, in respect to such traffic, to obey the laws of the United States which apply thereto when conveyed by United States' Companies, and that this obedience should be capable of being effectually enforced. My criticisms, therefore, have reference not to the end in view, but to the means proposed to be employed.

In the first place, it is suggested that the findings of the Interstate Commerce Commission should be conclusive as against Canadian Companies, both as to the law and as to questions of fact. In the case of United States' Companies its findings are without any similar effect, and obedience to the law can only be enforced by indictment tried by Judge and jury, or by the grant of an injunction by a Judge. There is, therefore, a review of the facts as well as of the law by a duly constituted Tribunal of the United States before any penal consequences follow. The distinction seems to me vital. Is it unnatural that I should be unwilling to submit Canadian Companies in respect of carriage by them in the United States to the conclusive sway of a Commission under whose control the United States are unwilling to place similar interests of their citizens? In adopting this position I do not, as it seems to me, impeach the high character of the Interstate Commerce Commission, any more (if I may be permitted the illustration), than a Frenchman attacks the honour of the army when he objects to regard the decision of a Court-martial as infallible. Let me invite your attention to what might well happen if your proposal were adopted. The Interstate Commerce Commission have held, let us suppose, that a Canadian Company and a United States' Company are both by similar acts violating the law—this finding is conclusive upon the Canadian Company, and the penalty provided for must automatically follow; the finding in the case of the United States' Company only leads to proceedings in a Court of Law, which, let us suppose, holds that there has been no violation of the law, thereupon the United States Company can continue the course of action condemned by the Interstate Commerce Commission, whilst a Canadian Company is compelled under a heavy and inevitable penalty, to refrain from doing what a United States' Court has held lawful and has sanctioned in the case of its competitor. I am sure you must agree with me that this would be inequitable, and would, naturally, be viewed as a scandal. The objection is, of course, not removed by the proposed addition of one Canadian to the Interstate Commerce Commission. It seems to me of the very essence of a just arrangement that the law which is enforced against the United States and

Canadian Companies alike should be the same, and that the enforcement of it should be equally certain and effectual in both cases.

This leads me to the second objection to your clause, viz., the nature of the proposed penalty. It is of an extremely stringent character, and might come to be enforced against Canadian Companies, whilst from the very different scheme applicable to United States' Companies the law was practically unenforced in their case. I think it impossible to doubt that as the law stands at present obedience by United States' Companies is not always enforced. This is to my mind established by the fact that many public bodies, and, indeed, the Interstate Commerce Commission itself, urge that the Legislature should provide some better means than exist of enforcing the law. Is it unreasonable that under these circumstances I should object to a drastic penalty in the case of Canadian Companies whilst there is no security that any effective penalty would compel rival United States' Companies to conform themselves to the law? You may say that the position of the Canadian Companies is, at present, a precarious one, because the bonding privilege might at any time be put an end to by the Executive Government. I quite admit this, but I should infinitely prefer that the matter should rest with the Executive, who would have regard to the whole situation and consider what was reasonable and fair, than that the bonding should depend upon the findings of the Interstate Commerce Commission. At all events you will see, that to submit to the inevitable in the shape of the present situation is one thing, and to put my hand to an agreement for a scheme which I cannot feel to be just and equitable is quite another thing.

There is a further difficulty about your proposal which you will at once appreciate. Your clause deals only with the case of Canadian Companies carrying through Canada between United States' places, but you, of course, admit that it must contain a corresponding provision with reference to United States' Companies carrying through the United States between places in Canada. Now Canada has not at present any body corresponding to the Interstate Commerce Commission. Nor has it any law on quite the same lines as the Interstate Commerce Law, though it has been, I believe, for some time in contemplation to legislate in that direction. A Treaty does not with us as it does with you constitute a law. This, as you will perceive, constitutes a serious obstacle in the way of the insertion in the Treaty of a provision corresponding with yours to cover the converse case.

Two courses seem to me to be open to carry out in an unobjectionable manner the object we both have in view. The one would be an agreement that any question arising as to the conformity to the respective laws applicable to them of a Company carrying through Canada between United States' places, or of a Company carrying through the United States between Canadian places should be referred to an International Commission Tribunal or body of Arbitrators, and that suitable means should be provided for enforcing its decisions. The disadvantage of this course would be that it would involve the insertion in the Treaty of somewhat elaborate provisions which would need to be thoroughly thought out and rendered complete, and which yet could have no effect in Canada without subsequent legislation. The objections to this stereotyping a code of law of this description are obvious. The other course is one which I outlined to you in conversation. It is that the principle upon which we are agreed should be distinctly established by the Treaty, and that both nations should engage to take steps in concert to render obedience to the law capable of being effectually enforced. The Powers could then confer on the subject, and bring into simultaneous operation suitable measures. I do not think it would be difficult to frame them. They would not necessarily be such as I have already described; more than one scheme has occurred to me, but its ultimate hope would have to depend somewhat upon the changes which you determine to make for the purpose of making your Interstate Commerce Law more effective. Meantime, the bonding privilege would remain just as it is at present. It would still be precarious, and your powers in relation to it would be unchanged. I feel confident that under these circumstances the Canadian Companies would make every effort to comply with the law.

I should propose some such clause as the following:—

“It is hereby agreed between the High Contracting Parties that they will with all convenient speed confer with one another and take steps in concert to secure that the obligation of Canadian Companies and carriers conveying traffic from one place to another in the United States to conform in respect of such traffic to the laws of the United States relating thereto, and that the obligation of United States' Companies conveying traffic from one place to another in Canada to conform in respect of such traffic to the laws of Canada relating thereto should be effectually enforced, and, further, to secure that the laws of the United States and Canada respectively relating to the conveyance of traffic between any places in the United States and between any places in Canada, respectively,

between which goods are carried by Canadian Companies and United States' Companies, respectively, shall be effectually and equally enforced against all Companies or carriers, whether United States' Companies or carriers or Canadian Companies or carriers conveying traffic between such places respectively."

*International Commission, Ottawa,
December 31, 1898.*

Inclosure 6 in No. 155.

Memorandum respecting Alaska Boundary sent to Senator Fairbanks.

IT is, I daresay, my fault, but I still do not understand the proposal submitted as to fixing the Alaskan boundary. My difficulty arises from the introduction of the words "the southern and eastern" boundary of Alaska as far as Mount St. Elias. The southern boundary, I presume, refers to where the line enters the Portland Canal. From the Portland Canal the line is for a considerable distance an eastern boundary, but whichever view be correct it becomes, in passing from the east to the west side of the Lynn Canal, a northern boundary. Is it intended to exclude this? If not, why are the words "the southern and eastern boundary" inserted, and why is it not simply said, "The whole of the boundary of Alaska as far as St. Elias"? Is it, or is it not intended to assent to the proposal that if we cannot agree, the question where the boundary-line runs throughout should be referred to arbitration?

The suggestion made in 1863, and any opinion then expressed by Surveyor-General Dennis appear to me out of place at the present time. It is impossible to say at what point the question where the line runs might not turn out to be important owing to mineral discoveries hereafter. The danger under these circumstances of leaving any part of the boundary undetermined will, I am sure, be obvious.

From the time when Mr. Bayard in 1886 made his suggestion of a conventional boundary, owing to the difficulty of drawing the boundary-line strictly according to the Treaty of 1825, neither Government has, so far as I am aware, communicated its views to the other as to the course which the boundary-line should take throughout..

Ottawa, December 31, 1898.

Inclosure 7 in No. 155.

Memorandum with reference to proposed Clause with reference to Hawaii and Porto Rico sent to Senator Fairbanks.

IT may be well that I should explain the exact scope and purpose of the proposed clause with reference to British vessels trading to Hawaii and Porto Rico, and some of the agreements which we desire to urge in support of its insertion in the Treaty.

It seeks to create by agreement an exception in a united class of cases from a provision that the Ports of Hawaii and Porto Rico should fall under the Coasting Regulations of the United States, and that thus the carriage of passengers and goods therefrom to a United States' port should be in all cases confined to United States' vessels. It would not touch the application of those Regulations to the island ports which have become United States' ports as a general rule. All traffic between them and the United States would still be confined to United States' vessels except in those cases only where vessels coming from a British port had traded there. Its sole object is to leave undisturbed an accustomed course of trade by British ships. The adoption of the clause would take nothing from the United States which it has heretofore enjoyed; it would do no more than leave to British shipping and not deprive it of a course of maritime adventure which it has hitherto and for long pursued.

From a pecuniary point of view the matter is not a large one. As regards Hawaii it would affect chiefly the traffic of vessels sailing between New Zealand and San Francisco, and calling at Hawaii in the course of their voyage. As regards Porto Rico, its main effect would be to permit Nova Scotian and New Brunswick schooners to discharge fish at Porto

Rico, and, as has been their wont, to take thence a cargo for New York or another United States' port on the continent, loading at that port their return cargo to Nova Scotia or New Brunswick.

It would work very considerable hardship if this accustomed course of maritime commerce were put an end to. Although, as I have said, the matter is of small pecuniary importance, I regard its political importance as far from small in relation to the state of feeling between the two countries which we on both sides desire should be as friendly as possible.

The annexation of Hawaii and the recent acquisition of Porto Rico owing to the late war must necessarily result in prejudice to British commerce as soon as United States' goods are admitted free of duty whilst the United States' Tariff is applied to British imports. But in so far as the prejudice experienced is the inevitable result of annexation to the United States, owing to the provisions of its constitution, British subjects, though they may suffer, cannot well complain of the inevitable. They would, however, I think, not unnaturally feel sore if to this were added an interference with the accustomed course of maritime commerce which was not inevitable.

The amount of the carrying trade which would be affected by the suggested agreement is not likely to increase under the new conditions. On the contrary, the Tariff charges to which I have alluded will tend to diminish it. But I am sure that such an agreement would tend to prevent irritation, and that the assent to it of the United States would be welcomed as an indication of friendly feeling.

Government House, Ottawa, December 30, 1898.

Inclosure 8 in No. 155.

Lord Herschell to Senator Fairbanks.

(Private.)

Dear Senator Fairbanks,

*International Commission, Washington, D.C.,
January 24, 1899.*

I AM led by what passed at our meeting to-day to send you these few lines. I do not think you did full justice to our position, which, indeed, you seemed even to resent. You could not, of course, take exception to the principle that some agreements can only be made if counter-agreements are procured, for you have acted upon it. You said, for example, that you would give bonding privileges if certain concessions were made on our side. We did not see our way to give these, and pointed out our objections. We made a counter-offer. This you did not see your way to accept. Result: As we would not give what you asked, no bonding privileges are to be inserted in the Treaty. I do not complain of this; you were within your rights. Again, we had a difficulty about inserting restrictions you desired as to canal tolls. Result: No grant of right to use Lower Hudson in connection with canals. I do not complain of this either; I only point out the fact. Now, as regards the matters in which we are interested, you have said, "We will not settle the Atlantic fishery question as it has always been settled hitherto." We did not say, "We will settle on no other basis." We have tried hard to find one. You said, as to the Alaska boundary, that you could not give us the sovereignty of any port on the Lynn Canal. In my opinion, we were, as a fair compromise, fully entitled to this, and should have been justified in saying, "We will take nothing less." We were very unwilling to do so, and quite prepared to consider your proposal; but unless we can defend on their merits, as a fair settlement, by themselves, of three important questions, the result arrived at, we can only do so if we can point to concessions made in other parts of the Treaty which will make it palatable. You would be, I am sure, the first to regret that the net result of the Treaty should be to turn out of office my colleagues—the representatives of a party which has been condemned by not a few as too friendly to the United States. The consequences would be disastrous to the relations of the two countries. And yet, if they have to apologize for every settlement of disputed questions as being, though not satisfactory, the best they can get, and have nothing to point to which will give any extended satisfaction, you will, as a politician, appreciate the danger. This is the bearing which the reciprocity question has on some of the others. With a satisfactory arrangement under that head we could carry what otherwise would be impossible. I am sure your candour will lead you to view aright these considera-

tions. I have so high a regard for your opinion that I am sure that when you seem to suggest unreasonableness on our part it is because you have not fully appreciated our position.

I am still looking forward to the fulfilment of the President's words: "You must have something that you want."

Ever yours truly,
(Signed) **HERSCHELL.**

P.S.—This needs no answer.

H.

Inclosure 9 in No. 155.

Senator Fairbanks to Lord Herschell.

(Private and Confidential.)
My dear Lord Herschell,

*International Commission, Washington, D.C.,
February 9, 1899.*

I RECEIVED your private and confidential note late last night on my return from a meeting of the Sub-Committee on reciprocity.

I appreciate fully your suggestions with reference to the arbitration of the Venezuelan boundary dispute. I am quite familiar with that matter, and regard the course of Great Britain as in the fullest degree most honourable. She has lost neither dignity nor prestige—in fact, I believe she has increased her already strong hold upon the admiration of all nations.

With reference to the Alaskan boundary, we have been engaged in an effort at adjustment without resorting to any of the expedients contemplated by the Protocol. We early furnished you a Memorandum of our view of an equitable and just settlement. Later, you were good enough to submit a counter-Memorandum, which was followed by a further Memorandum by the United States' Commissioners. Our views are so divergent that it would seem we were unable to reach an agreement among ourselves.

You cannot regret a hopeless division between us upon this important subject more than I. We have given to it the most earnest and exhaustive consideration in the hope that we might conclude a settlement, and not leave open the question for the consideration of others.

You regard our last proposition as taking less advanced ground than the one we made some two months ago. I do not accede to this view; yet, if it were entirely correct, there is no substantial harm done, as each of our propositions has been rejected.

We have only now come to the point where it becomes necessary to provide for the delimitation of the boundary "by legal and scientific experts or otherwise." We desire that you should outline some plan of delimitation within the scope of this provision of the Protocol. This will afford a basis for further consideration. Before this is done, it is quite too early, it seems to me, to discuss the question raised by you yesterday with reference to the subject of arbitration.

I sincerely hope that you will not feel disposed, as you were inclined to do yesterday, to rest the entire negotiations upon the success or failure to reach a settlement of the Alaskan boundary question. We have not supposed that unrelated questions would be held in suspense because of any failure to settle one or more of those remaining.

I should deeply deplore the result if, after so many months of patient and loyal work by both Commissions, we should accomplish nothing whatever. Such a result might lead to a serious misunderstanding of the relations and purposes and the really cordial good-will which now exist between the two countries.

Faithfully yours,
(Signed) **CHARLES W. FAIRBANKS.**

No. 156.

Mr. Cartwright to the Marquess of Salisbury.—(Received March 13.)

(No. 5.)

My Lord,

Washington, March 3, 1899.

WHEN the question of referring the Alaskan boundary dispute to arbitration was under discussion a fortnight ago, Lord Herschell informed me that he had received from Senator Fairbanks a statement of the acts of occupation on which the United States' Government relied, in order to establish their claim to the territory on the Lynn Canal.

I have the honour to transmit to your Lordship the letter in question, which was found amongst Lord Herschell's private correspondence.

I may add that Lord Herschell wished to forward the inclosed papers, although he did not attach much importance to the evidences of occupation which they purport to set forth.

I have, &c.

(Signed) W. CHAUNCY CARTWRIGHT.

Inclosure 1 in No. 156.

Senator Fairbanks to Lord Herschell.

Dear Lord Herschell,

Washington, December 4, 1898.

I TAKE pleasure in handing you herewith such supplemental documents, information, &c., as we have bearing upon the question of the Alaskan boundary.

Very respectfully,

(Signed) CHARLES W. FAIRBANKS.

Inclosure 2 in No. 156.

Memorandum as to Information requested respecting the Alaska Boundary Question.

THREE accompanying documents (17th April, 1834, 16th April, 1854, and 18th March, 1849), being translations from the Russian-American archives in the Department of State.

2. It appears that a fort was established at the mouth of the Stakin, or Stikine, River by the Russians in 1834 (see Tichmeneff, vol. i, p. 264 sq.), and a settlement of some character, usually official, has been maintained since that date. The United States exercised customs authority for about 10 leagues up that river as early as 1873. A school under American auspices was established at the head of Lynn Canal in 1881,* and has been maintained as a Government school since 1885. Other places are noticed in Appendix (VI) to "Views of United States' Commissioners." The Russian and American authorities and commercial Companies have exercised exclusive authority and trade to the head of the inlets, and have had undisputed control and supervision of the Indians occupying that territory since 1825, with the exception of the period when the territory in question was occupied by the Hudson's Bay Company as lessees, with the approval of both the British and Russian Governments. Other forts or posts than the one named have existed, the details of whose location are not at hand.

3. A Customs-house was established at Dyea the 23rd July, 1897.

* See Inclosure 3 in No. 95.

Inclosure 3 in No. 156.

Translations from the Russian-American Archives in the Department of State.

Board of Directors of the Russian American Company to Post-Captain and Knight Ivan Antonovitch Kupreianoff, Chief Manager of the Russian-American Colonies.

April 17, 1839.

FROM the despatches of the Board of Directors, you are acquainted with the correspondence relating to the claims of the English Hudson Bay Company, which has demanded an indemnity of 22,150*l.*, as damages for preventing a vessel belonging to it from entering the Stachin River.

The Board of Directors employed all possible arguments to resist these claims, but, finally, upon a fresh solicitation of the English Ambassador, Mr. Milbanke, on the 15th December, 1838, it received orders from the Minister of Finance for the Russian-American Company to come to a peaceable settlement with the Hudson Bay Company.

Thereupon, the Board of Directors informed the Minister of Finance, on the 20th December, that it was ready to come to a peaceable settlement with the Hudson Bay Company upon the bases set forth in that statement, and that, from a desire to conciliate it as much as possible, to reconcile our mutual interests, and to prevent hostile collisions in future, Rear-Admiral Baron Wrangel, a member of the Council established over the Company, had entered into a correspondence with the Directors of the Hudson Bay Company in order, by some means of preliminary private negotiations, to prepare and facilitate official communications.

From this correspondence, it was discovered that the Hudson Bay Company would be glad to lease, for a certain number of years, at an annual payment of rent in furs, some portion of the Russian possessions in America, bounded on the north and south by the Stachin River, and, at the same time, it declared its readiness to carry to our colonies, for a moderate commission, a full annual supply of goods and provisions; but, for a closer examination and agreement on these subjects, and in order to arrive at a peaceable settlement of the Stachin affair, the Directors of the Hudson Bay Company proposed that they should send, about the middle of January of this year, to Bremen or Hamburg, one of their members, to meet there a person empowered by the Russian-American Company to conclude a definitive Contract.

The Board of Directors, thinking that the matter in dispute might perhaps be settled by this means, in a manner satisfactory to both parties, requested permission to enter into official negotiations, and to conclude an Agreement upon the basis suggested by this Board; and Rear-Admiral Baron Wrangel declared his readiness to undertake this commission.

On the 8th January, the Minister of Finance informed the Board of Directors that, upon the report of the Vice-Chancellor, it had pleased His Imperial Majesty to signify his Royal Assent to the proposal of this Board to come to an agreement with the Hudson Bay Company, both with regard to an indemnity for the Stachin matter, and concerning a lease to it for a certain number of years, of some portion of our territory along the English frontier, on the north and south of the Stachin River, and, also, to the sending Baron Wrangel beyond the frontier to enter into definitive negotiations with the Plenipotentiary of the Hudson Bay Company.

In pursuance of this Imperial Order, Rear-Admiral Baron Wrangel, furnished with full powers for the conclusion of the Agreement in question, left St. Petersburg on the 8th January, crossed the frontier, and executed the Contract with Mr. Simpson, the Plenipotentiary of the Hudson Bay Company, on the 25th January (6th February). He sent this document to the Board of Directors, supplementing it with a copy of his Excellency's letter to Mr. Simpson, and of the latter's reply.

Rear-Admiral Baron Wrangel executed the Imperial orders with eminent success, persuading Mr. Simpson, the Plenipotentiary of the Hudson Bay Company at the same time to renounce its claim against the Russian-American Company for the Stachin affair, and concluded, with Mr. Simpson, an Agreement which promises to produce advantageous results for the Russian-American Company, according to the calculations recited in detail in the inclosed copy of the Report of the Board of Directors to the Minister of Finance, dated the 3rd March, No. 40.

In communicating this to you, the Board of Directors has the honour to send you inclosed a copy, in the English language, of the Act concluded with the Hudson Bay

Company, together with a translation in Russian, and a copy of the letter of Rear-Admiral Baron Wrangel to Mr. Simpson, supplementary to that Act, together with a copy of the latter's reply, in order that you may make, carefully and without fail, the arrangements and preparations dependent upon you; and it instructs you especially:—

1. To give orders for the surrender to the Hudson Bay Company, by the 1st June, 1840, of the coast (excluding the islands) and the interior portion of the mainland belonging to Russia, lying between Cape Spencer, which forms the north-western point of the entrance to Cross Bay, and latitude $54^{\circ} 40'$, that is to say, all the coast of the continent and of the interior portion of the mainland (together with the right of free navigation and trading in the waters of that coast and of the interior portion of the mainland), lying to the south-east of a line drawn from the said Cape Spencer to Mount Fairweather, together with the exclusive right of trading in those places; all of which has been leased to the Hudson Bay Company for ten years, counting from the 1st June, 1840; and to give orders for the evacuation by that date of all the posts and forts now occupied by us on that coast and in the interior of the mainland above described, making it your duty to see that all the other provisions of the 1st Article of the Act concluded with the Hudson Bay Company, are carried out on the part of our colonial authorities and of the places and persons dependent upon us, in the strict and full meaning of the term—not merely in appearance, but in the most practical manner. The Board of Directors requests you, when giving up Fort Dionysius (from which you will remove the arms, ammunition, and goods, as the movable property is not included in the surrender to the English), to write to the Hudson Bay Company's Commander, giving him your opinion as to the number of the garrison which it is necessary to maintain in the fort in order to keep the natives in sufficient awe, as, otherwise, the English, by relying upon too weak a force, may tempt the savages to hostile enterprises, the effects of which may be injurious to both them and us. You will endeavour to impress upon the natives the fact that we are the friends of the English, and that, knowing this, they must not make any hostile attempts against the latter.

While thus observing, with all strictness and with the requisite care, the 1st Article of the Contract you may nevertheless avail yourself (at your discretion, and by no means neglecting the interests of the Russian-American Company) of the right given us by Article 2, of hunting and trading, and maintaining relations with the islands and in the straits. By the terms of this latter Article, the English have no right to trade for sea-otters caught in the waters of our possessions, nor for beavers or river-otters caught within our boundaries. Nor can the Russian-American Company buy the furs of animals killed in the territory leased to the English.

2. The Hudson Bay Company binds itself to pay, or to deliver annually, to the Russian-American Company, as a payment of rent, for the said portion of our possessions leased to it, 2,000 out-going otter-skins (rejecting unborn and injured skins) taken on the western side of the Rocky Mountains, making the first delivery of 2,000 otter-skins on the 1st June, 1841, or earlier. In addition to this, it agrees to deliver to the Russian-American Company during the ten years: (a) all the out-going otters taken by it on the western side of the Rocky Mountains, not exceeding 2,000 skins, at the price of *l.* 3*s.* and (b) also, 3,000 skins of out-going otters, taken on the eastern side of the Rocky Mountains, at the price of *l.* 12*s.* per skin. (The rest of this paragraph relates to skins.)

3. Relates to the purchase of provisions and goods from the Hudson Bay Company.

4. Relates exclusively to the delivery of goods and provisions.

The remainder of this letter consists of instructions to execute all the provisions of the Contract faithfully.

Directors:
(Signed) I. PROVOFIE.
A. SEVERIN.

Inclosures.

Extract from the report of the Board of Directors of the Russian-American Company to the Minister of Finance, dated the 3rd March, 1839, No. 40.

Baron Wrangle's letter of the 25th January, and 6th February, 1839, to Mr Jordan Simpson, the Representative of the Hudson Bay Company.

Mr. Simpson's reply of the same date.

All the inclosures are in Russian.

The copies of the Contract, in English and Russian, referred to as inclosures, are missing.

Russian-American Company, Archives, Correspondence, vol. XII, 1839, p. 286.

Extract from the Report of the Board of Directors of the Russian-American Company to His Excellency the Minister of Finance, March 3, 1839.

YOUR Excellency was pleased, on the 8th January last, to notify the Board of Directors of the Russian-American Company, that, in consequence of the report of the Vice-Chancellor to the Emperor, His Imperial Majesty had been pleased to signify his assent to the proposals of this Board, to come to an agreement with the Hudson Bay Company, both concerning the indemnity for the exclusion of a vessel belonging to it, from the Stachin River, and with regard to leasing to it, for a certain number of years, some portion of our possessions bordering on the English territory north and south of the Stachin River; and, also, to the sending Rear-Admiral Baron Wrangle beyond the frontier for the purpose of concluding negotiations with the Plenipotentiary of the Hudson Bay Company.

In fulfilment of this order of His Imperial Majesty, the Board of Directors of the Russian-American Company furnished Rear-Admiral Baron Wrangle with full powers, and gave him permission to enter into the necessary relations with Mr. Simpson, the Plenipotentiary of the Hudson Bay Company, and to exert himself to the utmost to procure the abandonment of the claim of the Hudson Bay Company on account of the Stachin affair, which had given rise to correspondence between our Government and that of Great Britain.

Rear-Admiral Baron Wrangle left St. Petersburg on the 8th January, crossed the frontier, and executed the commission intrusted to him; and delivered to the Board of Directors of the Russian American Company the original Act concluded by him at Hamburg, on the 25th January and 6th February, with Mr. Simpson, the Plenipotentiary of the Hudson Bay Company, and, as a supplement to that Act, a copy of his letter to Mr. Simpson and of the latter's reply.

The Board of Directors of the Russian-American Company has the honour to transmit to your Excellency certified copies of these documents, with a translation into the Russian language.

From these documents your Excellency will see that Rear-Admiral Baron Wrangel executed the Emperor's orders with distinguished success; induced Mr. Simpson, the Plenipotentiary of the Hudson Bay Company, to abandon entirely its claim against the Russian-American Company on account of the Stachin affair, and concluded with Mr. Simpson an Agreement which promises advantageous results to the Russian-American Company, for the following reasons:—

1. The coast of the mainland of the Russian possessions, leased to the Hudson Bay Company, is very poor in river otters, being only 10 leagues in width, and by far the greater part of the otter-skins hitherto received by us from the natives are procured by the latter at second-hand from the inhabitants of the interior of the continent (the remainder of the document relates to the commercial advantages which the Russian-American Company expects to derive from the Agreement).

Mr. Jordan (George) Simpson.

Dear Sir,

Hamburg, January 25 (February 6), 1839.

As a supplement to this Agreement, concluded by us this day between the Russian-American Company and the Hudson Bay Company, I hereby certify that it is agreed that, during the period of ten years, counting from the 1st June, 1840, the Russian-American Company will not encourage foreigners to visit the north-western coast of America for the purpose of purchasing goods from them with the exception of such as may be of the greatest and most indispensable necessity to the Russian Colonies, or in payment for work or constructions executed in the Russian-American Company's dockyards on the north-

west coast of America, or when it is found necessary to purchase a vessel or ship for the service of the Russian-American Company. At the same time, it is, of course, understood that, if a strange or foreign vessel should remain in the Russian possessions on the north-western coast for the sake of shelter from bad weather, or for prohibited traffic, and if, in such case, the Russian-American Company should not have either the means or the right to compel such vessel to discontinue such traffic and depart, such fact must not serve as a reason for the Hudson Bay Company for the retention and non-payment to the Russian-American Company of the rent agreed upon for the right granted to it of trading in the said portion of the continent.

I have, &c.
(Signed) Baron WRANGEL.

His Excellency Baron Wrangel, Hamburg, January 25 (February 6), 1839.

I have the honour to acknowledge the receipt of your letter of this date, with regard to the Agreement concluded by us between the Hudson Bay Company and the Russian-American Company on the 6th February, 1839; and, in reply thereto, I have to say that I am perfectly satisfied with your assurance that the Russian-American Company, during the continuance of that Agreement, will not encourage any foreigners to visit the north-western coast for the purpose of trading; and, furthermore, that the Hudson Bay Company will not evade the payment of rent, or retain the rent, provided by the Agreement concluded with the Russian-American Company, in consequence of the circumstances or incidents mentioned in your letter.

I have, &c.
(Signed) SIMPSON.

Inclosure 4 in No. 156.

Translations from the Russian-American Archives, Correspondence, vol. XXI, p. 57.

Board of Directors of the Russian-American Company to Post-Captain and Knight Stepan Vasilvitch Voevdski, Chief Manager of the Russian-American Colonies, April 16, 1854.

AS a supplement to its despatch of the 14th January, 1854, the Board of Directors inclose herewith copies of the replies of Privy Councillor Seniavin, Assistant Minister of Foreign Affairs, and of the Secretary of State for Foreign Affairs, Addington, from which your Excellency will see that our Government and that of England have recognized the neutrality of the two Companies during the present war, and therefore the property of the Company on the coast may be regarded as safe.

In communicating this to your Excellency, the Board of Directors instructs you to take such measures as, upon the closest examination on the spot, you may find practicable for the security of the Company's property on board ship and on the passage from the district.

The Board of Directors, on its part, intends to send to the Colonies, for your use in this year's navigation, a screw-steamer belonging to the Company, but furnished with Hamburg papers and flags, to be used in the Company's business.

In addition to this, the Board of Directors, for the purpose of supplying its vessels with neutral flags, has sold (according to their papers) the vessels "Nicholas," "Sitka," and "Kamchatka," and it consequently places part or all of these vessels at your disposal, to be sent to San Francisco, if there is any necessity for it, for which you must select a safe time—to wit, the autumn, when the presence of hostile cruisers on the sea is not to be expected. At San Francisco these vessels will receive neutral flags and papers, in accordance with an arrangement made to that effect, and, under these neutral flags, these vessels may be employed at your discretion for voyages outside of the Colonies.

At the same time, you are instructed to keep in view the fact that these vessels, being under a neutral flag, must perform their voyages under the instructions of the firm to which, according to their papers, they have been sold; and hence, when sending any of

these vessels to San Francisco, you will have to give information to M. Kostromitinoff as to the voyages which have been assigned to the vessels by you, and Kostromitinoff will see that the vessels receive the proper documents from the firm to which they are supposed to belong.

With regard to your relations with the Hudson Bay Company, the Board of Directors requests you to remember that those relations must remain friendly, as heretofore, and that, as the Hudson Bay Company co-operated efficiently with us in the attainment of the neutrality of our possessions, it is proper for the Colonial Government to be particularly obliging in its intercourse with the agents of the Hudson Bay Company, and to show them all possible courtesy in all matters.

In conclusion, the Board of Directors hopes that during the continuance of the war with England, when the external activity of the Company must necessarily be greatly diminished, your Excellency will pay special attention to the development in the Colonies of the ice, lumber, and store industries, as those articles can always be exported from the Colonies in foreign vessels.

(Signed) V. KITIRIN [?], *Chairman.*
SL. STOLSHIEFF [?].
E. VRASHIN [?].

Russian-American Company, Archives, Correspondence, vol. XXI, p. 60.

Sir,

St. Petersburg, March 31, 1854.

THE Imperial Minister has had the honour to bring to the knowledge of His Majesty the Emperor the letter addressed to you by Mr. Colville, Director of the English Hudson's Bay Company, and the certified copy of that dated the 22nd March last, in which Mr. Addington informed him, in the name of the Principal Secretary of State of Her Britannic Majesty, that the Government of the Queen, on condition of reciprocity, undertook to cause the possessions of the Russian-American Company to be respected during the whole continuance of the war; but that the territorial neutrality would not be extended to the Company's vessels which might be met on the high seas by Her Britannic Majesty's cruisers, which would be authorized to capture them with their cargoes, and which would have the right to blockade its coasts and ports.

His Imperial Majesty, taking into consideration the peculiar situation of the Russian Colonies in America, has deigned to authorize me to inform you, Sir, that, as a matter of reciprocity, the Imperial Government permits the neutrality of the territorial possessions of the Hudson's Bay Company in America, and engages not to cause them to be attacked during the whole continuance of the war, but that he likewise reserves to his cruisers the right to seize such vessels of the said Company as they may meet on the high seas, and to capture them and their cargoes, as well as to blockade its coasts and ports.

Have the goodness, Sir, to inform the Directory of the Hudson's Bay Company that the necessary orders will be given immediately to all the Imperial authorities to execute and cause to be executed, so far as they are concerned, these determinations of His Imperial Majesty, which render definitive the engagements taken conditionally by the British Government with regard to the Russian-American possessions.

Accept, &c.

(The original is signed) LEON SENIAVINE.

Correspondence of the Russian-American Company, vol. XXI, p. 61.

Sir,

Foreign Office, March 22, 1854.

I am directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 28th February, inclosing a copy of a letter from the Russian-American Company, suggesting that an arrangement should be entered into for a state of neutrality being observed as regards the possessions and ships of the Hudson's Bay Company and the Russian-American Company on the north-west coast of America.

You state that it would be satisfactory to the Governor and Committee of the Hudson's Bay Company if some such arrangements as that suggested could be made, as it would relieve them from anxiety and risk.

I am to state to you, in reply, that, under the peculiar circumstances of the case, Her Majesty's Government will consent to the proposed arrangement being entered into between the two Companies, and instructions will accordingly be given to Her Majesty's naval officers and others not to commit hostilities on land within the Russian dominions on the coast of America.

I am to add, however, that the proposed neutrality will, as far as Her Majesty's Government is concerned, be territorial only, and confined to the land, and that its operation will not extend to the high seas, but that all Russian vessels and goods thereon, whether the property of the Company, of the Government, or of individuals, and whether going to or from the possessions of the Russian-American Company, will be liable to capture by Her Majesty's ships, and that the coasts and ports of those possessions will be liable to naval blockade.

I am, &c.
(Signed) H. U. ADDINGTON.

(Not addressed.)

A true copy with the Governor of the Hudson's Bay Company.

Inclosure 5 in No. 156.

Translations from the Russian-American Archives, Correspondence, vol. XVII, p. 546.

Board of Directors of the Russian-American Company to Fleet-Captain of the First Rank, and Knight, Michael Demetrius Shebenshoff, Chief Manager of the Russian-American Colonies, March 18, 1849.

IN consequence of a proposal made by the Hudson's Bay Company to the Russian-American Company with regard to the renewal of the Contract (up to the 31st May, 1850) now existing between them on the former basis, with the exception of some changes, rendered necessary by the circumstances of the day, and for the advantage of both Companies, for a further term of nine years, to the 31st May, 1859, that is to say, to the expiration of the Charter of the Hudson's Bay Company, the Board of Directors presented a Memorial to the Minister of Finance, who, on the 29th January of this year, through the Department of Manufactures and Interior Commerce, informed the Board that, in consequence of his report of the 22nd January, it had pleased His Majesty the Emperor to signify His Imperial consent to the above-mentioned Petition of the Board of Directors of the Russian-American Company. The Board has the honour to inform your Excellency of this in advance; but a copy of the new Contract, signed by us and the Directors of the Hudson's Bay Company, will be sent you this year, for your guidance, by a vessel chartered by us.

(Signed) V. ALANSKOFF [?], *President.*
A. ATOLIN, *Member.*
N. KUSOFF, *Ditto.*

No. 157.

Question asked in the House of Commons, March 14, 1899.

Mr. Bowles.—To ask the First Lord of the Treasury whether he is able to give the name of the probable successor to the late Lord Herschell on the Anglo-American Commission.

Answer.

The Joint Commission has adjourned till the 2nd August next, and no steps have as yet been taken for the appointment of Lord Herschell's successor.

No. 158.

Colonial Office to Foreign Office.—(Received March 21.)

(Confidential.)

Sir,

Downing Street, March 21, 1899.

I AM directed by Mr. Secretary Chamberlain to request you to inform the Marquess of Salisbury, with reference to previous correspondence respecting the Joint High Commission negotiations, that he has received a telegram from the Governor-General of Canada, of which a paraphrase is inclosed, stating that his Ministers desire to learn the contents of Lord Herschell's last Report to the Foreign Office on the impossibility of the Joint High Commission coming to an agreement on the Alaska Boundary question, and that they request permission to communicate it to the Canadian Parliament, unless it is absolutely confidential.

2. The despatch to which the Canadian Government refer has not yet been communicated to this Department, but in view of the last paragraph of Lord Herschell's telegram of the 21st February, reporting that it had been agreed that all that had passed between the members of the Commission should be considered confidential, Mr. Chamberlain presumes that nothing should be published in addition to the official statement already issued.

3. He proposes, therefore, if Lord Salisbury concurs, to inform the Dominion Government by telegraph, that the Report referred to will be sent, but that in view of the understanding between the Commissioners that all that had passed between them should be treated as confidential, it will be impossible to communicate its contents to the Canadian Parliament.

I am, &c.

(Signed) H. BERTRAM COX.

Inclosure in No. 158.

The Earl of Minto to Mr. Chamberlain.

(Confidential.)

(Telegraphic.) P.

[Undated.]

ALASKA Boundary.

My Ministers desire to learn contents of Lord Herschell's last Report to the Foreign Office on the impossibility of agreement of Joint Commission.

They request permission to communicate it to the Canadian Parliament, unless it is absolutely confidential.

No. 159.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, March 23, 1899.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your Confidential letter of the 21st instant, inclosing a paraphrase of a telegram from the Governor-General of Canada, relative to Lord Herschell's Report on the failure of the Joint High Commission to come to an agreement on the Alaska Boundary question.

I am to inform you that Lord Salisbury concurs in the reply which Her Majesty's Secretary of State for the Colonies proposes to send to the Governor-General's telegram.

I am, &c.

(Signed) F. H. VILLIERS.

No. 160.

Memorandum showing the Position of the Questions before the Anglo-American Commission on February 20, 1899, when the last Meeting took place at Washington.

THE first four questions referred to in this Memorandum were dealt with by the Committees at Quebec. Lord Herschell reported in his despatch No. 9 of the 11th October, 1898, that in each case the agreement arrived at seemed to be satisfactory, although they might require some slight modification before they were definitely adopted by the Commission.

1. *Provisions for the conveyance for trial or punishment of persons in the lawful custody of the officers of one country through the territory of the other.*

2. *Reciprocity in wrecking and salvage rights.*

The preliminary discussions on these two questions are recorded in Lord Herschell's despatch No. 2 of the 29th August, 1898. The Articles drafted by the Committees, and the discussions which took place when they were presented to the Commission, will be found in Lord Herschell's despatch No. 7 of the 30th September.

The last paragraph but one in the Article on wrecking and salvage was not accepted by the British members of the Committee, and was only inserted in order that the point involved might be considered by the Plenary Commission.

3. *The question of the Alien Labour Laws applicable to the subjects or citizens of the United States and of Canada.*

4. *Provisions in respect to the fisheries off the Pacific Coast, and in the inland waters of the common frontier.*

Lord Herschell reported the preliminary discussions on these questions in his despatches No. 2 of the 29th August, 1898, and No. 4 of the 2nd September respectively, and the draft Agreements submitted by the Committees were inclosed in his despatch No. 8 of the 10th October.

It will be seen from this last despatch that the draft Agreement on the Alien Labour Laws was not regarded as quite satisfactory by the Canadian Commissioners, and that the questions raised by them were reserved for future consideration.

5. *A revision of the Agreement of 1817 respecting naval vessels on the Great Lakes.*

The proposal drafted by the Committee was sent home in Lord Herschell's despatch No. 14 of the 2nd December, 1898, and was approved by Her Majesty's Government, but the question was not further discussed with the United States' Commissioners. The considerations which led to the adoption of this form of agreement are fully set forth in the despatches noted in the margin.

Lord Herschell,*
No. 1, August 22;
No. 3, August 29;
No. 14, December 2, 1898.

6. *Mining rights of the citizens or subjects of each country within the territory of the other.*

The draft Article prepared by Mr. Kasson in consultation with Lord Herschell is annexed to this Memorandum. It was not presented to the Commission because Lord Herschell would not give his definitive consent to the last paragraph until the reciprocity negotiations should be further advanced.

The question is referred to in Lord Herschell's despatches No. 2 of the 29th August, 1898, No. 7 of the 30th September, and No. 9 of the 11th October.

7. *Arrangements for the more complete definition and marking of any part of the frontier-line by land or water where the same is now so insufficiently defined or marked as to be liable to dispute.*

This question, being divided into two parts, was referred to separate Committees.

The boundary west of Lake Superior is mentioned in Lord Herschell's despatches No. 2 of the 29th August, 1898, and No. 8 of the 10th October.

The American maps, attached to the Webster-Ashburton Treaty, were examined after the Commission removed to Washington, and were found to bear out the contentions of the Canadian Government. The annexed Article was thereupon prepared by a Committee consisting of Sir R. Cartwright and Mr. Kasson, but for some reason or other was never submitted to the Commission. It merely provides for the appoint-

* See pp. 50, 61, and 117.

ment of one geographer or surveyor on each side to ascertain and mark the boundary-line, and to report all points of agreement or disagreement to their Governments; a third Commissioner to be named in the case of disagreement.

With regard to the boundary in Passamaquoddy Bay, nothing took place subsequently to the 17th November, when the matter in dispute was fully discussed in the Commission without any result being arrived at. Lord Herschell reported, in his despatch No. 12 of the 23rd November, 1898, that the question, which appeared to be of very small importance, had been referred back to the original Committee, which consisted of Sir L. Davies and Mr. Dingley.

8. *Cattle-branding for the purpose of identification along the frontier between the United States and Canada.*

The Committee on this subject agreed that it should be dealt with by means of corresponding Regulations made by the two Governments instead of an International Agreement. See Lord Herschell's despatch No. 9 of the 11th October, 1898.

9. *Provisions for the transit of merchandize in transportation to or from either country across intermediate territory of the other, whether by land or water, including natural and artificial waterways, and intermediate transit by sea.*

Provisions relating to the transit of merchandize from one country, to be delivered at points in the other beyond the frontier.

These two questions were dealt with by the same Committee. A list of the despatches in which they are mentioned is given in the margin.

A great deal of time and labour was expended on the points involved. Representatives of both Canadian and American railways were summoned to Washington. Lengthy proposals and counter-proposals were drafted, and earnest endeavours were made on both sides, notably by Senator Fairbanks and Lord Herschell, to arrive at a solution of the difficulties.

In a Memorandum of the 31st December, 1898, Lord Herschell said: "Whilst I cannot but entertain grave objections to the clause proposed with reference to bonding and transportation, it is certainly not because I differ at all as to the justice and propriety of the object sought to be obtained. I fully agree that Canadian Transportation Companies carrying between two points in the United States ought in respect to such traffic to obey the laws of the United States which apply thereto, when conveyed by United States Companies, and that this obedience should be capable of being effectually enforced. My criticisms, therefore, have reference not to the end in view, but to the means to be employed."

Senator Fairbanks attached perhaps undue importance to the questions at issue, with which he had long been familiar in his capacity as a railway lawyer, but they are not, at any rate, matters of direct concern to the Imperial Government. Moreover, there is no difference of opinion as to the principles on which they should be adjusted, nor are any actual concessions required from either country.

Lord Herschell came to the conclusion that no Treaty stipulation could be devised which would be entirely satisfactory, and he considered that the existing state of things might be allowed to continue without any risk of serious complications. There seemed to him to be little danger of the bonding privileges on both sides being abolished. The information which he had received tended to show that such abolition would not be to the detriment of the Canadian Pacific Railway Company, against whose alleged misdemeanours the proposed regulations were mainly directed, because that Company would gain greater advantages in the East from the abrogation of bonding privileges than those which they would lose in the western part of the continent.

10. *Provisions in respect to the Fisheries on the Atlantic Coast.*

From the last of Lord Herschell's despatches quoted in the margin, it will be seen that the Canadian Commissioners eventually determined to abandon the rights of exclusion against American fishing-vessels claimed by Great Britain under the Treaty of 1818, if the question of the bays could be settled, and if they could gain Tariff Concessions of importance to the maritime provinces and to Newfoundland.

Lord Herschell went on to say that the free admission of certain mineral products, desired by Sir James Winter, would probably be obtained, but that the relaxation of the Tariff on agricultural products, for the benefit of Nova Scotia and New Brunswick, was still under the consideration of the Reciprocity Committee.

The earlier despatches show that it proved impossible from the very outset to

Lord Herschell.*
No. 5,
September 20;
No. 9, October 11,
1898.

Mr. Cartwright,
No. 4, March 3,
1899 (latter part of
Inclosures 1 and 4;
Inclosure 5).

Lord Herschell,†
No. 4,
September 2;
No. 9, October 11;
No. 13,
November 25;
No. 15,
December 22, 1898
(Inclosure 14);
No. 1, February 7,
1899.

* See pp. 74, 98, and 187.

† See pp. 63, 98, 115, 123, 153, and 187.

Mr. Cartwright,
No. 4, March 3,
1899 (Inclosures
1 and 4).

obtain the free admission of fish into the United States, in return for the abandonment of the restrictive measures against American fishing-vessels, although this concession was granted in the unratified Treaty of 1888.

The difficulties encountered in this particular negotiation have been clearly explained by Lord Herschell; but the following extract from his despatch No. 9 of the 11th October, 1898, is worthy of attention, in view of the failure to arrive at an understanding:—

“During the last two or three years, and more especially during the present season, the rights which the Government of Canada claim under the Treaty of 1818 have been enforced with extreme leniency, in the hope that a settlement with the United States might be arrived at. Should no arrangement be come to, the pressure to assert Canadian rights and to apply them strictly will become irresistible, and the inevitable result will be that some, and perhaps many, United States’ fishing-boats will be seized and condemned. It is obvious that this would immediately produce an acute crisis, inasmuch as the United States would unquestionably adhere to the contention which they have from time to time put forward, with however little justification, that some of the rights claimed by Canada under the Treaty of 1818 are not really possessed by her.”

It was not anticipated latterly that the question of the bays (or headlands) would cause much difficulty. The American Commissioners expressed their willingness to accept the exclusion of American fishing-vessels from such bays as might be thought worth protecting, without being too particular as to the width of the entrances.

11. Such readjustment and concessions as may be deemed mutually advantageous of customs duties applicable in each country to the products of the soil or industry of the other, upon the basis of reciprocal equivalents.

Lord Herschell,*
No. 5,
September 20;
No. 9, October 11;
No. 13,
November 25,
1898; No. 1,
February 7, 1899.

There is not much information on this subject in Lord Herschell’s despatches quoted in the margin. He was not a member of the Committee, and although he followed its proceedings with interest he used to say that the matter was one for negotiation between the United States and Canada, and that it did not affect the home Government. He was further of opinion that these Tariff questions should be dealt with separately, and he did not approve of their having been mixed up with the political differences with which the Commission had to deal.

Mr. Cartwright,
No. 4, March 3,
1899 (Inclosures
1 and 4).

The following is an extract from his despatch No. 9 of the 11th October, 1898:—

“The truth is, that where two countries have each pursued a policy of protection, there are almost insuperable difficulties in the way of a Reciprocity Treaty of any considerable extent. Whenever it has been rumoured that a concession was about to be made by a modification of the Tariff affecting any particular article, whether a natural production or manufactured, the United States or the Canadian Commissioners, or sometimes both, have been almost overwhelmed by protests and deputations. The utmost to be hoped for is, I think, that some small step may be taken towards a freer interchange of commodities, and that the way may be paved for further progress in that direction.”

Senator Fairbanks stated in his letter of the 24th December that a considerable list of articles had been agreed upon by the Committee charged with the subject of reciprocity, and that the pending negotiation had established the fact that the United States could safely agree upon a larger measure of reciprocity than had been possible at any time except in 1854.

To this Lord Herschell replied that the reciprocity provisions, to which so far the United States’ Commissioners had been able to agree, would not excite any substantial interest or support in Canada. He added: “You are, I feel sure, alive to the grave difficulties to which the present Tariff Law relating to lumber has given rise, and to the importance of removing this source of irritation if it can be done—as I believe it can—with results on the whole beneficial and not prejudicial to the United States.”

President McKinley observed in the course of a conversation with Lord Herschell in November last, that in his opinion the time had come to reconsider the question of the Tariff. He thought that the circumstances had changed and rendered freer trade relations with countries outside the United States expedient.

After reporting the substance of this conversation, Lord Herschell said: “There is, I feel sure, a growing tendency in some parts of the United States which have been most strongly protectionist to view the Tariff question in a new light, and to contemplate an effort to secure trade in external countries, even if it be at the cost of some increased admission of foreign competition in this country.”

* See pp. 74, 98, 115, 153, and 187.

The last despatch from Lord Herschell in which reciprocity is mentioned contains the following statements:—

“As regards minerals and some agricultural products there seems no doubt that a satisfactory arrangement can be arrived at. So far as lumber and hay are concerned, the prospects are, to my mind, not promising. It is no doubt highly desirable that the free admission of lumber into the United States should be secured, inasmuch as Ontario has passed a retaliatory law which has caused great irritation, and is sure to give rise to still more when it comes to be enforced in the ensuing lumber season. My Canadian colleagues are therefore naturally bent upon obtaining this concession, but the lumber interest opposed to it is very powerful, and is to be found in many States.”

The general impression seemed to be that the reciprocity negotiations would have a better prospect of success if resumed at a later date, and Lord Herschell was in favour of putting them aside for the moment.

It has been stated above, in connection with the fisheries question, that the free admission of certain mineral products desired by Newfoundland would probably be obtained, and at one time there was some hope that the concessions on agricultural products and on lime, which would benefit New Brunswick and Nova Scotia, were within reach.

With regard to the larger concessions which might be considered as an equivalent for the abandonment of pelagic sealing and of the rights of exclusion against American fishing-vessels on the Atlantic coast, it seemed possible some months ago that the Americans might be induced to consent to the admission of fish free of duty on the Atlantic and Pacific coasts. According to the United States' Constitution the customs duties must be uniform in all the States, and therefore “free fish” could not be granted on the Pacific side without a corresponding admission on the Atlantic seaboard.

At this stage of the negotiations there was also a prospect that the duties on coal might be abolished both in Canada and the United States. The result would have been satisfactory to British Columbia, which would have gained a better market for coals from the Nanaimo mines, in the Island of Vancouver, and to the central portion of the Dominion which would have got coal more cheaply from the neighbouring States of the Union; but rightly or wrongly, the coal-owners in Nova Scotia considered that, notwithstanding the advantages which they would derive from free access to the New England States, they would lose still more owing to the competition of American coal on equal terms at Montreal, and there were no doubt other obstacles to such a very important and wide-reaching change of Tariff.

With regard to the vexed question of lumber, hopes were more than once entertained that the American duty of 2 dollars per 1,000 feet might be taken off, and there are certainly strong interests in the United States which are in favour of this course, but at the date of the adjournment of the Commission these hopes had fallen to the ground in spite of the strenuous efforts made by Sir Wilfrid Laurier, and the promises of sympathy and support which he received from the President. It had become more than doubtful whether the duty would even be reduced by one-half, as had been confidently expected in the earlier negotiations.

12. *The questions in respect to the fur-seals in Behring Sea and the waters of the North Pacific Ocean.*

The despatches on this subject show that it was decided from the very first to endeavour to arrive at an understanding for the cessation of pelagic sealing.

Lord Herschell said, in his letter to Senator Fairbanks of the 21st December, that there must be fair and equitable compensation to the owners of sealing-vessels and to others engaged in the industry, and that there must be some adequate concession in consideration of Great Britain giving up her national right and undertaking to enforce the prohibition; also, that it must be taken into account that the United States' Government or their lessees, or both, would benefit very largely in a pecuniary point of view from the action of Great Britain.

The latest draft of the proposed Agreement on this question was submitted by the British Commissioners at the end of January, and forms Inclosure 2 in Lord Herschell's despatch No. 1 of the 7th February. He stated in that despatch that Senator Fairbanks had named 500,000 dollars as the limit to which the United States would be prepared to go as a settlement of the compensation to the sealers, leaving the vessels and their outfits in the possession of the owners; that this figure was a great advance on

Lord Herschell,*
No. 4,
September 2;
No. 6,
September 23;
No. 7,
September 30;
No. 9, October 11;
No. 15,
December 22,
1898
(Inclosure 14);
No. 1, February 7,
1899 (and
Inclosure 2).
Mr. Cartwright,
No. 4, March 3,
1899 (Inclosures
1 and 4).

* See pp. 63, 77, 82, 96, 123, 153, and 1887.

any previous proposal, and that it did not substantially differ from the sum which we had been prepared to accept, viz., 600,000 dollars and a cession of their vessels and outfits by the owners.

With regard to the amount of the percentage to be paid annually by the United States out of their receipts from the seal-taking on the Pribyloff Islands, he added: "We considered that if the increase in the herd became very large owing to the cessation of pelagic sealing, the percentage to be paid should be proportionately increased. This was vehemently opposed by the United States' Commissioners. We ultimately made a modified proposal on a different basis. Taking, roughly, 20,000 as the number of seals which might be obtained on the islands even if pelagic sealing continued, we proposed that the percentage of the receipts to be handed over should only apply to the excess over 20,000 taken in each year, the effect of which would be to graduate the share of Canada, making it proportionately greater according as the growth of the herd became greater. This was assented to in principle by our American colleagues, but the percentage remains undetermined."

Claims for compensation in respect of the wrongful treatment of four British sealing-vessels.

Lord Herschell stated, in his despatch No. 1 of the 7th February, that no agreement had yet been come to respecting these claims. It was, however, hoped to obtain from the United States' Government a small sum, in addition to the 500,000 dollars named by Senator Fairbanks, for the settlement of the claims of the "Wanderer," "Favourite," and "Kate."

The case of the "Coquitlan" is more difficult. Lord Herschell had no doubt as to the justice of the claim, but there was not sufficient proof in support of the several items. The owners claimed 110,000 dollars, and refused to abate their demand. After going through the schedule with Sir Louis Davies, Lord Herschell reduced the total to something over 70,000 dollars. He subsequently said he would accept 50,000 dollars, but this last figure was not mentioned to the American Commissioners.

13. Provisions for the delimitation and establishment of the Alaska-Canadian boundary, by legal and scientific experts, if the Commission shall so decide, or otherwise.

Lord Herschell reported, in his despatch No. 9 of the 11th October, that after carefully investigating the question he had come to the conclusion that the British claim so to draw the boundary-line as to leave the greater part of the Lynn Canal, or at least the upper part of it, within the British possessions, was much stronger than it at first appeared. He thought that the argument which he had presented had made an impression upon the United States' Commissioners, and had shown that their title to the upper part of the canal and to the towns of Dyea and Skaguay was not so clear as they believed.

The draft Article handed to the American Commissioners on the 2nd February, 1899, is given as an inclosure in Lord Herschell's despatch No. 1 of the 7th February. He says in that despatch:—

"Our American colleagues, . . . whilst stating that it would be impossible for them to concede the sovereignty of any harbour on the Lynn Canal, suggested that they should, without parting with the sovereignty, grant the use of Pyramid Harbour and a strip of land behind it to the Canadian boundary, which should be exclusively under Canadian jurisdiction so long as the grant lasted. They handed to us a document, in which it was proposed that the grant should be only for a period of fifty years.

. . . . "We strongly objected to the limitation of the term, and insisted that the grant should continue as long as we maintained a custom-house and a sufficient force for the preservation of order. We handed them the inclosed draft, which modified their proposal in this respect. . . . They raised serious objection on account of the effect which, by reason of the navigation laws of the two countries, it would have upon the carrying trade if Pyramid Harbour were to be treated as a British port. British vessels would thus be enabled to convey goods from United States' ports to the Klondyke which they had never hitherto done, whilst United States' vessels would be precluded from carrying goods from Canadian ports to Pyramid Harbour.

"We have not seen our way to accede to their proposition that for the purpose of the navigation laws the new harbour should be treated as a United States' harbour, whilst they, down to the present time, insist on adhering to it; and compromise on the point, though perhaps not absolutely impossible, is difficult. We proposed

* See pp. 63, 82, 98, 123, 153, 164, 177, 187, and 200.

Lord Herschell,*
No. 4,
September 2,
No. 7,
September 30
(and Inclosure 3);
No. 9, October 11;
No. 15,
December 22, 1898
(and Inclosures
14 to 20): No. 1,
February 7 (and
Inclosure 1);
No. 2,
February 17 (and
Inclosures);
No. 3,
February 24, 1899
(and Inclosures 7
and 9).
Mr. Cartwright,
No. 4, March 3
(and Inclosures 1,
3, 4, 6, and 9);
No. 5, March 3,
1899 (and
Inclosures).

that all the ports in the Lynn Canal should be used on precisely the same terms by the vessels of both nations, but they are unwilling to consent to this. As regards the rest of the boundary-line, we have been able to adjust almost every part of it, conditionally on a satisfactory settlement being arrived at with reference to the harbour on the Lynn Canal."

The negotiations never got beyond this point. The navigation laws were an insuperable difficulty, although that objection was not foreseen by the American Commissioners, who had offered as far back as the 14th December that "all commercial vessels of the Dominion of Canada shall have free ingress and egress to and from the Lynn Canal, and to and from any port or harbour thereof, as freely, and on the same terms, and subject to the same conditions, as the commercial vessels of the United States, and subject to no other charges or restrictions than those applied to like vessels of the United States."

A violent agitation sprang up in the Western States against any "cession of United States' territory," but Lord Herschell considered that even if we relinquished our claim to Pyramid Harbour, as an off-set to the American occupation of Dyea and Skaguay, it would still be impossible to obtain the commercial privileges which had actually been offered to us on the 14th December.

After some further efforts to arrive at an understanding the question of arbitration was mooted, and a long correspondence ensued on this, which led to no result.

The Commission adjourned on the 20th February "to meet at Quebec on the 2nd August next, unless some other date should be agreed upon by the Chairmen of the respective Commissions."

W. CHAUNCY CARTWRIGHT.

March 25, 1899.

Annex 1.

Reciprocal Mining Rights.

Draft Article.

THE right of mining and the acquisition of mining rights within the Dominion of Canada are conceded to citizens of the United States upon the same terms and conditions which are at the time enjoyed by natives of the Dominion.

Reciprocally, and as compensation therefor, the right of mining and the acquisition of mining rights within the jurisdiction and disposal of the United States are conceded to the subjects of Her Majesty resident in Canada upon the same terms and conditions which are at the time enjoyed by citizens of the United States.

The miners of the respective countries entering the territory of the other shall each be entitled to the entrance free of duty of his accompanying outfit, including his wearing apparel, tent, fur robes, or woollen and rubber blankets for his personal use, cooking utensils, mining implements for manual use, and whatever articles are necessary and appropriate for his personal comfort and use as a miner in such territory, the value not to exceed in the aggregate 250 dollars, together with provisions for his journey and for a period of two months after his arrival. The respective Governments of the Dominion of Canada and of the United States shall make suitable Regulations in a liberal spirit for giving effect to this provision.

Where miners' licences, certificates, or other official papers are required by either Government, the same shall be provided at convenient points on the usual lines of travel, with terms, conditions, and charges, if any, equally applicable to miners of both countries.

Nothing in this Article contained shall be deemed to restrict the power of either the United States or the Dominion of Canada to modify their legislation in respect to mining or the acquisition of mining rights, but the terms and conditions provided therein shall be equally and reciprocally applicable to miners of both countries.

Should any restrictions not equally applicable to all transfers of such property hereafter be imposed by law in either country upon the transfer of mining property or mining rights from citizens of the United States to the subjects of Her Majesty resident in Canada, or from the said subjects of Her Majesty to citizens of the United States, the right of the other country to enact corresponding legislation is hereby reserved.

No charge or other restriction shall be imposed in the country of production upon the transfer thence to any other country of the product of the mines embraced within the provisions of this Article.

Annex 2.

*Boundary West of Lake Superior.**Draft Article.*

IN order to provide for the amicable adjustment of possible differences and conflicts of jurisdiction in respect to the international boundary-line hereinafter described, it is agreed that whenever differences shall arise in respect to the precise limits of the respective national jurisdictions between the point where the boundary-line enters the Iroquois or St. Lawrence River and westward to Rainy Lake, as described in the Treaty concluded at Washington on the 9th day of August, 1842, and known as the Webster-Ashburton Treaty, and as further delineated on the maps certified by the signatures of Daniel Webster and Ashburton to be the maps of boundary agreed to by said Treaty, the high Signatory Parties shall each appoint one expert geographer or surveyor as a Commissioner, and the two Commissioners so appointed, after making oath in writing that they will impartially and faithfully perform this duty, shall by common accord proceed to ascertain the boundary-line so brought in question, and shall designate and mark the same in such manner, by monuments on land, or by marks or ranges from the shore where the boundary is a water-line, as shall be most practicable and certain, and shall make joint report of all points of their agreement and of their disagreement, if any, to both Governments. Their joint agreement shall be accepted as determining the line in question. In case of their disagreement, the High Contracting Parties shall agree upon a third impartial Commissioner, whose Award upon the point or points of disagreement shall be accepted as final. The reasonable expenses of such Commission shall be paid by the two Parties in equal moieties.

No. 161.

*Confidential Memorandum by Mr. Cartwright on some of the Questions submitted to the Anglo-American Commission.**

Naval Vessels on the Great Lakes.

THE draft Article on this subject was duly laid before the Canadian Commissioners, and was approved by them; but it should be mentioned that there has latterly been a considerable agitation in Canada against allowing even unarmed and incomplete vessels of war to pass through the Canadian canals after being launched on the Great Lakes; that the existence of training-ships on the lakes is regarded as a constant source of danger, and that the abandonment of the former provision for the maintenance of one vessel of war, however small, on each lake is much regretted by British naval officers.

These points were brought to Lord Herschell's notice, and he frequently discussed them with his Canadian colleagues. He considered the objections to be unreasonable in view of the precarious character of the existing Agreement, but he realized the importance of the strong and widespread feeling which prevails in Canada. It may, perhaps, be doubtful whether the three Canadian Ministers who are members of the Commission will feel justified in signing an Agreement which runs counter to public opinion, and whether they will readily consent to the terms of the proposed Article in the face of an opposition which comprises prominent members of their own party as well as the bulk of their political opponents.

Fur-seals in Behring Sea.

There are one or two points in the draft Agreement which call for observation :

In the first place, it seems hardly necessary, and it is certainly very undesirable, to provide that "every person or vessel offending against this prohibition may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties." The right to board and seize British vessels in Behring Sea has

* See Mr. Cartwright's Memorandum of March 25, 1899.

been greatly abused by the Americans during the last few years, and it is not unlikely that on the slightest pretext, or on a vague suspicion that vessels are in pursuit of seals, American naval officers may, in the future, as in the past, search such vessels, seize them, and order them home. The two Governments agree "to prohibit the use of any British or United States' port by any persons for any purposes whatsoever connected with the operation of pelagic sealing, and to prohibit the importation or bringing of any undressed fur-seal skins taken by such prohibited pelagic sealing into any British or United States' port." It is presumed that the Governments of Russia and Japan will agree to maintain the same prohibitions, and it will thus be almost impossible for any vessels to carry on pelagic sealing. In these circumstances, there seems to be no sufficient reason for conferring on American officers the right to "seize and detain" British vessels.

It should also be observed in connection with the general prohibition against pelagic sealing that the Russian and Japanese seal rookeries will benefit largely from it in the future, and that apparently there has been no question of asking the Governments of Russia and Japan to contribute to the compensation of the pelagic sealers.

With regard to the annual payment to be made by the United States' Government, it would be more satisfactory if the percentage could be calculated, not on the gross amount received by the United States' Government, or which it is entitled to receive from any persons in respect of the right to take fur-seals on the Pribyloff Islands, but by taking a fixed sum per head, or per 1,000, on the actual number of seals killed on the islands or brought into the market for sale.

Alaska Boundary.

The question presents great difficulties.

Lord Herschell held that under the Treaty of 1825 with Russia, Great Britain was entitled to a great part, or at all events to the upper part, of the Lynn Canal, although he did not pretend to predict with any certainty what the decision of an Arbitrator might be.

After arriving at a conclusion as to the true interpretation of the Treaty, the Arbitrator would have to take into account the facts that the Americans have been in possession of the whole canal for some few years, and that two towns, Dyea and Skaguay, have sprung up under American auspices, and are now under American Administration. Lord Herschell recognized that it is practically impossible to oust the Americans from those places; and our case in this respect is weakened because no protest was ever made by Her Majesty's Government against the occupation of the disputed territory.

The American Commissioners were no doubt much impressed with the weight of Lord Herschell's arguments; Senator Gray, who was on the Committee at Quebec, admitted quite recently, in a private and confidential manner, that he thought our case a strong one. Even before Lord Herschell appeared on the scene, the United States' Government showed a strong disinclination to refer the matter to arbitration.

In these circumstances, the Americans made two very substantial offers in the way of concession. The first, on the 14th December, was that British vessels should be allowed to trade with any port on the Lynn Canal on terms of absolute equality with American vessels, and that every possible facility should be afforded to British subjects. The text of this proposal left no doubt whatever that British vessels would be allowed to participate in the carrying trade between other American ports and those on the Lynn Canal. The second was that Pyramid Harbour should to all intents and purposes become a British port for a considerable number of years, the Americans retaining only the nominal sovereignty. This proposal would likewise have enabled British vessels to trade between American ports and Pyramid Harbour.

The negotiations broke down, partly because the proposed surrender of Pyramid Harbour leaked out and gave rise to a violent agitation in the Western States, but still more because the Americans interested in the carrying trade from San Francisco and elsewhere discovered that they were threatened with competition. Lord Herschell regretted that the original proposal had not been accepted by us, but when the agitation arose he felt it was too late to go back to it, especially as the American Commissioners could not be persuaded to take a strong line against an organized body of ship-owners.

The reason for asking for Pyramid Harbour, independently of our belief that

we were entitled to a port on the Lynn Canal, was that the Canadian Ministers wished to be in a position to institute an alternative all-British route to the Klondyke in case the Americans should impose differential or exorbitant railway rates, or other obstacles, on the route already established by way of Dyea and Skaguay. It would not be difficult to construct a competing railway from Pyramid Harbour by the Dalton Trail. But it is not likely that this would be done. A good deal of British capital is invested in the railway now in course of construction, and there would be much opposition on the part of British subjects, as well as from Americans, to any other railway scheme. It is far more probable that, after incurring considerable expense in forming settlement and in organizing an Administration at Pyramid Harbour, the Canadian Government would find it impossible to divert the trade from Dyea and Skaguay, and Pyramid Harbour would become a useless possession—in fact, a white elephant.

Nevertheless, it would not be politic to abandon our demand for a port of our own unless we can obtain all the facilities we require at the American ports.

There are many objections, on our side, to the proposal for arbitration. In the first place, the definitive settlement of a question, which has already been allowed to drag on too long, would be unduly postponed. The difficulties of opposing any change in the ownership of the territory in dispute are increasing day by day. Secondly, we admit that it is impossible to obtain Dyea and Skaguay for Canada, and the Americans will not consent to any terms of reference which do not make it quite clear that those towns shall, in any event, remain under American jurisdiction.

This being so, it is extremely undesirable for both Governments that the Award of an Arbitrator should be pronounced. As we cannot get Dyea and Skaguay, it will be very awkward if the decision shows that they ought to have been ours. The terms of reference will, of course, relieve the Arbitrator from the obligation to award those to Canada, but if he gives a port on the Lynn Canal to Canada it will be perfectly clear that, in his opinion, the opposite side of the canal ought equally to be Canadian.

Lord Herschell's first proposal was as follows: "That provision should be made for the delimitation of the boundary by legal and scientific experts, with a stipulation that, should Great Britain be found entitled to the land bordering on the upper part of the Lynn Canal, Dyea and Skaguay, with a strip behind them to the present provisional boundary, should nevertheless belong to the United States, whilst, on the other hand, should the United States be found entitled to the land bordering on the upper part of that canal, Pyramid Harbour and a strip of land securing access to the boundary by Dalton Trail should belong to Canada."

The proposal was a perfectly equitable one, but after all that has passed, it is illusory to suppose that the United States' Government would place itself in the position of being obliged to admit Canadian jurisdiction at Pyramid Harbour even if the Arbitrator decided that the whole of the Lynn Canal belonged to the United States. This state of things would be more difficult for the United States' Government than the contingency already contemplated, in which we should have to put up with Pyramid Harbour in spite of the fact that the whole of the upper part of the Lynn Canal had been adjudged to be British territory according to the true interpretation of the Treaty.

It is evident from what has been said above that the decision of the Arbitrator, whatever it might be, would aggravate the feeling already aroused on either side. There seems to be only one combination of circumstances which would prevent serious dissatisfaction—viz., supposing (1) that Her Majesty's Government should consent to a reference to arbitration which expressly excluded Dyea and Skaguay from the operation of the Award, and (2) that the Arbitrator should decide in favour of the *status quo* and give the whole of the Lynn Canal to the United States. It is, indeed, conceivable that the Arbitrator's decision might be adverse to our contention, although, in view of Lord Herschell's opinion on the subject, this result cannot be regarded as probable; but we can hardly consent to the terms of reference hitherto required by the United States.

Senator Fairbanks said, with much reason: "If you admit that the two towns must ultimately remain in American possession, why not say so at once and allay the uncertainty and consequent irritation now prevailing?" We asked that this question should be left to the Arbitrator, to be dealt with "as justice, reason, and the equities of the case required," and we implied that, with this amount of latitude, the Arbitrator would certainly not disturb the existing state of things. But the Americans were not satisfied; they could not afford to leave their citizens in doubt as to the eventual disposal of settlements which had been founded in the honest belief and conviction that they were situated in territory belonging to the United States.

From a practical point of view, it is difficult to see what useful purpose would be served by an arbitration in which the main points of difference must almost necessarily be withdrawn from the consideration of the Arbitrator, or be settled beforehand by the parties to the arbitration. .

(Signed) W. CHAUNCY CARTWRIGHT.

March 27, 1899.