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NEWFOUNDLAND.

FURTHER CORRESPONDENCE

RESPECTING THE

NEWFOUNDLAND FISHERIES.

(In continuation of [C.—6365] May 1891 and [C.—6703] June 1892.)

Presented to both Houses of Parliament by Command of Her Majesty.
August, 1893.



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NEWFOUNDLAND.

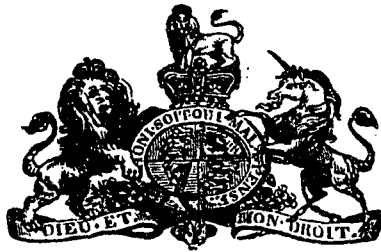
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CONTENTS.

Serial No.	From or to whom.	Date.	Subject.	Page.
		1891.		
1	To Sir W. Whiteway	August 3	Recapitulates communications with delegates as to terms of permanent Act, and encloses copy of draft as settled.	1
2	Sir T. O'Brien -	December 23 (Rec. Jan. 1, 1892.)	Reports that his Government desire to postpone action on the French Treaties Bill until the whole of the delegates recently in England are in the Colony.	9
3	Ditto -	1892. April 20 Telegraphic. (Extract.)	Reports that the Premier will proceed with the Treaties Bill next week, but has grave doubts whether he will succeed.	9
4	To Sir T. O'Brien -	April 22 Telegraphic.	States in reply to Governor's telegram of 20th April that the Secretary of State trusts the Treaties Bill will be passed.	9
5	Sir T. O'Brien -	(Rec. May 17) Telegraphic.	Transmits a Resolution of the Legislative Assembly agreeing to extend the operation of the temporary Act for a further period of two years, to afford time for further negotiations, and referring the further consideration of the question to a Joint Committee of both Houses with a view to aiding Her Majesty's Government in procuring a satisfactory solution of all existing difficulties.	9
6	Ditto -	June 8 (Rec. June 16.)	Transmits a partial report of the debate in the House of Assembly on the French Treaties Bill.	10
7	Ditto -	June 22 (Rec. June 30.)	Forwards the remaining portion of the report of the debate on the French Treaties Bill.	41
8	To Sir T. O'Brien -	1893. February 7 Telegraphic.	Instructs him to report by telegraph the intentions of Ministers with reference to permanent treaty legislation.	79
9	Sir T. O'Brien -	(Rec. Feb. 14) Telegraphic.	Transmits a Minute of Council calling attention to the Resolutions of 14th May as indicating the action the Government propose to take with regard to treaty legislation.	79
10	To Sir T. O'Brien -	Feb. 16 Telegraphic.	Observes that the arbitration cannot proceed until permanent legislation is secured, and that, unless the Colonial Legislature fulfil the pledges of the delegates, Her Majesty's Government will have no alternative but to introduce Imperial legislation.	80
11	Sir T. O'Brien -	(Rec. Feb. 27.) Telegraphic.	Reports that his Ministers cannot move in the matter of treaty legislation until the Select Committee which is now considering the matter reports.	80
12	Foreign Office -	Feb. 27	Transmits draft of a note to the French Ambassador proposing a renewal of the <i>modus vivendi</i> for the coming season.	80
13	To Foreign Office -	Mar. 2 (Extract.)	Concurs in draft note to the French Ambassador respecting renewal of the <i>modus vivendi</i> .	81
14	To Sir T. O'Brien -	Mar. 9 Telegraphic.	Instructs him to send by telegraph as soon as possible the report of the Joint Committee.	81

Serial No.	From or to whom.	Date.	Subject.	Page
		1893.		
15	Sir T. O'Brien -	(Rec. Mar. 9) Telegraphic.	Reports that Joint Committee of Legislature express readiness to enact conditionally legislation fulfilling proposals made by delegates. They protest against Imperial legislation or limited arbitration. They urge that the Lobster Question should not be proceeded with at present, and express readiness to continue <i>modus vivendi</i> till end of 1895.	81
16	Ditto -	(Rec. Mar. 15) Telegraphic.	States that the report of the Select Committee has been adopted by both Houses.	82
17	Ditto -	Mar. 13 (Rec. Mar. 27)	Transmits the report of the Joint Committee of the Legislature on the question of Treaty Shore legislation, with copy of a protest by Mr. Harvey against certain portions of the report.	82
18	Foreign Office -	Apr. 6	Transmits copy of a note from M. Waddington agreeing to the renewal of the <i>modus vivendi</i> for the coming season, and asks that all necessary steps may be taken by the Colonial Office.	91
19	To Foreign Office -	Apr. 15	Transmits copy of a Despatch forwarding the report of the Joint Committee, and states proposed course thereon; suggests terms of a reply to M. Waddington's note enclosed in Foreign Office letter of 6th April.	92
20	To Sir T. O'Brien -	Apr. 19 Telegraphic.	States, in reply to his Despatch of 13th March, that negotiations for a general settlement are impossible until the arbitration has been concluded, and that Ministers should procure an extension of the temporary Act.	93
21	Foreign Office -	Apr. 19	Concurs in course proposed in Colonial Office letter of 15th April with regard to the report of the Joint Committee; encloses copy of a note to M. Waddington in reply to his note of 4th April.	93
22	Sir T. O'Brien -	Apr. 26 (Rec. Apr. 26) Telegraphic.	Reports that his Government are prepared, without prejudice, to re-enact the temporary Act for one year.	94
23	To Sir T. O'Brien -	Apr. 27 Telegraphic. (Extract.)	Informs him that Her Majesty's Government cannot accept an extension of the temporary Act for one year as satisfactory, but must insist that it be continued to the end of 1895.	94
24	Sir T. O'Brien -	(Rec. May 2) Telegraphic.	Reports that Mr. Bond is introducing a continuing Act, but that some difficulty is expected on account of the promise of compensation made by Her Majesty's Government.	94
25	Foreign Office -	May 2	Observes that the statement made by Mr. Morine, in the debate on treaty legislation, that Her Majesty's Government had promised that the Judicial Commissioners should be appointed by the Colonial Government is altogether incorrect.	95
26	To Sir T. O'Brien -	May 6 Telegraphic.	Observes that the undertakings given by Her Majesty's Government in the telegram of 19th April are dependent upon the extension of the temporary Act for two years during the present session.	95
27	Sir T. O'Brien -	(Rec. May 16) Telegraphic.	Transmits a resolution of the Joint Select Committee agreeing to recommend the passing of a measure extending the temporary Act for two years, provided compensation is assured.	95

Serial No.	From or to whom.	Date.	Subject.	Page.
28	To Sir T. O'Brien -	<p style="text-align: center;">1893.</p> <p style="text-align: center;">May 19 Telegraphic.</p>	Informs him that Her Majesty's Government are prepared to renew the offer they made in 1891 to consider the question of compensation to persons injuriously affected by the award of the Arbitration Commission.	95
29	Ditto - -	May 19	Conveys the views of Her Majesty's Government upon the report of the Joint Select Committee; recapitulates the correspondence which took place with the delegates in 1891, and points out the obligation which lies upon the Colonial Government of enacting the legislation necessary to enable Her Majesty's Government to enforce their treaty engagements, and to carry out the arbitration with France.	96
30	Sir T. O'Brien -	(Rec. May 23) Telegraphic.	Reports that the Bill for extending the temporary Act for two years has passed the Lower House by thirteen to five.	102

NEWFOUNDLAND.

FURTHER CORRESPONDENCE

RESPECTING THE

NEWFOUNDLAND FISHERIES.

No. 1.

COLONIAL OFFICE to SIR W. WHITEWAY.

SIR, Downing Street, August 3, 1891.
REFERRING to your interview with Lord Knutsford on the 21st July, which brought to a conclusion the discussions respecting the permanent Bill which it is proposed should be passed by the Legislature of the Colony for the enforcement of the French Treaties and Arbitration Award, I am to invite your consideration of the following observations.

2. On the 21st of April the delegates transmitted to the Marquis of Salisbury a memorandum of their proposals which contained the following paragraph :—

“(c.) The terms of an Act to empower courts and provide for regulations to enforce the treaties and declarations to be discussed and arranged with the delegates now in this city, as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.”

3. This paragraph was quoted by you when addressing the House of Lords on the 23rd of April, but you did not then enter into the details of the proposed measure. On the 1st of May, however, the delegates addressed a letter to Lord Knutsford explaining their wishes at some length in the following paragraphs :—

“Heretofore the orders, regulations, and instructions of Her Majesty in Council for securing the observance of the Treaties and Declarations with France have been carried into effect by naval officers, who have apprehended, judged, and punished our fellow Colonists, combining, in fact, the functions of policeman, judges and juries, and no right either of appeal or redress has been possessed by those who may have considered themselves aggrieved. We do not desire to cast any imputations on the naval officers, many of whom have proven true friends of the Colony, but the very nature of their duties and powers has made hardship inevitable. We propose that they should now be relieved of a portion of their functions. They may continue to patrol the treaty coasts, and may apprehend those against whom complaint is made for infringement of fishing rights ; but in all cases the decision upon such complaints should be given by a qualified judicial officer appointed for the purpose, who would hear the evidence in each case and decide summarily, and whose decision the naval officers could carry into effect. In cases of complaint of interruption of rights of fishing the judicial officers should have power upon the trial of such complaints, to issue and enforce such orders or injunctions as they deemed necessary to prevent such interruptions, and the parties to such complaints should have a right of appeal upon points of law to the Supreme Court of the Colony, and from the Supreme Court to the Privy Council, but not so as to prevent the execution of any orders or injunctions issued for the purpose of preventing any interruptions complained of. In cases of complaints rising upon the land, however, the decision of the judicial officer should not be enforceable, if and when an appeal upon points of law had been taken to the Supreme Court, and the Supreme Court on circuit should also be made a court of first instance in cases concerning such complaints, if the parties making complaints preferred to commence their actions in such Supreme Court. The judicial officers should have a knowledge of local conditions, and of the manner of carrying on the fishery, and they should of course be thoroughly acquainted with legal procedure. It would therefore be necessary that they should be appointed by the Colonial Government, with the approval of Her Majesty in Council, and with such other safeguards as might be deemed necessary to secure their thorough impartiality. It would be necessary, perhaps, to provide that a judicial officer should be placed on board each ship of war upon protection service, or that several such officers should be stationed at various places on the treaty shores during the fishing season, but this is a matter of detail which could be arranged. The creation of such courts as we here suggest would

ensure our fellow Colonists fair trials, and would relieve the naval officers of a task which must be uncongenial, and the efficiency of the protection service would be increased rather than decreased."

4. On the 6th of May the delegates wrote again in these terms:—

"In paragraph 4 of your Lordship's letter you say 'Her Majesty's Government at the same time recognise the objections raised by you against continuing powers to the naval officers to act on land. We are unaware of any reason which Her Majesty's Government now have or have ever had for assuming that we confined our objections to the powers exercised by naval officers upon land merely; nor, so far as we can ascertain, did Her Majesty's Government so limit their recognition of our proposals when they were replied to in the House of Lords on the 27th ultimo. The judicial powers exercised by the naval officers over our fishermen and their boats, vessels, and implements of trade within the territorial waters, are as oppressive and objectionable as the powers they have had upon land, and we could never consent to a permanent measure which continued our fellow Colonists upon the waters or on the land in a state of subjection to the arbitrary decisions and actions of naval officers. In our letter of the 1st instant, we explained at considerable length the principles of the permanent Bill which we wished to have enacted, to take the place of the temporary Act, but Her Majesty's Government have not yet expressed their opinion of these propositions. It would perhaps tend materially to a solution of present difficulties if Her Majesty's Government were to convey that opinion to us, admitting the principle our propositions involved."

5. A subsequent letter of the 13th May dealt with other matters, and personal discussion then took the place of written communications, until on the 27th of May the delegates wrote asking that Her Majesty's Government would "give an assurance that the terms of a permanent Bill, to be passed by the Colonial Legislature, based upon the principle of the establishment of courts under judges or magistrates instead of under naval officers for the adjudication of questions arising under the treaties, *modus vivendi*, and award of the present arbitration, be forthwith discussed with the delegates and arranged.

6. On the 28th of May, Lord Knutsford replied to the delegates that Her Majesty's Government "were prepared forthwith to discuss and arrange with them the terms of a permanent Bill to be passed by the Colonial Legislature upon the general principle referred to in the letter of the 27th."

7. Shortly afterwards the delegates forwarded to this department the outline of a Bill which was at once placed in the hands of the parliamentary council, frequent discussions followed between the delegates and members of the Foreign and Colonial Departments; various modifications were made in the draft at the suggestion of the delegates; and on the 22nd of June the draft as it then stood was submitted for the consideration of Her Majesty's Ministers.

8. You stated to Lord Knutsford that the Executive Council had informed you that strong objections were entertained in the Colony to many of the provisions of the draft of the 22nd of June, of which it is understood Mr. Emerson had taken a copy to the Colony. This draft has, however, since undergone much further discussion, and, as Lord Knutsford reminded you, Her Majesty's Government have already determined that it was not desirable to include in the measure certain provisions of the draft which purported to confer upon the proposed court a general jurisdiction over all matters occurring on the treaty shore, and in respect of offences against the general law. These provisions were not included in the original suggestions made by the delegates in the correspondence referred to above, and it is matter of satisfaction to Her Majesty's Government that, in coming to this conclusion, they have, in fact, anticipated the wishes of the Colonial Government.

9. It is therefore unnecessary to examine many of the objections which you informed Lord Knutsford had been raised in the Colony, but there remain for consideration the objections to the following provisions of the draft of June 22nd:—

Sub-section	1 of section 1,
"	1, 2 " 8,
"	2 " 11,

which correspond to

Sub-section	1 of section 1,
"	1, 2 " 5,
"	2 " 8,

of the draft enclosed in this letter.

10. Section 1, sub-section 1.—The Colonial Government desires to have the appointment of the proposed judicial officers, but it was explained to the delegates from the first that the selection must rest with Her Majesty's Government, who in return have undertaken to provide the salaries of the two gentlemen who it is believed will be sufficient for the duties to be performed. At the same time it will be open to the Colony to ask for the appointment of a third if they think fit to bear the expense; and in that case their recommendation of any particular person would doubtless receive favourable consideration. But looking to the delicate international bearing of the cases which may come before the Court, Her Majesty's Government have formed a decided opinion that at any rate at the outset the judges should be gentlemen unconnected with the Colony, and independent of all local interests. It may safely be presumed that able lawyers will speedily make themselves acquainted with the conditions of the fishery, while the power of appointing assessors will enable them to obtain the assistance of gentlemen possessing special local knowledge. And to this view, which the delegates were understood to accept, Her Majesty's Government must adhere.

11. They think it unnecessary to limit the selection to barristers or lawyers of seven years' standing as is suggested by the Executive Council. This condition, which formerly was frequently required, has now been generally abandoned, because it is obvious that mere standing is not necessarily a guarantee of efficiency, and it is possible that a rigid rule of this kind might exclude persons otherwise specially fitted for the duties required.

12. As regards the title of "Judicial Commissioners" which is objected to, Her Majesty's Government are of opinion that it is a suitable title looking to the purely judicial functions conferred upon these officers, while it is a clear advantage that they should bear a distinctive designation which would prevent any confusion between them and the judges of the ordinary courts.

13. Section 5, subsections 1, 2.—Her Majesty's Government are not able to entertain the suggestion that there should be an appeal to the Supreme Court of the Colony. It may be assumed that the questions to be decided will in most instances relate to matters of small value on which the judgment of the court will be accepted, especially if the decision of a commissioner acting singly is confirmed on rehearing by two commissioners, for which provision is now made in the Bill. On the other hand if any serious question of principle arises affecting many persons, or if in any case a large amount of money is involved, Her Majesty's Government are of opinion that the appeal should be direct to the highest court in the Empire.

14. Section 8, sub-section 2.—This sub-section should be retained, because it places beyond question that, except so far as they may be affected by the creation and action of the Judicial Commissioners' Court, the powers of the Supreme Court or of the magistrates upon the treaty shore will remain in full force.

15. I transmit to you herewith a revised copy of the draft Bill, in which, after carefully weighing the objections of the Colonial Ministry as conveyed by you and your own arguments, Lord Knutsford has embodied the alterations which, as at present advised, he thinks that Her Majesty's Government may be prepared to adopt. As the draft Bill has yet to be considered by his colleagues, you will understand that its present form is not to be looked upon as definitively settled, and I shall in due course address a further communication to the Governor on this subject.

16. It will, I feel confident, be recognised that Her Majesty's Government have sought to meet as far as possible the views which you, together with the other delegates, have placed before them during the frequent discussions that have taken place, and Her Majesty's Government trust that the Government and Legislature of Newfoundland will feel no difficulty or hesitation in passing the desired measure.

17. The Colony will thus show that it is prepared honourably to abide by the international engagements affecting the Island, and will declare these engagements to be part of the Colonial law. By creating the proposed court the Legislature will also have given an assurance to the Colonists engaged in the fishery that they will be dealt with only under the decisions of a competent legal tribunal.

18. At the same time the establishment of this court will have a further advantage, in that diplomatic complaints of infringement of treaty rights or of denial of justice will be based upon facts duly sifted and accurately ascertained, and not only upon the *ex parte* statements of aggrieved fishermen, whose statements would frequently be contradicted by the other parties to the transaction.

19. I am to add an expression of Lord Knutsford's thanks for the assistance which he has received from you and your colleagues in the consideration of this subject, and to

acquaint you that a copy of this letter will be forwarded to the Governor for the information of the Colonial Government and Legislature.

Sir William Whiteway, K.C.M.G.

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

Enclosure in No. 1.

DRAFT OF A BILL TO PROVIDE FOR CARRYING INTO EFFECT HER MAJESTY'S ENGAGEMENTS WITH FRANCE RESPECTING THE FISHERIES OFF THE COAST OF NEWFOUNDLAND, AND FOR THE JUDICIAL DETERMINATION OF QUESTIONS ARISING WITH REFERENCE THERETO.

WHEREAS the engagements between Great Britain and France relating to the Newfoundland fisheries rest upon the treaties, declarations, and agreements herein-after mentioned :

And whereas by the Treaty of Utrecht, 1713 (Article 13), it was agreed that "The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Great Britain, and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this Treaty, or sooner if possible, by the Most Christian King to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the Most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said Island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land in that part only, and in no other besides that, of the said Island of Newfoundland, which stretches from the place called Cape Bonavista to the northern part of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence, and in the gulf of the same name, shall hereafter belong of right to the French, and the Most Christian King shall have all manner of liberty to fortify any place or places there."

And whereas by the Treaty of Paris, 1763 (Article 5), it was agreed that "The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the Island of Newfoundland, such as it is specified in the 13th Article of the Treaty of Utrecht, which article is renewed and confirmed by the present Treaty (except what relates to the Island of Cape Breton, as well as to the other islands and coasts in the mouth and in the Gulf of St. Lawrence), and His Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulf of St. Lawrence on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said Gulf of St. Lawrence. And as to what relates to the fishery on the coasts of the Island of Cape Breton, out of the said gulf, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the Island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia and everywhere else out of the said gulf shall remain on the foot of former Treaties.

And (Article 6) "The King of Great Britain cedes the Islands of St. Pierre and Miquelon, in full right of His Most Christian Majesty, to serve as a shelter to the French fishermen: and His said Most Christian Majesty engages not to fortify the said islands; to erect no building upon them but merely for the convenience of the fishery; and to keep upon them a guard of fifty men only for the police."

And whereas by the Treaty of Versailles, 1783, it was agreed (Article 4) that "His Majesty the King of Great Britain is maintained in his right to the Island of Newfoundland and to the adjacent islands, as the whole were assured to him by the 13th Article of the Treaty of Utrecht, excepting the Islands of St. Pierre and Miquelon, which are ceded in full right by the present Treaty to His Most Christian Majesty."

And (Article 5) that "His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France

“ consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees north latitude; and His Majesty the King of Great Britain consents, on his part, that the fishery assigned to the subjects of His Most Christian Majesty beginning at the said Cape John, passing to the north and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Ray, situated in forty-seven degrees fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present article as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht.”

And (Article 6) that “ With regard to the fishery in the Gulf of St. Lawrence, the French shall continue to exercise it conformably to the Fifth Article of the Treaty of Paris.”

And whereas by declaration of His Britannic Majesty, dated the third day of September, one thousand seven hundred and eighty-three, it was declared that, “ The King having entirely agreed with His Most Christian Majesty upon the articles of the Definitive Treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, but will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.”

“ To this end and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner by their competition, the fishery of the French, during the temporary exercise of it which is granted to them upon the coasts of the Island of Newfoundland; and he will for this purpose cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.”

“ The thirteenth Article of the Treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there; it shall not be deviated from by either party; the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of His Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing, nor injuring their scaffolds during their absence.

“ The King of Great Britain in ceding the Islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations; and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel.”

And whereas by counter declaration of His Most Gracious Majesty the King of France, dated the third day of September 1783, it was declared that—

“ The principles which have guided the King in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain that His Majesty has had no other design than to render it solid and lasting by preventing as much as possible in the four quarters of the world, every subject of discussion and quarrel.

“ The King of Great Britain undoubtedly places too much confidence in the uprightness of His Majesty’s intentions not to rely upon his constant attention to prevent the Islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

“ As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two Sovereigns upon this matter, it is sufficiently ascertained by the Fifth Article of the Treaty of Peace signed this day, and by the declaration likewise delivered to-day by His Britannic Majesty’s Ambassador Extraordinary and Plenipotentiary; and His Majesty declares that he is fully satisfied on this head.

“ In regard to the fishery between the Island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on by either party, but to the middle of the channel, and His Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.”

And whereas by the Treaty of Paris, of the thirtieth of May 1814, it was “ agreed (Article 8) that His Britannic Majesty, stipulating for himself and his allies, engages to

“ restore to His Most Christian Majesty, within the terms which shall be hereafter fixed, the colonies, fisheries, factories, and establishments of every kind, which were possessed by France on the 1st January 1792, in the seas, on the continents of America, Africa, and Asia, with exception, however, of the Islands of Tobago and St. Lucia, and the Isle of France and its dependencies, especially Rodrigues and Les Seychelles, which several colonies and possessions His Most Christian Majesty cedes in full right and sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and sovereignty to His Catholic Majesty : ”

And (Article 13) that “ The French right of fishery upon the Great Bank of Newfoundland upon the coasts of the island of that name, and of the adjacent islands in the Gulf of St. Lawrence, shall be replaced upon the footing in which it stood in 1792 : ”

And by the Treaty of Paris, 1815, it was agreed (Article 11) that “ The Treaty of Paris of the thirtieth of May, one thousand eight hundred and fourteen, and the final act of the Congress of Vienna of the ninth of June, one thousand eight hundred and fifteen, are confirmed, and shall be maintained in all such of their enactments which shall not have been modified by the Articles of the present Treaty : ”

And whereas by an agreement (in this Act referred to as the *modus vivendi* of 1890) made in March one thousand eight hundred and ninety, it was agreed as follows :—

“ The questions of principle and of respective rights being entirely reserved on both sides, the British and French Governments agree that the *status quo* shall be maintained during the ensuing season on the following basis :—

“ Without France or Great Britain demanding at once a new examination of the legality of the installation of British or French lobster factories on the coasts of Newfoundland, where the French enjoy rights of fishing conferred by the Treaties, it is understood that there shall be no modifications in the positions (‘emplacements’) occupied by the establishments of the subjects of either country on the 1st July 1889, except that a subject of either nation may remove any such establishment to any spot on which the commanders of the two naval stations shall have previously agreed.

“ No lobster fisheries which were not in operation on the 1st July 1889 shall be permitted, unless by the joint consent of the commanders of the British and French naval stations.

“ In consideration of each new lobster fishery so permitted, it shall be open to the fishermen of the other country to establish a new lobster fishery on some spot to be similarly settled by joint agreement between the said naval commanders.

“ Whenever a case of competition in respect of lobster fishery arises between the fishermen of either country, the commanders of the two naval stations shall proceed on the spot to a provisional delimitation of the lobster fishery grounds, having regard to the situations acquired by the two parties.

“ N.B.—It is well understood that this arrangement is quite provisional, and shall only hold good for the fishing season which is about to open.”

And whereas by an agreement, dated the 11th day of March one thousand eight hundred and ninety-one (in this Act referred to as the arbitration agreement), it was provided as follows :—

“ The Government of Her Britannic Majesty and the Government of the French Republic having resolved to submit to a Commission of Arbitration the solution of certain difficulties which have arisen on the portion of the coasts of Newfoundland comprised between Cape St. John and Cape Ray, passing by the north, have agreed upon the following provisions :—

“ 1. The Commission of Arbitration shall judge and decide all the questions of principle which shall be submitted to it by either Government, or by their delegates, concerning the catching and preparation of lobsters on the above-mentioned portion of the coasts of Newfoundland.

“ 2. The two Governments engage, in so far as each may be concerned, to execute the decisions of the Commission of Arbitration.

“ 3. The *modus vivendi* of 1890, relative to the catching and preparation of lobsters, is renewed purely and simply for the fishery season of 1891.

“ 4. As soon as the questions relative to the catching and preparation of lobsters shall have been decided by the Commission, it may take cognizance of other subsidiary questions relative to the fisheries on the above-mentioned portion of the coasts of Newfoundland, and upon the text of which the two Governments shall have previously come to an agreement.

“ 5. ‘ The Commission of Arbitration shall be composed—

“ (1.) Of three specialists or juriconsults designated by common consent by the two Governments.

“ (2.) Of two delegates of each country, who shall be the authorised “ channels of communication between the two Governments and the other arbitrators.

“ 6. The Commission of Arbitration thus formed of seven members shall decide by majority of votes and without appeal.

“ 7. It shall meet as soon as possible.”

And whereas it is expedient that permanent arrangements should be made, both for the legal enforcement of the provisions of the French treaties, and of the arbitration award, and also for the decision of questions which may from time to time arise under those provisions upon the treaty coast and waters.

Be it therefore enacted by the Governor and Legislative Council and House of Assembly in Legislative Session convened as follows :

1.—(1.) Her Majesty the Queen may from time to time, by instrument under Her Royal Sign Manual and Signet, appoint Judicial Commissioners for the treaty coast and waters, and every Commissioner so appointed shall receive from the Governor a commission for the purposes of this Act.

Appointment of Judicial Commission Court.

(2.) There shall be a superior court of record, called the Judicial Commission Court, and the said Judicial Commissioners shall be judges of that Court.

2.—(1.) Where a naval officer holding the instructions of Her Majesty the Queen given through the Commissioners of the Admiralty for fulfilling the French treaties and arbitration award, thinks it necessary to take any action against any persons or their property for the purpose of carrying into effect or enforcing the said treaties or award, or of maintaining peace and good order among the persons engaged in the fisheries on the treaty coast and waters, he shall bring the matter before the Judicial Commission Court, and before taking any action obtain a judgment of the Court directing such action.

Proceedings in Judicial Commission Court.

(2.) Any person aggrieved by any act of a naval officer holding such instructions as aforesaid may bring the matter before the Judicial Commission Court.

(3.) The Judicial Commission Court shall try every case in a summary manner, and decide it in accordance with the French treaties and arbitration award, and give such judgment as appears necessary for carrying into effect the decision so as to secure the due observance of the said treaties and award.

3.—(1.) A judgment of the Court may impose a fine, not exceeding five hundred dollars, grant an injunction mandatory or otherwise, award damages or costs, direct a sale, and give any other order or direction which appears to the Court necessary, for carrying into full effect the judgment of the Court, or for the execution of the French treaties or arbitration award.

Judgment of Court.

(2.) A judgment of the Judicial Commission Court shall have full effect and may be executed, whether on land or at sea by any naval officer, or by any civil officer who executes the judgment of the Supreme Court, or of a stipendiary magistrate.

4.—(1.) Subject to any rules from time to time made by Her Majesty the Queen, and countersigned by one of Her Majesty's Principal Secretaries of State—

Sittings of Judicial Commission Court.

(a) sittings of the Judicial Commission Court shall be held at such times and places, and either by one or more of the Commissioners as occasion appears to require, and that either simultaneously or at different times, and at certain fixed places, or at different places where a Commissioner may be, and either on board ship or on land ; and

(b) the jurisdiction of the Court may be exercised by one Commissioner ; and

(c) the Court may, where it deems it expedient, summon any persons having local knowledge and experience to sit with the Court as assessors ; and

(d) The Court may from time to time appoint such officers, as appear to the Court necessary, and remove such officers.

5.—(1.) There shall not, save as herein-after mentioned, be any appeal from any judgment of the Judicial Commission Court in any case connected with the French treaties or arbitration award, nor shall the Court be liable in any such case to be restrained or interfered with in the exercise of their jurisdiction under this Act, whether by a prohibition, mandamus, certiorari, or otherwise ; and any judgment, or other proceeding of the Court, shall not be deemed void by reason only of any formal defect ;

Re-hearing and appeal.

(2.) Provided that—

- (a) nothing in this Act shall impair the right of appeal to Her Majesty the Queen in Council in accordance with such regulations as Her Majesty in Council may make; and
- (b) if any party to a case determined by one Judicial Commissioner requires the case to be reheard before a Court composed of more than one Commissioner the case shall be so reheard.

(3.) Provided further that an appeal or re-hearing under sub-section (2) of this section shall not operate as a stay of execution.

Supple-
mental as to
Court and
naval officers.

6.—(1.) The Judicial Commission Court shall, for the purposes of this Act, have the same jurisdiction and power of summoning and enforcing the attendance of parties and witnesses, of administering an oath, of protecting and enforcing respect for the Court, enforcing their judgment or summons, and otherwise, as the Supreme Court, or (as the case requires) of any stipendiary magistrate.

(2.) A naval officer shall have power with a view to any proceeding in the Judicial Commission Court, to take and bring before the Court any person, or vessel or boat or any tackle, equipment, or nets, and for that purpose, and for the purpose of the execution of any judgment of the Court, shall have the authority and be entitled to the immunities given by law to any sheriff, bailiff, tipstaff, constable, or officer executing a warrant or judgment of the Supreme Court, as a stipendiary magistrate.

Rules.

7.—(1.) The Judicial Commission Court may, from time to time with the approval of Her Majesty the Queen, signified under the hand of one of Her Majesty's Principal Secretaries of State, make, revoke, and vary rules regulating the procedure, payment of assessors, practice, fees, and costs, in matters under this Act, and providing for the reception of depositions in evidence, and such rules shall be published in the "Royal Gazette," and while in force shall be binding as if enacted in this Act.

(2.) All such fees, and also all fines imposed by the Court, shall be paid, accounted for, and applied as directed by the rules, and subject to any such direction shall be applied in aid of the expenses of the Court and the officers thereof, and so far as not required for that purpose shall be applied as part of the revenue of Newfoundland.

Savings.

8.—(1.) Nothing in this Act shall apply to any matter arising otherwise than in relation to the French treaties and arbitration award.

(2.) The jurisdiction and powers conferred by this Act shall be in addition to and not in derogation of any jurisdiction and powers of Her Majesty the Queen, or officers acting under Her orders, or of the Governor, or any court, magistrate, or officer of Newfoundland.

Definitions.

9.—In this Act, unless the context otherwise requires—

The expression "Naval Officer" means any officer, commissioned and in full pay, of one of Her Majesty's ships.

The expression "judgment" includes a decree or order.

The expression "French treaties" means the engagements between Great Britain and France recited in this Act, and includes any future agreement for a continuation (pending the arbitration) of the *modus vivendi* of 1890.

The expression "arbitration award" means any award made in pursuance of the arbitration agreement recited in this Act.

The expression "treaty coast and waters" means such portion of the coast of Newfoundland as is mentioned in the above-recited treaty of Versailles of the third day of September one thousand seven hundred and eighty-three, and such of the waters adjoining that portion of the coast as are within Her Majesty's jurisdiction.

Words importing the masculine gender shall include females, and words in the singular shall include the plural, and words in the plural shall include the singular.

Repeal.

10. The Newfoundland French Treaties Act of 1891 is hereby repealed.

11. This Act shall come into operation on such day as may be notified by the Governor by proclamation, and may be cited as the Fishery Treaties Act, 1891.

Commence-
ment and
short title.
A.D. 1891.

No. 2.

SIR TERENCE O'BRIEN to LORD KNUTSFORD.
(Received January 1, 1892.)

MY LORD,

Government House,
St. John's, December 23, 1891.

AT the last meeting of Council, being anxious to be in a position to inform your Lordship of the probable action and views of my Government relative to the draft Bill to regulate our treaty obligations with France, I brought the matter forward, when it was pointed out that, as it was desirable that, in the first instance, the draft should be considered by the five delegates, the Government desired to postpone action till all those gentlemen were in the Colony.

2. At present two of them are absent, the Hon. A. W. Harvey being in Europe, and Mr. Morine having left the Island immediately on his return from England in order to carry on his legal studies at the Halifax University.

The Right Hon. Lord Knutsford, G.C.M.G., I have, &c.
&c. &c. &c. T. O'BRIEN, Lt.-Col.,
Governor.

No. 3.

SIR TERENCE O'BRIEN to LORD KNUTSFORD.
(Received April 20, 1892.)

[Answered by No. 4.]

TELEGRAPHIC.

(Extract.)

Three Delegates endeavoured to prevent Whiteway proceeding with Act; he states that he will do so next week; has grave doubts whether he will succeed.

No. 4.

LORD KNUTSFORD to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

22nd April.—Referring to your telegram of 20th April* I trust the Treaties Bill will be passed, and thus relieve the Imperial Government from having to legislate.

No. 5.

SIR TERENCE O'BRIEN to LORD KNUTSFORD.
(Received May 17, 1892.)

TELEGRAPHIC.

17th May 1892.—Am requested by Address from House of Assembly to forward following for information of Her Majesty's Government:—

Whereas the Legislature of this Colony did, on the 24th day of March 1891, appoint five of its members as a delegation to proceed to England to lay before the British Parliament and people the reasons of this Colony for opposing the legislation brought forward by the Imperial Government in reference to the French Treaties question; and whereas it was resolved by this Legislature that when a majority of the said Delegates should agree to any basis of arrangement and settlement the said Delegation should recommend it to the Legislature, and that each member of the Delegation should be bound by the decision of a majority; and whereas a difference of opinion has arisen between the said Delegates, and the Legislature has had a majority and minority Report presented for its consideration; and whereas the Bill now before the House does not provide for the payment by Great Britain of compensation due to persons who may suffer by the enforcement of the Treaties, the *modus vivendi*, and the arbitration award, provision for which compensation was insisted upon by the Marquis of Salisbury when

* No. 3.

speaking in the House of Lords on the 29th day of May 1891, to be a condition precedent to the enactment of any permanent Act by this Legislature; and whereas the Bill now before the House is not acceptable to this House in other respects; and whereas the Legislature did, on the 30th day of May last, pass a temporary Bill to enable Her Majesty's Government to carry into effect engagements with France respecting fisheries in Newfoundland during the period of negotiations for the settlement of difficulties concerning the Treaty Shore; and whereas it is provided that the said Act shall continue in force only until the end of 1893 and no longer; and whereas the said negotiations may occupy a longer period than at first anticipated: Be it resolved, that this House undertakes to extend the operations of the Act entitled "An Act for the purpose of carrying into effect engagements with France respecting Fisheries in Newfoundland" for a further period of two years from the expiration thereof, so as to afford time for further negotiations: Be it also resolved, that the further consideration of the French Treaties question be referred to a Joint Select Committee of both Houses with a view to aiding Her Majesty's Government in procuring a satisfactory solution of all existing difficulties.

No. 6.

SIR TERENCE O'BRIEN to LORD KNUTSFORD.

(Received June 16, 1892.)

[Continued by No. 7.]

Government House, St. John's,
June 8, 1892.

MY LORD,

As the debates of the Legislature here are not published in a Hansard or other similar form, one has to be dependent on their appearance in the daily press, and as the papers are generally a fortnight or three weeks in arrears in such publication, I am only now in a position to furnish you with the Premier's opening speech, and those of other gentlemen, in order to submit, for your appreciation, the manner in which the Bill for the enforcement of England's Treaty obligations with France was submitted to the Assembly, as well as the arguments which, I regret to say, induced that body to throw out that measure, which, whatever may be said as to details, was, in my opinion, but the outcome of the understanding on which the House of Commons stayed legislation at the urgent request of the representatives of Newfoundland.

By next mail I shall hope to be able to complete the debates now sent.

I have, &c.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

(Signed) T. O'BRIEN,
Governor.

Enclosure in No. 6.

Report of Delegates.

To the Honourable the Legislative Council and House of Assembly in Legislative Session convened.

1. The delegates upon the French Treaties Question, appointed by the Legislature last session, had the honour to make an interim report dated May 11th, 1891, accompanied by copies of correspondence and other documents, and one of their number, Mr. A. B. Morine, was permitted, at their request, to make verbal explanation to your honourable Houses in joint session convened concerning the subject of their mission.

2. The delegates now have the honour to submit the following supplementary report with copies of the correspondence conducted after that date and of other documents in connexion with their labours.

3. At the date of Mr. Morine's departure from London, the Bill introduced into the House of Lords for the purpose of enforcing the French Treaties had passed through all its stages in that House, and it was introduced into the House of Commons on the 13th of the same month, the second reading being set down for the 28th May, after the Whitsuntide holidays had elapsed. Between the 21st and 28th May your delegates conferred, on various occasions, by correspondence and otherwise, with the British Government, in reference to the terms of the temporary Act eventually passed by the Legislature, and as to the principle of a proposed permanent Act to supersede the temporary one.

4. Pending an agreement the delegates made preparation for the presentation of the case of the Colony at the bar of the House of Commons, and were granted permission to address that House on the day set down for second reading of the Bill against the passage of which they were instructed to protest. In the meantime the Legislature had been put in possession of the information conveyed by Mr. Morine, and had received recommendations by the remaining delegates as to the necessity of enacting, with certain amendments, the proposed temporary Act forwarded by the delegates.

5. On the 27th that Act was read a third time in the Legislative Council, having been passed by the House of Assembly on the 26th, and on the morning of the 28th the delegates conveyed the information, that it had passed, to the Secretary of State for the Colonies who, whilst the delegates were awaiting to be called to the bar of the House of Commons for the purpose of being heard, caused them to be informed that Her Majesty's Government would withdraw the Bill from before the Commons, after it had passed its second reading. Upon the motion for the second reading of the Bill, a debate arose in the Commons, as the result of which the second reading was not proceeded with.

6. The delegates lost no time in making arrangements for the further progress of their work, and on Saturday, the 30th May, they made an arrangement for a conference with Mr. Bramston on the following Monday upon the terms of the proposed permanent Act. On the day appointed the conference took place. Your delegates then submitted the draft Bill hereto annexed, marked "A." Discussion in reference to that draft took place at conferences held during that week.

7. On the 6th June the Hon. M. Monroe left for home, taking with him a letter from the delegates, and on the 22nd of June Mr. Emerson also left for home, taking with him a copy of a draft Bill that day submitted on behalf of the British Government and hereto annexed marked "B." Between the 22nd June and the departure of the Hon. A. W. Harvey, on the 6th July, several conferences were held concerning that Bill, and many alterations made, involving great care and considerable labour. Further conferences occurred and other alterations were made between the 6th of July and the departure of Sir W. Whiteway, on the 4th day of August, the result of which is embodied in the Bill hereto annexed, marked "C," which we recommend for the assent of the Legislature.

8. Recognising the fact that the conduct of your delegates in recommending to the Legislature the adoption of the temporary Act, enacted last session, has been the subject of severe criticism, we feel justified in reminding the Legislature that, when we received our commission to proceed to England, there was pending before Parliament a Bill which had been framed upon the lines of an Act more than a century old which placed in the hands of Her Majesty's Naval Officers the exercise of powers which may be justly termed harsh.

9. Public sentiment in Great Britain demanded the enforcement of the French treaties; Parliament was unanimous in supporting that demand, and it was therefore apparent that if the Legislature would do nothing the Bill before Parliament would become law. Fortunately the Legislature adopted our unanimous recommendations, the temporary Bill proposed by us became law, and was accepted by the Parliament, the Government, and the people of the mother country, as an evidence of good faith on the part of the Colony and of an earnest desire to bring about a permanent settlement of a dangerous and unfortunate condition of affairs.

10. The proposed Imperial Act was abandoned, and time in which to secure a more careful consideration of a permanent Act was assured.

11. Your delegates were able also by their efforts to bring prominently before the British public the hardships under which the Colony suffers in consequence of the French Treaties, and to make it certain that whenever an opportunity occurs for a satisfactory settlement it will not be lost.

They feel, therefore, that their work has been productive of good to the Colony, and in transmitting, for your consideration, the documents in connexion with their labours, your delegates feel confident that their conduct will have the approval of the Legislature whose representatives they had the honour to be, and to the fulfilment of whose behests they devoted their best energies and their best abilities.

We have the honour to be, your humble, obedient servants,

(Signed)

W. V. WHITEWAY.
A. W. HARVEY.

Hon. Mr. Harvey desired to say a few words upon this very important matter. It was not easy by a mere hasty reading of the two reports presented to grasp the wide difference that existed between them. In a great measure they were identical in sub-

stance, but the conclusions arrived at were widely different. The chief matter of difference between the two reports lay in the eighth paragraph of the majority report. The minority report contained a simple recommendation that the Bill should be passed by the Legislature now. The majority report, on the other hand, counselled delay with the object of securing, by correspondence with the Imperial authorities, a more advantageous measure. To a man who had given only a superficial attention to the despatches referring to this matter, it might appear that there was some substantial ground for hoping that there might be some possibility of benefit in delay, but to one who had deeply studied the matter nothing appeared more certain than that our wisest course was to pass the present Bill and avoid the danger of having a more obnoxious measure forced upon us. He had at first intended to embody in the report the reasons why the Bill should be accepted by us, but, after consultation with his co-delegate, he decided that it would be better to give those reasons *vivá voce* than to set them out in the report. As one who had studied the question in all its different phases, and as one familiar with every detail of the negotiations that had taken place, he could recommend this Bill to the Legislature with all his heart. At the beginning of last year, when the joint committee of both branches of the Legislature was appointed to consider this question, it came to his knowledge that the old Act George IV. had lapsed some years ago, not by having been repealed by any subsequent enactment, but by its own inherent verbiage. When he stated this at that time the fact was very much doubted, and he was challenged for proof of his assertion. But in a short time proof had come that the position was as he had stated. He then said that Newfoundland had her future in her own hands more than ever before, and that the day had arrived for the advantageous discussion of the French Shore difficulty. The old Act having lapsed, Great Britain would have to pass another Act to enable her to carry out the treaties; though some thought that such an Act would not be necessary, and that the treaties could be carried out without any further legislation. Subsequently it was ascertained that legislation was necessary to this end. Then he had felt certain that a similar Act to the former one passed early in the century would never be attempted to be enacted now, but he was roughly undeceived. At the moment of the arrival of the delegates in England they were informed that the old Act would be re-enacted, unless we ourselves passed such legislation as might be agreed to by the Imperial authorities in substitution of it. The delegates had the authority of Lords Salisbury, Knutsford, and Mr. W. H. Smith as representing the Government, and Lords Kimberley, Herschell, and others representing the Liberals, for this statement. He had raised his voice last year in this character against the Bill and expressed his conviction that in the nineteenth century Great Britain would not force upon one of its Colonies a Bill of such a nature. He soon learnt, however, that he was in error in this belief, and that if we did not pass a Bill a more extreme measure would be passed by the Imperial Parliament, and that once passed it would never be repealed. The delegates as one man protested against the treatment with which Great Britain threatened us, but with many pang they were compelled to submit lest worse should befall the Colony. No one was more unwilling than he to assent to a measure which he regarded as a disgrace to Great Britain, but nothing was left but to choose the least of the two evils; that Act was passed by this Legislature last session. We now had it in our power to remove within ten days from our statute book a measure which was disgraceful alike to us and the mother country. If we pass this Bill now it will receive the Governor's assent at once, and the original Act will be no more heard of. He could see no prospect of advantage in delaying the passage of the Bill. It appeared to him that now was the time and now the hour to relieve ourselves from a state of things that would cause us nothing but shame and discredit. But this was not the only reason why he supported this Bill. Though it differed in one or two particulars from the Bill originally proposed to the Imperial Government by the delegates, it nevertheless comprised nearly every good point contained in that measure. If we pass the Bill now, it was possible that, agitating, year by year, we might be permitted to modify it somewhat, but, if we compelled the Imperial Government to pass an Act themselves, it would be far more stringent in its provisions, and we could never hope for its modification or repeal. This Bill had, in its essence, been agreed upon by the Imperial Government and our delegates. It contained concessions which were the result of the appeals of the delegates to the British Parliament and public. We could expect no better measure for some years to come; at any rate, we have reason to fear that, in default of its passage, a worse might be forced upon us, for Lord Salisbury would have no difficulty in piloting an extreme and coercive measure through the Imperial Parliament on our refusal to enact this. This Bill was so favourable to us that he had heard on highest authority it would never be assented to by France. That, however, was nothing to us; it was a

matter entirely between Great Britain and the French Republic; and we could calmly allow those nations to settle their differences between themselves. If we delayed to pass the Bill now, it would be as great a breach of faith on our part as it would be on the part of the Imperial Government to refuse its sanction when we had passed it. He had the prosperity of this Colony very dearly at heart, his all was invested in it, and his own success was dependent upon the country's welfare; if then, the Bill were inimical to the best interests of the country, it would be strongly to his interest to oppose it. The fact that he supported it, therefore, argued that, in his opinion, the Bill was as good as we could hope to obtain. The House would not deny him the credit of acting according to his honest convictions, for he thought that his record in the Council proved that he had given his time and the best of his ability to the service of the Colony. It might be taken, then, that he was sincere and actuated by no ill motives in impressing upon the House the necessity of carrying out the pledge that the Colony had given, and of passing this Bill.

He would read to the House a few extracts from papers of recognised authority, which all went to show that we were pledged in honour to pass this Bill. He did not mean to say that a lawyer by ingenious and hair-splitting arguments might not be able to give some colour to the position that we were not pledged to enact this Bill in all its details: but in a court of honour and conscience the only decision that could be arrived at was that we were bound, here and now, to accept the measure tendered us. The delegates were instructed by both branches of the Legislature in the following terms:—

“ ‘ The Legislative Council and House of Assembly beg to acquaint your Excellency
 “ ‘ that they have appointed a delegation, consisting of the Hon. Mr. Harvey, the
 “ ‘ Hon. Mr. Monroe, the Hon. the Premier, his Honour the Speaker of the Assembly,
 “ ‘ and Mr. Morine (one of the members for Bonavista), to proceed immediately to
 “ ‘ England to lay before the British Parliament and people the reasons of this Colony
 “ ‘ for opposing the proposed legislation now before the Imperial Parliament in reference
 “ ‘ to the French treaties question, and respectfully request that your Excellency will
 “ ‘ be pleased to appropriate and pay out of the general revenue of this Colony such
 “ ‘ sums as may be necessary towards the expenses of the said delegation, and the
 “ ‘ Council and Assembly will make due provision for the same.’

“ Ordered, that the said report be received and adopted, and that the said address
 “ do pass and be sent to the Legislative Council, with a message, requesting their
 “ concurrence.”

Acting upon this authority the delegates at first had a verbal interview with Lord Salisbury, when a general discussion of the matter took place. Subsequently when we were asked to submit our proposals in writing, we did so in these terms: “ The delegates would respectfully submit to the consideration of Lord Salisbury, the following proposals; * * * * * (c.) The terms of an Act to empower courts and provide for regulations to enforce the treaties and declarations, to be discussed and arranged with the delegates now in this city, as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.”

The following letter accompanied the proposals:—

NEWFOUNDLAND DELEGATES to the MARQUIS OF SALISBURY.

“ Hotel Métropole, London,

April 21, 1891.

“ MY LORD,

“ WE beg to enclose herewith the proposals which your Lordship was so kind as
 “ to ask us to submit in writing. The delegates feel that the adoption by Her Majesty's
 “ Government of the propositions now made will cause the excitement now prevailing in
 “ the Colony to subside, and will secure harmony upon the debatable ground.

(Signed) “ W. V. WHITEWAY.

“ A. W. HARVEY.

“ M. MONROE.

“ G. H. EMERSON.

“ A. B. MORINE.”

This was the first proposition submitted by the delegation to the British Government. Before we came before the House of Commons, Her Majesty's Ministers informed us that the Government was prepared to accede to our terms. Acting upon this promise the Bill originally contemplated was withdrawn in the Imperial Parliament, and a temporary Act was passed here, and a permanent Bill embodying terms with regard to the constitution of the court which was to have jurisdiction under the Act had been mutually agreed upon. To our great advantage Great Britain gave way and met our

proposals, and the result was the Act now before the House, the terms of which were fully discussed and agreed upon.

Hon. Mr. Monroe.—They were not agreed to by me.

Hon. Mr. Harvey.—Now, he would like to know upon whom discredit would fall, if, after going as far as the correspondence proved we had gone, we were now to refuse to fulfil obligations which we in our own interest sought. Subsequently to the appearance of the delegates at the bar of the House of Lords, a communication was sent from the delegates to the Colonial Office, a portion of which he would read :—

NEWFOUNDLAND DELEGATES TO COLONIAL OFFICE.

“ Hotel Métropole, London,

May 1, 1891.

“ MY LORD,

“ IN acknowledging the receipt of your communication of the 29th instant, we beg to say that, having very carefully considered the speeches made in the House of Lords on Monday, the 27th instant, we desire to lay before Her Majesty’s Government the following propositions :—

“ (a.) If the Bill now before the Lords be not further proceeded with, and if Her Majesty’s Government admit the principle of a measure for the creation of courts to adjudicate upon complaints arising in the course of the enforcement of the Treaties and Declarations relative to French Treaty rights, and engage to discuss and arrange with us as rapidly as possible the terms of a Bill embodying that principle, we will with all possible speed procure the enactment by the Colonial Legislature of a measure giving power to Her Majesty in Council during the current year to enforce in the same manner as heretofore her rules and regulations for the observance of the *modus vivendi*, the award of the arbitration, and the Treaties and Declarations with France; which temporary Act the Colonial Legislature will replace by a permanent measure for securing the enforcement of the Treaties under the orders of the special courts referred to above : provided that if, as the result of the enforcement of the award of the arbitration, the property of Her Majesty’s subjects is disturbed, they shall be entitled to compensation.”

It will thus be seen from the wording of the above, where the delegates say, “if the Bill now before the Lords be not further proceeded with,” to what extent they were committed in the negotiations. Further on the same despatch says :—

“ The details of such a measure as we have outlined, though their preparation need not occupy a long time, cannot, we apprehend, be arranged in time to be made applicable this year; and therefore, if Her Majesty’s Government agree in the main with the principle of our suggestions in this respect, the temporary legislation referred to can be proceeded with at once, and the details of the permanent measure be more deliberately worked out. It would, however, be necessary to agree upon the terms of the permanent legislation before we leave this city, and extremely desirable to come to an agreement so speedily as to make it possible to enact the measure in the local Legislature before the present session concludes, so that it could come into force at the beginning of next year. We represent all parties in the Legislature, and therefore a Bill agreed upon by and with us will be more satisfactory to the Colony, and be more likely to obtain acceptance, than a measure arranged at any other time and with any other persons.”

Before going further he would wish to ask why the passage of this Bill should be postponed? Was it supposed that the delegates had not arranged the best possible Bill that would obtain the assent of Her Majesty? In the event of endeavouring to obtain a new Bill, who was to arrange it? Were the delegates? And if so, which of them? The delegates, members of the Executive, recommend this Bill as the best they can obtain. In answer to the communication from the Colonial Office, in which the Imperial Government require that the Bill shall be a permanent one, the delegates say :—

* * * * “ It is not to be presumed, we suppose, that future sessions would find Parliament less sensible than it now is of the necessity of enforcing regard for the Empire’s obligations, and therefore no doubt need be felt that if the proposed permanent Act had not been agreed upon and enacted, when Parliament next assembled, it would enact the necessary legislation to continue the enforcement of the Treaties and Declarations. In order that the obligations of the Empire to the French may be carried out, it cannot be necessary to enforce them in a manner both harsh and unjust to the Colony, and contrary to the well-settled principles upon which British law is administered, provided the same end can be attained by some better means. The question which Newfoundland raises is not, shall treaty obligations be fulfilled? but,

“ shall they be enforced in a manner which inflicts unnecessary hardship upon our fellow-Colonists ? and the point at issue is only obscured by arguing as though the measure now before the House of Lords must either be enacted by Parliament, or a similar one by the Legislature of the Colony, or the Empire’s obligations abandoned.”

When we received an intimation from the Colonial Office that if our proposals were put in another shape, the British Government would probably acquiesce in them the delegates replied :—

“ Hotel Métropole, London,
“ May 27, 1891.

* * * * “ If Her Majesty’s Government (2) will also give assurance that the terms of a permanent Bill, to be passed by the Colonial Legislature, based upon the principle of the establishment of courts under judges or magistrates, instead of under naval officers, for the adjudication of questions arising under the Treaties, *modus vivendi*, and award of the present arbitration, be forthwith discussed with the delegates, and arranged. Such permanent Act, when passed by the Colonial Legislature, might at once supersede the present proposed Colonial temporary Act.”

In reply to this the following was received from Sir Robert Herbert :—

“ GENTLEMEN, Downing Street, May 28, 1892.
* * * * “ 3. I have further to acquaint you that Her Majesty’s Government are prepared forthwith to discuss and arrange with you the terms of a permanent Bill to be passed by the Colonial Legislature upon the general principles referred to in the second paragraph of your letter of the 27th inst.; and I am to add that the views of Her Majesty Government in respect to the other points mentioned in that letter have been stated in the previous correspondence.”

The clause he had quoted from the delegates’ letter of 27th May was very significant, and one which showed what the disposition and intentions of the delegates were at this stage of the negotiations. He would now read a letter received from Sir Robert Herbert three days subsequently :—

“ GENTLEMEN, Downing Street, May 30, 1891.
“ I AM directed by the Secretary of State for the Colonies to intimate to you, with reference to the recent proceedings in Parliament, and the correspondence with you in connexion with the proposed permanent Colonial enactment to constitute courts and provide for regulations to enforce obligations of this country under the Treaties and Declarations relating to the Newfoundland fisheries, that his Lordship will now be glad to proceed with as little delay as possible to consider the terms of that enactment, and proposes that you should place yourselves in communication with Mr. Bramston, of this Department, for the purpose of settling the general outline of such a measure as may appear to meet the requirements of the case.

“ I am, Gentlemen,
“ Your obedient Servant,

“ (Signed) ROBERT G. W. HERBERT.

“ The Newfoundland Delegates.”

It was perfectly clear to him that these documents proved conclusively that Newfoundland undertook by her delegates to pass a permanent Bill to take the place of the Coercion Bill of last year. Moreover, the delegates urged that a temporary Bill was sufficient for the needs of the moment, they asserted and reiterated the statement that they would remain in London until a permanent Bill should be arranged, and the arrangement come to and agreed upon between the delegates and the Imperial Government was the Bill now before the House. That some of the delegates left London before the final stage of the negotiations had been reached, is true. It is true, also, nevertheless, the delegates who remained till the end in London fulfilled their obligations to the Imperial Government and were parties to the present Bill. Her Majesty’s Government could hardly be expected, under the circumstances, to consider that the delegates who remained were discredited and without powers of negotiating a settlement, merely because some of their number found it necessary to return home. But the delegates who remained at their post and those who did not, and the whole country, would be discredited were the course recommended by the majority report to be followed, and the act they arranged repudiated. It was proposed to enter into new negotiations by new negotiators, who would not have one half the chance of obtaining a favourable adjustment of the difficulty that the late delegation had. The mere repudiation of the acts of the delegates would of itself be sufficient to damn any future delegation in the eyes of Great Britain. How could she, after such conduct on our part, enter into negotiations with us with any confidence ? There was one statement made by the hon. gentleman in presenting the

majority report which he wished to contradict, and that was that the authorities at first agreed that Newfoundland should have the appointment of the judges of the courts under the Act. He did not think that the hon. gentleman would be borne out in this statement by the records, and he remembered that when such a proposal was made to Lord Knutsford he said that such a thing was out of the question, and could not be entertained for a moment. We were told that we might appoint one of the three if we paid his salary, but the others should be appointed by the British Government. If the Colony appointed its own judges their decision would have no weight with the French, and would be repudiated by them. Although, of course, he would have wished that we should have the appointment of these officials, and although he supported the delegates in the endeavour to obtain this right, yet he could not but see the strength of the reasons given by the Imperial authorities against it, and of the necessity for such judges to be free of all local sentiment. With the courts constituted as provided by the Bill there would probably be some difficulty in getting the French to accept their decisions, but were the judges to be from amongst our own people, the French would certainly repudiate their decrees altogether. It is chiefly in this particular that the present Bill differs from the original one proposed by the delegates; nevertheless, all things considered, he believed this Bill to be vastly better than any measure we might have hoped for. He should like to see it contain the right of appeal to our Supreme Court, but Lord Salisbury had given the same reasons against this that applied to the appointment of the judges—the impossibility of obtaining the acquiescence of France in such conditions. Far be it from him to cast any reflections upon those whose names appear to the majority report; yet he would maintain that those delegates who remained in London and completed the arrangement, and who, it could not be denied, had the interest of the Colony quite as much at heart as others, were in the better position of judging as to the course the Colony might pursue with advantage to herself, and as to whether the acceptance of this Bill would ultimately tend to her interests. Those delegates who left England before the termination of the negotiations had not had an opportunity of hearing the views and arguments of Lord Knutsford and Lord Salisbury in the later stages of the proceedings. Those who left may have comprised all the genius, all the tact and diplomacy, of the delegation; yet he would say that their going did not annihilate the delegation, nor limit it in its powers, and had they remained at the seat of operations, attended all the meetings, heard the views of the Liberal leaders as well as the Government, there was little doubt but that they would have concurred in the minority report.

He was sure that, if those gentlemen had remained, the Bill would have been drawn up and signed in London. The question now to be dealt with, as to whether the Legislature will accept this Bill or not, was one of the most vital importance, one whose settlement would either uphold the honour, the integrity and character of the country, or else brand us before the world, and especially before the British public, as a Colony that was unfaithful to its obligations. The importance of the question to the Colony, the Legislature, and to the personal status of the delegates themselves, could not be underestimated. The delegates were pledged to certain things and conditions; they all could not remain in England all the time negotiations were proceeding, but those who did, arranged and agreed to the present Bill, which he maintained was the best Bill we could possibly hope for, and in which opinion he was supported by the leaders of the Liberal Party in England and other eminent authorities. The treaties which existed between England and France could not be ignored, and must be carried out, and Great Britain was in honour bound to see them carried out, and the manner now proposed by this Bill of enabling the mother country to fulfil her obligations was the least oppressive mode that could be devised. Newfoundland will receive quite as fair treatment at the hands of two English lawyers as judges as she would if the bench was composed of Newfoundlanders. He was sure we would not cast such a slur on the English bar as to doubt this. In the event of an appeal being necessary, we could go to the Queen in Council, where, surely, we might hope to have our just rights recognised, and justice done us. With the exception of the two points which he trusted he had given a reasonable explanation of, he failed to see what possible objection could be raised to the Bill. Two years ago, when the *modus vivendi* was arranged, all Newfoundland was up in arms against it; village vied with village in denunciation of it; every man, woman, and child was imbued with the prevailing sentiment. It was considered a great misfortune to the Colony, yet now, when we have it in our power to do away with the *modus vivendi*, we hesitate, and desire to postpone the opportunity; in other words, we wish to keep the burden upon our backs for another year. Every Newfoundlander who favours postponement of the passage of this Bill will assist in shutting up lobster factories on the Treaty Coast, and in keeping on a statute book a Bill which was a disgrace to civilization. It was absurd to suppose that persons less favourably situated than the delegates

should, by correspondence, gain concessions which the Imperial authorities had already refused to men who had brought every influence to bear upon Her Majesty's ministers. With regard to the constitution of this court, the difficulty with Great Britain was not that any suspicion was entertained of the integrity of the Newfoundland judiciary, but that the French would decline to submit to the jurisdiction of a tribunal which they considered biased against them. Under such circumstances there was no prospect of securing a Court that would more stoutly maintain Newfoundland rights. He could see no possibility of good in postponing this Bill for a year. It was absurd to hope that Great Britain would be more favourably disposed to grant our requests after we had irritated her by repudiating the solemn engagements our own delegates had made with her. If Great Britain broke faith with us, would we be disposed to go out of our way to meet her wishes in the future? Most certainly not. How then could we expect Great Britain to treat us with justice and consideration which, under present circumstances, we decline to display towards her? In dealing with this momentous question the only hope of Newfoundland was to adopt the straightforward course to which she was pledged. He thought that if all the delegates had remained in England up to the first of August, 1891, they would have seen good reasons for unanimously adopting the course he now recommended to the House. It was manifestly unfair to those delegates who had remained in England until their mission was completed that their colleagues who had united with them in commencing the negotiations that culminated in the agreement, should take advantage of their own conduct in leaving before the work was done, to repudiate an agreement that they would have been parties to had they remained. To those who argued that the majority report must necessarily embody the best wisdom of the delegation, he would recommend an attentive perusal of all the correspondence upon the subject. He would also ask them to consider the length which Great Britain was prepared to go in carrying out her Treaty obligations. If they did this he was convinced that they would be persuaded that the minority report contained the safest recommendation for the Legislature to follow. Upon a full and impartial consideration of the whole matter, no reasonable man, he was convinced, could fail to come to the conclusion that the Colony was bound not only by regard for its own honour, but by a consideration for its own material welfare, to pass the Bill this session.

Hon. M. Monroe would not occupy the time of the House with any lengthy reply to the remarks of the hon. representative of the Government. The hon. gentleman had made a long speech—a speech that would have been better adapted for the second reading of the French Treaties Bill than for the present occasion. One would imagine, from what the hon. gentleman had stated, that the delegates were prepared to carry out the behests of the Imperial Government under any circumstances, and to pledge themselves to pass a measure to enforce the unjust claims of the French without any consideration as to the local circumstances and special claims and necessities of the people of this Colony. Supposing, for instance, that the delegates had agreed to such a Bill as the Imperial authorities now desire to have passed, they could not even then give any pledge or assurance to the British Government that they had the power to pass such a Bill, or that they would pass it when they returned to this country. The delegates were not invested with any such authority when they left here to proceed on the voyage to England, and surely it could not be contended that they were so reckless and regardless of their honour and integrity as to go beyond their prescribed and lawful duty on the one hand, and on the other hand inveigle the Imperial Government into the belief of a promise which they had no power whatever to perform. Surely the hon. gentleman would see that such a position was a false and untenable one; that it would have been entirely outside the commission of the delegates to give such a pledge, and that even if they were disposed to do so they could not by any force of argument or reason assume such authority in the name of the Government of this Colony. We were now dealing with a very serious question, a question involving the rights and interests of the people throughout this Island, and we could not afford to treat it lightly or to be too hasty in arriving at conclusions. If the Bill before the other branch of the Legislature should become law, there would be no further hope for our people; their rights and liberties would be sacrificed to the exorbitant and unrighteous demands of the French. He (Mr. M.) would repudiate the idea that the delegates were ready to accept any Bill that the British Government might have been pleased to submit. It was never intended by the delegates that they should yield such servile obedience to the Imperial authorities at the sacrifice of the most important interests of the people of this Colony, and to please and accommodate their rivals and greatest enemies. What the delegates intended was to endeavour to consummate a Bill that

would be satisfactory to themselves and to the Government, and that would meet the wishes and requirements of the people throughout the Island, and, failing in this object, they never would have been induced, by any species of argument, on the part of the Imperial authorities, to give their assent to such a measure as is now before the House of Assembly—a measure which, if passed, would bear hardly and cruelly upon our own people and fishermen throughout the Island, and under the operation of which they would have no power whatever to seek redress for any grievance that might be inflicted upon them. If this Bill were in force our people might become subject to the greatest possible cruelties, they might be hampered and harassed in their fishing operations, driven from place to place, their property wrecked and destroyed, with little or no chance whatever of redress or fair dealing in points of law. Such a condition of things would be simply tyrannous and unbearable and our people would not be able to hold their own in the fisheries of this Colony within disputed territory against such strong rivals, and under the operation of such an adverse law. From the very first, the delegates made it a *sine quâ non* that the judges of the tribunals to be established upon the treaty coast should be appointed by the Government of this Colony. Men filling such important and responsible positions, within the territory of this Island, should not be entire strangers, having no interest in our people, but having their sympathies enlisted on behalf of their enemies. Rather should the judges of such tribunals be men acquainted with our people, having some knowledge of their interests and their habits and customs as a fishing population. This principle was agreed to by the Imperial authorities, before the delegates, while they were on their mission: Lord Knutsford, Sir T. Sanderson, and Mr. Bramston were present with the delegates when this point was discussed, and they expressed their approval of Colonial appointments. Lord Salisbury said at interviews with the delegates, and in the House of Lords; that it was the business of the Imperial Government to carry out the Treaties, and that it was no concern of the French how or by what machinery the Treaties were carried out. It was plain from this that the principle of the appointment of judges by the Government of this Colony was admitted all through; that the French were not regarded as having any right whatever to object to any arrangement which the British Government might have been disposed to make in order to discharge its own responsibilities with regard to this matter, and that any objections that the French might have offered to Colonial appointments ought to have been disregarded by the Imperial authorities. But instead of holding out to principle, Lord Salisbury has gone back upon his own statements and admissions, and allowed M. Waddington to influence him against the request of the delegates for the appointment of judges by the Government of this Colony. During the interviews that the delegates had with Mr. Bramston and Sir T. Sanderson, there was no objection whatever made to the Colony having the right to appoint the judges. The principle was fully admitted all round, and the only question that arose was the minor one as to who should pay their salaries. Sir T. Sanderson said if the Imperial Government paid the officers they ought to have the right to appoint, and that if the Colony appointed it should pay the salaries. It was plain enough, from these statements, that there was no objection to the principle of Colonial appointments. Sir R. Herbert said to him (Mr. M.) and Sir W. Whiteway, that he thought we were justified in asking for Colonial appointments, and that he would do his best with Lord Knutsford to get over the question of the payment of the salaries of such officers. The delegates made it a special point to endeavour to impress the British Government with this view of the situation—to show the reasonableness of the position, and their views met with approval until M. Waddington objected, when the principles which had been admitted were at once withdrawn and the whole work of the delegation upset. Why, then, should we now be asked to rush through a measure so altered in its essential principles and so unsuited to the circumstances and interests of the people of this Island? Under the proposed law our people would have no chance of fairplay whatever. If they were molested or injured or their interests damaged in any way, they would first have to go to the trouble of finding access to a naval officer, and when they had gone to all the trouble and expense by delay of fishing operations, &c., it would then entirely depend upon the will or caprice of such officer as to what action should be taken, and the poor subject would have but a slim chance of obtaining a redress for his grievance. In all the Bill there was not one word said of the right of our people to make complaints to these courts. It was quite true that upon the complaint of a Frenchman the courts would be authorised to arrest a British subject and deprive him of all that he might be worth in the world. His boat, nets, and all other fishing appliances might be taken from him, and he might be left in an absolutely helpless condition and told to “go his way,” there was no redress for him.

Anyone could imagine how hard such a fate would be, and the most serious consequences would be sure to follow upon the operation of such a law. The Bill before the other House was nothing better than a menace to the liberties of the people of this Island, and the Government dared not pass such a measure in the face of strong public feeling, and with a foresight of the emphatic condemnation of such an Act as would ring throughout the whole Island should it unfortunately pass into law. The hon. gentleman was very careful in speaking about this matter, and appeared to think that the most serious consequences would follow if the Bill were not passed at once. He, Mr. M., did not think anything of the kind. There was no just reason for anticipating any evil consequences from such delay as may be necessary in order to improve the Bill. But, whether or not, if the British Government was determined to force upon us an objectionable measure, our duty, as freemen, was to resist as long as possible, and to the utmost of our ability, and; finally, if we could not carry our point, still to protest and let the Imperial Government take the onus and responsibility of bringing such a law into force. We dared not pass this Bill in its present form; for if we did so, we should be simply bringing about a condition of things that would be no better than that which existed under the Act of George the Fourth. He, Mr. M., repudiated the idea that the delegates who returned first from England broke faith with the other two. It was not the case. They had returned earlier because they were tired of staying there and doing nothing. We should keep the Imperial authorities up to their bargain, and accept no measure excluding those important and essential principles, including right of appeal to the Supreme Court of this Island, and the appointment of judges of courts, on the Treaty Coast, by the Government of this Colony.

Thursday, May 12.

Hon. the Premier.—In moving the second reading of this Bill, although it may not be absolutely necessary, still I think it expedient and desirable in order to refresh the memory that I should refer to the circumstances which have brought about its introduction. The Treaties of Utrecht and Versailles, between Great Britain and France, and the declarations of the Sovereigns of the respective nations relative to the fisheries on the West and North-east coasts of this Island, and in relation to the cession to France of the Islands of St. Pierre and Miquelon, are familiar to hon. members; but I believe there are many parties who talk glibly upon the subject, and who have never read those Treaties or Declarations. There were Acts passed by the Imperial Parliament to enable the Sovereign of Great Britain to carry into effect those Treaties and Declarations. The last of these Acts, passed in 1824, was a temporary Act and expired on the 31st December 1824, between which date and 1891 the officers of Her Majesty's ships, under instructions from Her Majesty, continued to carry into effect the fishery engagements with France as though the last-named Act was in existence. Questions having arisen in the case of "Baird v. Captain Walker" as to the power exercised by the latter—a naval officer—in closing Mr. Baird's lobster factory, and the Supreme Court having adjudicated in favour of Mr. Baird, there was an appeal to the Privy Council, which appeal is still pending. In the meantime a Bill was introduced into the Imperial Parliament to re-enact the Act of 1824, and the Legislature of this Colony strongly protested against the passing of such an Act, upon the grounds with which we are all conversant. A delegation was appointed in April last by this Legislature, consisting of myself, the Speaker, Mr. Morine, and the Honourable Messrs. Harvey and Monroe from the Legislative Council, to proceed to England for the purpose of urging our protest against that Bill. The proceedings of that delegation were reported to this House, and it is incumbent upon me, briefly, to refer to their action. The delegates were conscious of the *unquestionable position* that the existing Treaties must be honourably executed, but they complained of the manner in which they had been executed, and of the instructions under which such had been done. They contended that the French construction of the Treaties had been acted upon contrary to the views frequently expressed by British Ministers and their construction of the Treaties, and that such action was adverse to the interests of this country. Before he referred to the proceedings of the delegates he would quote from the address which passed the Legislature and constituted the delegates' instructions and the basis of their action—upon it was formed the course of action which the delegates adopted; and, although he may not be in accord with all that was done by the delegates, still he would not repudiate anything that was done by the majority of them, for there is a resolution which provides—

"Resolved,—That when a majority of the delegates agree to any basis of arrangement
 " and settlement, the delegation shall recommend it to the Legislature; and that each
 " member of the delegation shall be bound by the decision of a majority of the
 " delegation, and pledged to use his best efforts to procure adoption afterwards by the

“ ‘Legislature of any arrangement made by the delegation—all of which is respectfully
 “ ‘submitted.’ ”

He would quote a portion of the address of the Legislature to be presented to the House of Commons :—

“ Your honourable House is aware that the old-time difficulties consequent upon the
 “ Treaties between Great Britain and France on the subject of the Newfoundland
 “ fisheries have of late years assumed even unaccustomed gravity, producing painful and
 “ ceaseless agitation among our people. Two delegations proceeded from here during
 “ last session to represent to Her Majesty’s Government the exorbitant growth of the
 “ claims of the French under alleged sanction of treaties, and the further injustice
 “ wrought to the community of Newfoundland. Their efforts for redress have been so
 “ far unsuccessful, and we are now confronted with a new evil essentially more
 “ intolerable than those with which experience has made us but too familiar.

“ We refer to the proposal of Her Majesty’s Government, by a Bill now before
 “ Parliament, to re-enact the Act of Geo. IV., cap. 51, ‘For the better conduct of the
 “ ‘Treaties between Great Britain and France respecting the Newfoundland Fisheries,’
 “ which Act was repealed in 1871.

“ This Act embodied provisions of an oppressive and arbitrary character, wholly
 “ repugnant to those principles of liberty and justice which are held to be the basis of
 “ modern British legislation. They conferred upon the officers of Her Majesty’s ships
 “ engaged in the fisheries protective service, who were entrusted with the settlement of
 “ Treaty disputes, powers of summary adjudication, independent of all the restrictions
 “ and safeguards which British law has devised for the defence of the inherent rights of
 “ British subjects. These powers extended to most severe penal inflictions, and were
 “ beyond all appeal. And when it is remembered that they were exercised by persons
 “ unacquainted with legal procedure, and whose peculiar training and habits of thought
 “ and action dictated unquestioning submission to their decrees, it must be manifest
 “ that excessive hardships and injustice were the frequent and inevitable results.

“ It may be alleged that while yet the Act of Parliament in question was on the
 “ statute book it had been allowed to lapse into comparative desuetude, so incompatible
 “ with modern civilisation would have been the application of this barbarous law. But
 “ unhappily the record of the years 1887, 1888, and 1889 gives instances of its enforce-
 “ ment under assumed authority, with disastrous consequences to the property and
 “ industry of some of Her Majesty’s subjects engaged in the fisheries of Newfoundland.”

“ We would therefore most earnestly implore your honourable House, by all your
 “ honoured and revered traditions, to desist from inflicting upon the people of this
 “ country the calamity of such an enactment as that which is now in contemplation.

“ We would remind your honourable House that Her Majesty’s Government and
 “ that of France have lately agreed upon arbitration respecting the Newfoundland
 “ fisheries; this tribunal, however, proposing to deal with one question only, and this
 “ the recent question of the lobster fishery. This partial proceeding has been decided
 “ not only without reference to the Newfoundland Government, but against their
 “ emphatic protest. We, too, on the part of the Colony, beg to present an equally
 “ emphatic protest against a course adopted in direct violation of the principles of that
 “ constitutional form of government which it is now our privilege to possess.

“ We would, in conclusion, respectfully invoke the aid of your honourable House for
 “ the protection of treaty rights of Newfoundland against the demands of the French
 “ for an exclusive fishery, including lobster fishing, on those portions of coast where
 “ they hold acknowledged privileges. The rights of British subjects have been on
 “ several occasions declared, and the pretensions of the French disallowed, by some of
 “ the ablest of the statesmen of Britain, notably by Lord Palmerston, and only last year
 “ by the Marquis of Salisbury. We feel that your honourable House will recognise
 “ the justice of our prayer that the definitions of these high authorities shall not continue
 “ to be mere theoretic pronouncements which France is permitted to contravene, but
 “ shall be carried out in their true significance and to their full practical effect.”

And he would ask hon. members the meaning of this portion :—

“ This Act embodied provisions of an oppressive and arbitrary character, wholly
 “ repugnant to those principles of liberty and justice which are held to be the basis of
 “ modern British legislation. They conferred upon the officers of Her Majesty’s ships
 “ engaged in the fisheries protective service, who were entrusted with the settlement of
 “ treaty disputes, powers of summary adjudication independent of all the restrictions
 “ and safeguards which British law has devised for the defence of the inherent rights of
 “ British subjects. These powers extended to most severe penal inflictions, and were
 “ beyond all appeal. And when it is remembered that they were exercised by persons

“ unacquainted with legal procedure, and whose peculiar training and habits of thought and action dictated unquestioning submission to their decrees, it must be manifest that excessive hardships and injustice were the frequent and inevitable results.”

You asked that the proposed Act which had been introduced into the Imperial Parliament should not be passed. You admitted that the Treaties existed, and whilst they existed they must be executed; but you objected to the mode of execution—that is, by naval officers under instructions from Her Majesty. There may be those who would consider this the best mode of execution—you thought otherwise—and the words of your address clearly indicated that you wanted a judicial tribunal to intervene between the naval officer and the subject, and your delegates adopted your views. If you did not mean the creation of a court, what did you mean? You complained that the Bill proposed contained provisions of an arbitrary and oppressive character, repugnant to the principles of liberty and justice; that naval officers were entrusted with the settlement of *Treaty disputes* and powers of *summary adjudication* independent of the restrictions and safeguards which British law has devised for the defence of the rights of British subjects; that the powers of the naval officers extended to penal inflictions beyond *appeal*, and that these naval officers were unacquainted with legal procedure. He again asked, what did all this mean if not that you wanted a court of justice to which you might appeal to protect and safeguard your rights, in which court Treaty disputes should be adjudicated according to law, and not settled at the arbitrary volition of a naval officer? What has British law devised for the protection of the subject, if not courts of justice, to which the injured might appeal? He had referred fully to this, because it had been said that the delegates exceeded their powers when they asked for the establishment of a court, or, in fact, made any proposal. It was said that the delegates should have gone over, protested against the Bill, and done their utmost in that direction, and returned. Surely, when we admitted that the Treaties must be carried out and protested against the mode proposed by the Imperial Government for doing so, we would be expected to suggest a substitute; your address indicated what that should be: the establishment of the safeguard of a judicial tribunal. If, when we asked to stay the passing of the Bill, which we considered obnoxious, and we were asked what we would propose instead (for the Treaties must be executed), we could only reply, “ We can suggest nothing.” How utterly absurd such a position would be! He would ask, why were the delegates sent home at all, if all their powers simply consisted of protesting?—Why was all the expense of a delegation incurred? A protest sent by the Legislature would have been equally effectual. By the resolution referred to, each member of the delegation was pledged to use his best efforts to procure the adoption, afterwards, by the Legislature, of any arrangement made by the delegation; to this he would refer again before he had done, and he would pass on to consider the action of the delegates. Upon arrival in London they waited upon the Premier of the Government and the Secretary of State for the Colonies, and after much discussion they made a proposition in accordance with your address, but dealing with the matter more in detail. They were asked to put their views and proposals in writing, which the delegation were unanimous in doing, sending their memorandum to Lord Salisbury and a copy to Lord Knutsford.

MEMORANDUM in relation to the NEWFOUNDLAND FISHERY QUESTION.

“ Hotel Métropole, April 21, 1891.

“ The delegates would respectfully submit to the consideration of Lord Salisbury the following proposals, which they trust will meet with his Lordship’s approval :—

“ First.—(a.) The Newfoundland Legislature to pass immediately an Act authorising the execution for this year of the *modus vivendi*, the award of the arbitration commission regarding the lobster question, and the Treaties and Declarations, under instructions from Her Majesty in Council.

“ (b.) The further progress of the Bill now before Parliament to be deferred until the passing of the above Act, and the Bill then to be withdrawn.

“ (c.) The terms of an Act to empower courts and provide for regulations to enforce the Treaties and Declarations to be discussed and arranged with the delegates now in this city, as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.

“ Second.—(a.) The present arbitration agreement not to be allowed to operate further than the lobster question without the prior consent of the Colony, and in this case the Colony to be represented upon the commission.

“(b.) The Colony desires an agreement for an unconditional arbitration on all points that either party can raise under the Treaties and Declarations, and if this be arranged between Great Britain and France, Newfoundland will ask to be represented upon such arbitration, and pass an Act to carry out the award.”

NEWFOUNDLAND DELEGATES TO THE MARQUIS OF SALISBURY.

“ MY LORD,

Hotel Métropole, London, April 21, 1891.

“ WE beg to enclose herewith the proposals which your Lordship was so kind as to ask us to submit in writing. The delegates feel that the adoption by Her Majesty’s Government of the propositions now made will cause the excitement now prevailing in the Colony to subside, and will secure harmony upon the debatable ground.

“ We also beg to enclose, for your Lordship’s information, copies of the Minutes of Proceedings in the Legislature of Newfoundland in connexion with our mission, from which your Lordship will perceive that we have ample powers to make the propositions now submitted.

“ May we ask that your Lordship will favour us by expressing the views of Her Majesty’s Government upon the proposals now made in time for our consideration before the day now set down for the second reading of the Bill now before the House of Lords.

“ We have, &c.

(Signed) “ W. V. WHITEWAY.
“ A. W. HARVEY.
“ M. MONROE.
“ GEO. H. EMERSON.
“ A. B. MORINE.

“ The Right Honourable

“ The Marquis of Salisbury.”

We were, as you were, and justly and properly so, jealous of the intervention of legislation by the Imperial Parliament, possessing, as we do, a constitutional Government. What legislation might be necessary in order to the execution of a treaty by which we were bound, we agreed should be done by us. In doing this we were only recognising the obligation which rested upon us of carrying out the Treaties. If we omitted to perform our duty, then, of course, the British Parliament could, and would, no doubt, act as they were bound to do. We promised to pass a temporary Act, giving power to Her Majesty to execute the Treaties, as heretofore, for this year—that is, 1891—and insisting as a condition that the terms of a permanent Bill to establish courts should be discussed and arranged then in London, as rapidly as possible, and to be enacted as soon as agreed, meaning that no time should be lost in order to get rid of the temporary Act and substitute the Act creating the courts at once. We contended that by such a course of action the excitement then prevailing in the Colony would subside. That was the view expressed by all the delegates, fully believing that they had ample power to make the proposal, or certainly they would not have done it. Lord Salisbury replied to that letter on the following day :—

“ GENTLEMEN,

Foreign Office, April 22, 1891.”

“ I HAVE to acknowledge the receipt of your letter of yesterday’s date.

“ The suggestions contained in it have received our immediate and careful consideration.

“ We willingly recognise the sincerity of your desire to make proposals which should be acceptable to Her Majesty’s Government.

“ But we feel that at the stage at which the question has arrived, and in view of the international considerations which it involves, it is not possible for us now under any circumstances to withdraw the Bill which has been introduced into Parliament. The Bill is merely facultative in its provisions, and nothing will be more satisfactory to Her Majesty’s Government than that timely and adequate legislation by the Colony should render it unnecessary to bring it into effect.

“ I have, &c.

(Signed) “ SALISBURY.”

“ The Newfoundland Delegates.”

On Tuesday, the 21st April, having previously obtained the consent of the House of Lords to be heard at the bar at the second reading of the Bill, fixed for Thursday, 23rd April, we asked for time to prepare our address, but our request was not acceded to, and

we were heard at the bar of the House of Lords on the 23rd. The address is before you, and in it we complain of the Imperial Parliament legislating over our heads, and insist upon our right to legislate for all matters concerning the territory within the jurisdiction. We strongly object to Imperial legislation. We admit that legislation is necessary, and that we have a right to enact it. We said :

“ We object to the passage of the Bill now before your Lordships, because it was introduced into Parliament before the Government, the Legislature, or the people of Newfoundland had an opportunity to accept or oppose it, or to suggest its amendment; which is opposed to the principles of responsible government granted to the Colony, and in direct opposition, as we conceive, to the assurance given to the Colony in 1857, when the Right Honourable the Secretary of State sent the despatch to the Government of Newfoundland announcing the abandonment of a proposed Convention with France.

“ Neither the present Act nor any other specific Act has ever been submitted to the Colonial Government or Legislature for definite acceptance, rejection, or amendment. Information that this Act would be introduced was not given to the Government of the Colony till the 17th day of March last, nor to the Legislature till the 18th day of the same month, though the British Government determined in the middle of January to procure its enactment, and transmitted a despatch to Governor O'Brien on the 19th of that month giving information in regard to this Bill, which must have been received by him before the middle of February, but was not submitted to the Government of the Colony until the date above mentioned. Knowledge of the introduction of the Act into Parliament on the 19th day of March last was first received by the Government and Legislature of the Colony on the same day by means of telegrams from private persons, and repeated applications by the Legislature to the British Government for a copy of the text of the Bill failed to procure it prior to our departure from the Colony. If this Bill had, before its introduction, been submitted to the Government and Legislature of the Colony, with an intimation of the British Government's intention to procure its enactment by Parliament, such arrangements might have been made as would have prevented the present unpleasant condition of affairs.

“ We respectfully submit that the power of legislation on all matters concerning the territory within the jurisdiction of the Colony is vested in the local Legislature, subject, of course, to Her Majesty's assent; and although we do not pretend to contend that power to legislate for the Colony does not reside in the Imperial Parliament, we most humbly urge that it is a power which should not be exercised before the local Legislature has most clearly and distinctly refused to enact laws adequately meeting the necessities of the case, and then only in cases of extreme emergency.”

Then we proposed that special courts should be created, if the subject-matter of the treaties could not be dealt with by the ordinary Municipal Courts of the Colony. We said :—

“ We object to this Bill because, utterly ignoring the Municipal Courts, it commits the enforcement of the Treaties and regulations to the care and supreme control of naval officers not learned in the law, unskilled in legal procedure, and not trained in a manner qualifying them to adjudicate upon abstruse questions affecting the peace of the Empire upon the one hand, and the rights of individuals upon the other. The sovereignty of the Island of Newfoundland is in Her Majesty, and the right of fishing and drying fish on the coast was conceded to the French merely as an easement. To the enjoyment of this easement they are entitled, and for any interruption or injury they may allege to have sustained, appeal for redress should be made by them to the judicial tribunals of the sovereign of the soil in the first place.

“ We therefore most earnestly urge that Her Majesty's ordinary courts of justice in Newfoundland are the tribunals which should adjudicate upon questions arising between British and French fishermen. From any judgment a final appeal would lie to Her Majesty and the Privy Council. In no case should naval officers be permitted to try causes arising as aforesaid, since courts of justice already exist in the Colony for the purpose, and if it be deemed impossible for the ordinary courts to enforce the law in such a manner as to adequately insure justice to the French, special courts could and should be provided.”

Again we say—

“ We are not unaware or unappreciative of the difficulties with which Her Majesty's Government have to grapple, and *we are sincerely desirous of aiding in their solution.*

“ Actuated with this spirit, we have approached the Government with proposals calculated, we sincerely believe, to give all necessary power to execute the Treaties, declarations and agreements with France according to their true intent and meaning. Those proposals are as follows:—

“ First.—(a.) The Newfoundland Legislature to pass immediately an Act authorising the execution for this year of the *modus vivendi*, the award of the Arbitration Commission regarding the lobster question, and the treaties and declarations under instructions from Her Majesty in Council.

“ (b.) The further progress of the Bill now before Parliament to be deferred until the passing of the above Act, and the Bill then to be withdrawn;

“ (c.) The terms of an Act to empower courts and provide for regulations to enforce the treaties and declarations to be discussed and arranged with the delegates now in this city as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.

“ Second.—(a.) The present arbitration agreement not to be allowed to operate further than the lobster question without prior consent of the Colony, and in this case the Colony to be represented upon the Commission.

“ (b.) The Colony desires an agreement for an unconditional arbitration on all points that either party can raise under the treaties and declarations; and if this be arranged between Great Britain and France, Newfoundland will ask to be represented upon such arbitration, and will pass an Act to carry out the award.

“ We regret that up to the present moment these propositions have not been accepted, nor any hope been held out that they will be. The temporary legislation which we have proposed to procure the enactment of would be immediately adopted by the Legislature of the Colony, and present needs thereby amply met. The details of a permanent and thoroughly satisfactory measure could be arranged and enacted without delay by the Legislature of the Colony. The adoption of our proposals would at once cause excitement to subside, and would induce peace under conditions which make coercion by warships extremely difficult, if not impossible. If the Bill now before your Lordships becomes law, its provisions will have to be enforced upon a resentful people; but if our propositions are adopted, every good object which the present Bill can have in view will be easily and pleasantly attained, and without injury to the proper pride of a people who, though few in number, are as much entitled to consideration as the inhabitants of the proudest portion of the British Empire. No good can possibly come from coercing, or threatening to coerce, a people willing to do their whole duty; and to enact the Bill now before your Lordships, in face of the propositions made by us, would be a needless indignity to a loyal people.”

Now, what does all this point to but the urgent immediate action of this Legislature for the creation of courts to intervene between the naval officer and the subject, and this was all done by the delegates under the resolutions before mentioned, and in strict accordance with the address of the Legislature; and we shall see presently that it was all confirmed by the Legislature. With the permission of the House, he would quote a few passages from speeches made by Lord Knutsford and others on the discussion of the Bill at the second reading:—

“ Although Her Majesty’s Government cannot give their assent to some of the statements made in the petition—and, indeed, they regret the tone of some parts of that petition—yet from the first they have never hesitated to give assent to the prayer of that petition, that the representatives of the Colony should be heard at the bar of the House. In the first place, I said that this Bill does not interfere with any local questions; it does not interfere with any matter of internal regulation or administration in the Colony, or with the independence of the Colonial Legislature. The Bill is of an Imperial character, involving international obligations, and it has for its sole object to enable this country to secure the observance of those international obligations and arrangements. These obligations affect the fishery rights of the French along certain parts of the coast of Newfoundland, and are as binding upon the Colony, as part of the Empire, as upon this country. We hold that the Colonists received the grant of a representative Legislature subject to such treaties and obligations. Therefore it is their duty, in the first instance, to pass such measures as might be necessary to secure the performance of those obligations.

“ I now address myself to what has happened since the first reading of the Bill. The reports in the papers show that very considerable irritation sprang up in Newfoundland upon hearing that a Bill was to be introduced into the Imperial Parliament, but I do not think that we must assume that the same feeling was shared by the whole Colony. I have received a telegram from Mr. Howley, who has as great an acquaintance with

“ the views of the fishermen on the west coast as anyone, and he states that the fishermen on that coast are in favour of the course taken by Her Majesty’s Government. I may also point out, as showing that there is a strong feeling along the coast against the action of the politicians at St. John’s, that the fishermen of the west have taken it into their own hands to resist the working of the Bait Act, and have determined to carry and sell bait to the French at St. Pierre. I am not to be supposed as upholding the act of the fishermen. I do not defend the breach of the law of the land, but I merely refer to it as showing that opinion is not all one way in the Colony. The attack upon the Government has proceeded on two lines. There has been an attack upon the Bill and its terms, and also upon Her Majesty’s Government in introducing it; there has been an attack upon the general policy of Her Majesty’s Government in agreeing to arbitration on the lobster question and in renewing the *modus vivendi*. That policy has been thought coercive and arbitrary, and as interfering with the independence of the Colonial Legislature. I think I have shown that these complaints are misplaced, that the policy of the Government is not of a Colonial but an Imperial character, and that the independence of the Colonial Legislature is not only secured, but almost prayed for, in the second section of the Bill.

“ With reference to the concluding paragraph of the fourth head of objection, I would observe that this Bill does not interfere in the slightest degree with the jurisdiction of the Colonial courts, and it appears to me, although I speak under correction, that the view stated by Sir W. Whiteway that those courts can adjudicate upon questions arising between French and British fishermen is correct. I apprehend that they can do so, and that if a question as to the construction of a Treaty were to arise before the court it would be decided in the ordinary way, subject to appeal to the Privy Council. The decision would bind persons within the Colonial jurisdiction; and if a foreign power were to dissent from that decision, I presume that it would proceed diplomatically. As to the possibility of erecting special courts, I am not prepared at present to offer an opinion.”

Again the Earl of Kimberley said:—

“ It appears to me that there are three questions raised for consideration. The first is, whether any legislation at all is necessary; the second, whether this Bill is a proper Bill; and the third is as to the proposals of the Newfoundland delegates. I abide by what I said upon the occasion of the introduction of the Bill, that legislation of some kind is necessary; and that if such legislation is refused by the Colonial Legislature, then I think it may, and ought to, be passed by Parliament. (Hear, hear.) First of all, and principally, it has been discovered that in fact there exists at the present time no lawful mode of enforcing our Treaty obligations in Newfoundland. We are, I think, bound to see that there is lodged in the hands of the Government, either the Colonial Government or the Imperial Government, powers to enforce our Treaty engagements, be they what they may. (Hear, hear.) A further question which is also raised has regard to the enforcement of the *modus vivendi*. While the negotiations are proceeding with France, it is plainly necessary that there should be a truce until the respective rights are specifically ascertained. The *modus vivendi* does not in any way infringe the assurance given by Mr. Labouchere to the Colony, for the *modus vivendi* is not for the purpose of making new Treaty arrangements, but for the purpose of ascertaining what the existing Treaty engagements really are. (Hear, hear.) It is clear, therefore, there must be legislation of some kind.

“ They (the delegates) protested against the jurisdiction of naval officers. They complained that naval officers had no legal training, and said that the interests of the Colony ought to be dealt with in regular courts; and I think the noble Lord has to some extent admitted that view. I do not wish to intrude into that very difficult department of law relating to the precise jurisdiction which is exercised over territorial waters; but I do not think that Newfoundland could exercise the necessary control which must be exercised in territorial waters. There might be a necessity for prompt action in these territorial waters, and, of course, the Newfoundland Government could not keep a number of cruisers for the purpose of enforcing the provisions of the Act. All these seem to be valid reasons why the jurisdiction of the Colony in regard to territorial waters ought to be exercised by a naval officer under the instructions of Her Majesty’s Government. As regards the jurisdiction on land, however, I cannot conceive that anyone will say it is proper for a naval officer to exercise it under instructions from the Government. Formerly the coast, 700 miles long, was practically uninhabited. It was frequented during the fishing season only, and only a few people were left to look after some fishing boats and nets. Under the circumstances I see that it was impossible to refer matters of disputes to the courts, and that

“ the only way the thing could be done was through a naval officer. But now the state of affairs is altogether changed, and I should regard it as a great misfortune if you had to enforce the Treaties in the manner indicated by the Act of George IV. It seems to me that these rights on the land should be enforced in a court. As the noble Lord pointed out, an appeal would lie to the Privy Council, and the French Government would, of course, retain all its power of remonstrating against the result if it should think that the Treaty had not been carried into effect. I should suppose that by special courts the delegates mean special Imperial Courts which would act independently of the ordinary courts of the Colony. If possible—and I would press this strongly upon your Lordships—we should establish some courts of competent jurisdiction which should deal with all these matters on land; and I am sure that if that were done it would go a long way towards dispelling the disagreeable feeling which exists among the Newfoundlanders with regard to the enforcement of the provisions of the Treaty upon the coast.

“ I feel strongly for the Colonists, but I am bound to say I think that, in view of the very peremptory manner in which they have rejected one proposal after another, and of the very strong language which they have thought necessary to use towards Her Majesty’s Government, it may almost be said that there has been a certain amount of provocation. But I do not think anything in regard to provocation ought to enter into our minds at all. (Hear, hear.) We have to deal, not with the past, but with the present, and if after all that has passed, the Colony holds out the olive branch to us, is it not for the interest of both parties that the angry feeling which has been aroused should be smoothed down?”

And Lord Herschell said—

“ There can be no difference of opinion as to the nature of the obligation that rests on the Government of this country to see that its Treaties which are in existence are enforced and fulfilled. The rights under the Treaties which we are considering, whatever those rights may be, are ancient, and came into existence at a time when there was no inhabitant population on the coasts in question. These Treaty obligations were not imposed on an existing community, but the community that has since grown up has come into being subject to the existence of these Treaty rights. This is beyond possibility of question. The liability of the inhabitants of Newfoundland to the burden of these Treaty obligations does not depend upon any connexion of the Colony with the British Crown. If that connexion was severed the Colony would still find itself face to face with the French nation. I am sure that under these circumstances the inhabitants of Newfoundland will feel that these ancient Treaty obligations, though casting upon them a serious burden, are accompanied by grave responsibility to the Government of this country, and that it is deserving of consideration in the difficult position in which it finds itself when called upon to enforce these Treaties. On the other hand, I am sure that the people of England will regard with sympathetic consideration the critical position of the inhabitants of Newfoundland—hear, hear—a position which differs most materially and vitally from anything in contemplation at the time those Treaties were made.

“ If the people of Newfoundland have sometimes appeared to press their claims unduly or to exaggerate their rights, or to be over-sensitive or jealous of the action of the Government at home, the people of this country will be disposed to view their conduct with indulgence. (Hear, hear.) I certainly do think they have overstated their case. It is impossible to contest the position that, bound as this country is by Treaties, Her Majesty’s Government has power, pending negotiations for the settlement, to arrange a *modus vivendi*. There is no tribunal in differences such as these to which an appeal can be made. The last resort is the arbitrament of war. When it is remembered that war would involve, not only this country, but her Colonies and dependencies, it is, I think, impossible to contend that Her Majesty’s Government has not power to enter into a *modus vivendi* in order to secure a settlement of differences which might lead to all the disastrous consequences of war.”

“ The moment that Her Majesty’s Government came to the conclusion that they did not possess powers to enforce the Treaties or the *modus vivendi*, no one could blame them for determining on obtaining such powers; but certainly, as soon as that conclusion was arrived at, it would be in the highest degree expedient to communicate this decision to the Colonial Government, pointing out that if the Colonial Legislature did not carry out the required legislation the Imperial Parliament would have to do so. I entirely agree that the power of enforcing these Treaties cannot be regarded as a matter merely concerned with the internal administration of the country. But still I

“ think that Treaties ought to be carried out as far as possible under the provisions of the municipal law prevailing in the Colony, and as far as possible in harmony with the constitution of the Colony.” (Hear, hear.) “ What is the proposal in this Bill? It is simply to revive the power contained in an old Act—no doubt a very arbitrary power—the power given to a Naval Officer in authority, acting under the orders of the Government of the day, to go ashore on the whole of this coast, and to take down buildings, and generally interfere with the property of British subjects. No doubt that is a very serious and arbitrary power, inasmuch as it is one that can be controlled by nothing but the will and discretion and judgment of the executive. Your Lordships must remember the altered condition of things since these Treaty obligations were entered into. Then there were no inhabitants on these shores; there were no courts; the country had no settled institutions; the territory had not been brought within the municipal law at all. In all these respects matters are now altered, and it seems to me that that which in the middle of last century might have been an appropriate and necessary means of enforcing a Treaty ceases to be so when you have such a condition of things as exists at the present time. I apprehend that the ordinary, proper, constitutional method by which obligations undertaken ought to be discharged, is by making a breach of a Treaty a breach of your municipal law, and I can see no reason why that method should not have been adopted on the present occasion. Here let me say that I draw a distinction between acts done upon the shore—that is within the bounds of the municipal government—and acts done in territorial waters. There was a considerable discussion some years ago with regard to territorial waters. Up to a distance of three miles from the coast of any country, according to international law, there is a certain dominion, sovereignty, or power exercised by the nation whose shores are washed by the sea. In the case of the ‘Franconia’ there arose a great discussion as to the rights over those waters. The majority of the learned judges were of opinion that the land covered by these waters was not to be regarded as part of the adjacent territory, and that this country could only deal with any acts done there by virtue of legislation. Accordingly, in 1878 or 1879, an Act was passed which applied not only to the United Kingdom but to all the Colonies, which does make certain offences in territorial waters subject to what was known as the jurisdiction of the admiral. It seems to me that the only practical way in which Treaty obligations could be enforced in territorial waters would be by the agency of a Naval force, and I do not anticipate that there would be any objection on the part of the Newfoundlanders to the jurisdiction of Naval officers in the territorial waters.”

Afterwards, on the 4th May, when the motion was made for the House to go into Committee on the Bill, Lord Kimberley said—

“ I wish, in the first place, to disclaim any desire to embarrass the Government in the conduct of this difficult question. I am certain that I speak for those who act with me when I say that we all recognise the absolute necessity of legislation, either by the Imperial Parliament or by the local Legislature, in order to enable this country fully to discharge its obligations towards France with regard to the fisheries, and with regard to the convention recently concluded for the purpose of settling the lobster question. My reason for making the motion is my strong feeling that it is most important that the undoubted power of this country to override the Colonies possessing legislative powers with regard to their own affairs should only be exercised in the last extremity, and as a last resort. In the present instance the delegates acting on behalf of Newfoundland have distinctly intimated their willingness to pass a Bill which unquestionably embraces all the points at issue. I can scarcely conceive, unless the Legislature of Newfoundland is likely—and I am told it is most unlikely—to repudiate the action of their delegates, that anything is likely to occur which would necessitate so much haste that we should go forward with the Bill before us to-night.

“ I should be extremely sorry if there were to be any misunderstanding on the part of the Government that any action which has been taken in this matter by us in this House implies the slightest desire to throw any impediment whatever in the way of the due carrying into effect of the Treaties which have been entered into with France. (Hear, hear.) It is a domestic matter which we have to settle with our Colonies, and we on this side, while admitting in the fullest degree our obligation to France, have not the slightest intention of throwing difficulties in the way of this Convention being rigidly and fully carried into effect.”

He (the Premier) merely quoted these passages—and there are many others of a like character in the speeches of members of the House of Lords—to show the consensus of opinion existing between Lord Knutsford, the Secretary of State for the Colonies, upon the one side of politics, and Lord Kimberley and Lord Herschell on the other, as to the

necessity for legislation, which, if this Legislature did not enact, the Imperial Parliament must do so. Referring to that part of Lord Knutsford's speech in which he speaks of having received a telegram from the Very Rev. Dr. Howley, it was quite fair for him to contend that this Legislature did not represent the views of all the people of the Colony in stating that we were groaning under the hardships inflicted by Naval officers, for that rev. gentleman had telegraphed that the people of the West Coast were desirous that the Bill then before the Imperial Parliament—the Bill which had been called a Coercion Bill, which had been so much condemned that five delegates had been sent across the water to stay its progress—should be enacted. By the quotations which he had made from the speeches of Lords Herschell and Kimberley, and from other portions of their speeches to which he would refer hon. members—and be it remembered that both these noble lords had espoused most warmly the cause of this Colony—it would seem that they differed but little in the main from Lord Knutsford, and seemed rather to favour the execution of the Treaties by Naval officers. He (the Premier) would now go back a little and refer to the correspondence which took place between Her Majesty's Government and the delegates—that from which he had already quoted, and would first direct attention to the letter addressed by the delegates to the Colonial Office, dated 1st May. No language could be stronger, in his opinion, in urging the adoption of their proposals, and pledging themselves and the Legislature to fulfil their promises. In this letter the delegates say—

“(a.) If the Bill now before the Lords be not further proceeded with, and if Her Majesty's Government admit the *principle of a measure for the creation of courts to adjudicate upon complaints arising in the course of the enforcement of the Treaties and Declarations relative to French Treaty rights, and engage to discuss and arrange with us as rapidly as possible the terms of a Bill embodying that principle, we will with all possible speed procure the enactment by the Colonial Legislature of a measure giving power to Her Majesty in Council during the current year to enforce in the same manner as heretofore her rules and regulations for the observance of the *modus vivendi*, the award of the arbitration, and the Treaties and Declarations with France, which temporary Act the Colonial Legislature will replace by a permanent measure for securing the enforcement of the Treaties under the orders of the special Courts referred to above; provided that if, as the result of the enforcement of the award of the arbitration, the property of Her Majesty's subjects is disturbed, they shall be entitled to compensation.*”

“If a temporary Act by the Colonial Legislature is to supersede the Bill now before Parliament, Her Majesty's Government will perceive how wise it will be to prevent greater irritation in the Colony by refraining from proceeding further with the Bill now before the House of Lords, and will not hesitate, we hope, to accede to our requests in this respect. The burdens under which the Colonists suffer are great, the causes of irritation many; and they feel that, as the claims of the French are being unduly pressed for the purpose, apparently, of affecting the policy of Great Britain in other parts of the world, they may be said to be suffering for the benefit of the Empire at large. A proper recognition of their unfortunate position would induce Her Majesty's Government, we think, to be extremely considerate, and not to press forward the pending Bill in a manner which may be regarded by our fellow Colonists as indicating a want of confidence in us and in them.

“Heretofore the orders, regulations, and instructions of Her Majesty in Council for securing the observance of the Treaties and Declaration with France, have been carried into effect by Naval officers, who have apprehended, judged, and punished our fellow Colonists, combining, in fact, the functions of policemen, judges, and juries, and no right either of appeal or redress has been possessed by those who may have considered themselves aggrieved. We do not desire to cast any imputations upon the Naval officers, many of whom have proven true friends of the Colony, but the very nature of their duties and power has made hardship inevitable. We propose that they should now be relieved of a portion of their functions. They may continue to patrol the Treaty coasts, and may apprehend those against whom complaint is made for infringement of fishing rights; but in all cases the decision upon such complaints should be given by a qualified judicial officer appointed for the purpose, who would hear the evidence in each case and decide summarily, and whose decision the naval officers could carry into effect. In cases of complaints of interruption of rights of fishing the judicial officers should have power, upon the trial of such complaints, to issue and enforce such orders or injunctions as they deemed necessary to prevent such interruptions; and the parties to such complaints should have a right of appeal upon points of law to the Supreme Court of the Colony, and from the Supreme Court to

“ the Privy Council, but not so as to prevent the execution of any orders or injunctions
 “ issued for the purpose of preventing any interruptions complained of. The judicial
 “ officers should have a knowledge of local conditions, and of the manner of carrying
 “ on the fishery, and they should, of course, be thoroughly acquainted with legal
 “ procedure. It would therefore be necessary that they should be appointed by the
 “ Colonial Government, with the approval of Her Majesty in Council, and with such
 “ other safeguards as might be deemed necessary to secure their thorough impartiality.
 “ It would be necessary, perhaps, to provide that a judicial officer should be placed on
 “ board each ship of war upon protection service, or that several such officers should be
 “ stationed at various places on the Treaty Shores during the fishing season; but this is
 “ a matter of detail which could be arranged. The creation of such courts as we here
 “ suggest would ensure our fellow Colonists fair trials, and would relieve the Naval
 “ officers of a task which must be uncongenial; and the efficiency of the protection
 “ service would be increased rather than decreased.

“ The details of such a measure as we have outlined, though their preparation need not
 “ occupy a long time, cannot, we apprehend, be arranged in time to be made applicable this
 “ year; and therefore, if Her Majesty’s Government agree in the main with the principle
 “ of our suggestions in this respect, the temporary legislation referred to can be pro-
 “ ceeded with at once, and the details of the permanent measure be more deliberately
 “ worked out. It would, however, be necessary to agree upon the terms of the
 “ permanent legislation *before we leave this city*, and extremely desirable to come to an
 “ agreement *so speedily as to make it possible to enact the measure in the local*
 “ *Legislature before the present session concludes, so that it could come into force at the*
 “ *beginning of next year. We represent all parties in the Legislature, and therefore a*
 “ *Bill agreed upon by and with us will be more satisfactory to the Colony, and be more*
 “ *likely to obtain acceptance, than a measure arranged at any other time and with any*
 “ *other persons.*”

“ In reference to the present Arbitration Commission we have to make the following
 “ proposals:—

“ If it be possible to abandon arbitration upon the lobster question, we strongly urge
 “ that it be done, for we fear grave complications as its result. But if it be not possible
 “ now to withhold that question, we ask an assurance—

“ 1. That no further questions shall be submitted to the Arbitration Commission
 “ without prior consultation with the Government of the Colony;

“ 2. That the opinion of the Colonial Government will not be disregarded in the
 “ absence of some paramount consideration involving the welfare of the Empire; and,

“ 3. That compensation will be given to those persons, if any, whose property may be
 “ disturbed by the award of the arbitration.”

In this letter the delegates earnestly urged the Imperial Government to withdraw the
 Bill before the Imperial Parliament and permit the local Legislature first to pass a
 temporary Act for one year and replace it by a permanent Act creating Courts, which they
 declare that they were desirous should be done with all possible speed, so that it might
 be passed immediately. That was in the session of last year (1891) of this Legislature.
 He had heard it urged that the provision in the Bill giving power to Naval officers to
 apprehend offenders had been objected to. The delegates proposed that they might
 “ apprehend those against whom complaint is made for infringement of fishing rights,”
 but he would refer to this again when he spoke on the Bill itself. Again, objection had
 been made to the provision in the Bill that, pending an appeal, execution might issue.
 The words of the delegates were: “ The parties should have a right of appeal, but not
 “ so as to prevent the execution of any orders or injunctions issued for the purpose of
 “ preventing any interruptions complained of.”

[Here the House took a recess of an hour.]

Before the adjournment, he (the Premier) was directing attention to the letter of the
 delegates of the 1st May. That letter was full of provisions on the part of the
 delegates, that the permanent Bill for establishing Courts should be arranged before they
 left London, and that as they represented all parties in the Legislature a Bill arranged
 by them would be more satisfactory to the Colony, and be more likely to obtain accept-
 ance than a measure arranged at any other time; and the letter winds up with these
 words:—“ Having submitted our views so fully and frankly, we respectfully request that
 “ a reply may be vouchsafed as speedily as possible, and that any divergence of opinion
 “ may be pointed out. *What is to be done must be done quickly, as Her Majesty’s*
 “ *Government has indicated, and we hold ourselves in readiness at all times to perform*
 “ *our part.*”

Have the delegates all performed their part? We have very properly shown a jealousy of the interference of the Imperial Parliament legislating over our heads. We possessed a constitutional Government and we were anxious to show that what legislation was necessary should be enacted by our own Legislature, and that it was ready to discharge its duty. On the 4th May the delegates received a communication from the Colonial Office, in which Her Majesty's Government recognised the objections "raised against continuing powers to Naval officers, and expressed readiness to consider the terms of an Act to empower Courts and provide for regulations to enforce the Treaties and Declarations." This letter contains the further paragraphs:—

"9. As regards the further proposals made in your letter, Her Majesty's Government desire me to state that the arbitration upon the sole question now to be submitted to the Commission cannot be abandoned; but they are willing to give an assurance that no further questions shall be submitted to the arbitrators without full consultation with the Colonial Government, and that the opinion of the Colonial Government will not be disregarded in the absence of pressing considerations affecting the interests of the Empire.

"10. They will also carefully consider the question whether compensation should properly be given to those persons whose property may be disturbed by the award of the arbitrators, although they see no grounds for admitting any liability on the part of the Imperial Government to pay such compensation."

In this letter, and the correspondence which immediately ensued of the 6th, 8th, and 13th May, he (the Premier) did not consider it necessary particularly to refer, as it related to a misunderstanding which had arisen between the Colonial Office and the delegates, Her Majesty's Government contending, on the one hand, that the proposition of the delegates was that the Colonial Legislature was to pass an Act providing for the execution of the *modus vivendi* for 1891, and to secure permanently both the execution of the award of the Arbitration Commission on the Lobster Question and the fulfilment of the Treaties and Declarations. The delegates contending, upon the other hand, that the Act proposed to be passed by the Colonial Legislature for these purposes was to be temporary for one year, in order that the *modus vivendi*, Treaties, and Declarations might be carried out for that year of 1891, as heretofore, and that a permanent Act should be speedily arranged and passed for the creation of courts, which should be substituted for the temporary Act. He (the Premier) considered it unnecessary to further refer to this correspondence than to observe upon the earnest urgency with which the delegates repeated their previous propositions and requests as to the local Legislature immediately passing a temporary Act, and as speedily as possible—then, while the delegates were in London, arranging the terms of a permanent Bill for the establishment of courts, so that it might come into operation in 1892. No language could more strongly express this desire on the part of the delegates. On the 9th May the following resolution was passed by this Legislature:—

"Resolved,—That this Legislature will adopt such legislation as may be necessary to carry into effect the proposals made to the Imperial Government and Parliament by the delegates."

This resolution was passed to meet a doubt which seemed to be entertained, to the effect that the promise of the delegates to pass the temporary Act would not bind this Legislature to do so. To prove that the promise would be carried out this resolution was passed. The Bill which the delegates had so strenuously opposed in the House of Lords was passed by that House through its various stages and sent to the House of Commons, read a first time, and the second reading fixed for a day after the expiration of the Whitsuntide holidays. The delegates made application to be heard at the Bar of the House of Commons. The delegates received an intimation from their friends who had so warmly espoused the cause of the Colony, that a *promise* to pass the temporary Act referred to was not sufficient, but that the Act *must be actually passed* before they could urge the withdrawal of the Bill then before Parliament. The temporary Act being passed, providing for the execution of the Treaties, &c., for 1891, the permanent Act for the establishment of courts could then be arranged. Mr. Morine, one of the delegates, had left London on the 12th May for this country, when he had urged the passing of the temporary Act, and giving the reason of the delegates for such being done. The temporary Act was passed on 27th May, with a few alterations, one of which was insisted upon by Her Majesty's Government, to the effect that the temporary Act should be made to terminate at the end of the year 1893. It was given as a reason that as the English elections would probably take place in 1892, it was considered undesirable that it should become incumbent upon Her Majesty's Government to deal with the subject should the Legislature of this Colony not have done so in the present

session. On the 27th and 28th May the following letters were sent by the delegates to Her Majesty's Government:—

“ MY LORD,

Hotel Métropole, May 27, 1891.

“ WE learn that Her Majesty's Government are not adverse to acceding to the proposition made by us relative to the passing of a temporary Act for carrying out the *modus vivendi* respecting the lobster fishery, the execution of the award which may be made under the agreement for arbitration as regards lobsters, and the Treaties, providing that such Act is made to terminate at the end of the year 1893.

“ We make this proposition with considerable reluctance, and refrain from recommending its conclusion by the local Legislature without receiving from Her Majesty's Government an assurance that in case such Bill be passed Her Majesty's Government will (1) withdraw the Bill now before the House of Commons, after its second reading; (2) will also give assurance that the terms of a permanent Bill, to be passed by the Colonial Legislature, based upon the principle of the establishment of courts under judges or magistrates, instead of under Naval officers, for the adjudication of questions arising under the Treaties, *modus vivendi*, and award of the present arbitration, be forthwith discussed with the delegates, and arranged. Such permanent Act, when passed by the Colonial Legislature, might at once supersede the present proposed Colonial temporary Act.

“ In case no such permanent Act can be arranged and passed—which we cannot conceive as probable—of course it will be competent for Parliament to pass such an Act before the end of the year 1893 as it may deem necessary for the carrying out of the Treaties, &c.

“ Relying upon the assurances contained in your previous correspondence with us, especially with reference to the limitation of the present arbitration on the lobster question, and compensation to be made under the *modus vivendi*, we are of opinion that the Newfoundland Legislature will accede to our propositions made herein.

“ We have the honour to be, my Lord,

“ Your obedient Servants,

“ THE NEWFOUNDLAND DELEGATES.

“ The Lord Knutsford.”

“ MY LORD,

Métropole Hotel, May 28, 1891

“ PURSUANT to the purport of our communication of yesterday's date, and in accordance with the views expressed by the Right Honourable the Secretary of State for Foreign Affairs and for the Colonies, the Newfoundland Legislature, at our instance, has passed the Bill a copy of which has been sent to your Lordship, with the amendment suggested by your Lordship that the Act should continue until the end of the year 1893, and with alteration in the second section by inserting the words ‘ or any continuation thereof pending the arbitration ’ after the figures 1891. We presume that nothing now remains to be done by us or by the Newfoundland Legislature in order to obtain from your Lordship the withdrawal of the Bill now before the House of Commons after it has been read a second time, and that your Lordship will give such directions for the immediate arrangement with the delegates of the terms of a permanent Act based on the principle as mentioned in our letter of yesterday.

“ We have the honour to be, my Lord,

“ Your obedient Servants,

“ THE NEWFOUNDLAND DELEGATES.

“ The Lord Knutsford.”

This Legislature having passed the temporary Act on the 27th May, and telegraphed the delegates to that effect, on the afternoon of the 28th the delegates were to appear at the Bar of the House of Commons, to be heard against the Bill then to be moved for a second reading. The motion had been made and carried for the delegates to be heard, and whilst waiting to be called in the following letter from Her Majesty's Government was received:—

(Immediate.)

“ GENTLEMEN,

Downing Street, May 28, 1891.

“ I AM directed by Lord Knutsford to acknowledge receipt of your letters of the 27th and 28th inst., and to acquaint you, in reply, that Her Majesty's Government have with much satisfaction learnt from the second of these letters that the Colonial Legislature have passed the Bill (a copy of which was received from you on the 22nd inst.), with amendments in the second and fourth clauses; the result being that the

“ Bill when it becomes law will have effect until the end of 1893, and will give power for enforcing a continuance of the *modus vivendi* of 1891, should it be found necessary, pending the arbitration, or Her Majesty's Government to agree with the French Government for any such continuance.

“ 2. I have consequently the pleasure of conveying to you an assurance from Her Majesty's Government that after the second reading they will withdraw the Bill which is now before the House of Commons.

“ 3. I have further to acquaint you that Her Majesty's Government are prepared forthwith to discuss and arrange with you the terms of a permanent Bill to be passed by the Colonial Legislature upon the general principle referred to in the second paragraph of your letter of the 27th instant; and I am to add that the views of Her Majesty's Government in respect to the other points mentioned in that letter have been stated in the previous correspondence.

“ I am, Gentlemen, your obedient Servant,

“ ROBERT G. W. HERBERT.

“ The Newfoundland Delegates.”

The proposals having been accepted by Her Majesty's Government there was, of course, no necessity for our appearing before the House of Commons. The second reading of the Bill was deferred and not afterwards read. On the 30th May, two days after, the following letters were received:—

“ GENTLEMEN,

Downing Street, May 30, 1891.

“ I AM directed by the Secretary of State for the Colonies to intimate to you, with reference to the recent proceedings in Parliament and the correspondence with you in connexion with the proposed permanent Colonial enactment to constitute courts and provide for regulations to enforce obligations of this country under the Treaties and Declarations relating to the Newfoundland fisheries, that his Lordship will now be glad to proceed with as little delay as possible to consider the terms of that enactment, and proposes that you should place yourselves in communication with Mr. Bramston, of this Department, for the purpose of settling the general outline of such a measure as may appear to meet the requirements of the case.

“ I am, Gentlemen, your obedient Servant,

“ ROBERT G. W. HERBERT.

“ The Newfoundland Delegates.”

“ DEAR SIR WILLIAM,

May 30.

“ I HEAR that you have been asked to communicate with me about the permanent Bill. I shall be at the service of the delegates on Monday at 3, if convenient to them to come at that hour.

“ Yours truly,

“ JOHN BRAMSTON.”

So it would be seen that no time was lost by Her Majesty's Government in complying with the request of the delegates to discuss the terms of a permanent Bill as speedily as possible. On Monday, the 1st of June, the delegates having concurred in a draft Bill to be submitted to Mr. Bramston, met him and Sir Thomas Sanderson at the appointed hour and submitted their draft. The terms of it were discussed, and also other points and matters, and notes were taken; the discussion was adjourned until next day, and again until the following day. The views expressed were noted, and the delegates were informed by Mr. Bramston that they should be placed in the hands of the draftsman of the House of Commons and submitted to Her Majesty's Government. He (the Premier) had previously informed Lord Knutsford, and he then told Mr. Bramston, that Mr. Monroe had stated that he purposed leaving London on the 6th June, and that he (the Premier) was exceedingly anxious that the terms of this Bill should be settled before Mr. Monroe left. However, he said it would be impossible to do it in so short a time. He (the Premier) called again upon Mr. Bramston on Friday, 5th June, urging a speedy reply, and Mr. Bramston then said that the delegates could visit him again on Saturday, but he could not say that he would be in a position to say more than he had said. The delegates went to see Mr. Bramston on Saturday, and whilst there Lord Knutsford sent to ask them to see him, which they did; and, among other general remarks on the terms of the Bill, Lord Knutsford said that the court must be constituted of judicial officers to be appointed by Her Majesty's Government. He said this was a position they could not recede from, but that Her Majesty's Government would pay

them; at least this would be the case as regards the two judicial officers to be first appointed; but that if a third was required Her Majesty's Government would probably permit the Local Government to appoint one—subject to the approval of Her Majesty's Government—but in such case the Local Government would have to pay him. This House would remember that all the delegates had asked was for the appointment of the judicial officers "subject to the approval of Her Majesty's Government, and with such other safeguards as may be necessary to secure thorough impartiality." Mr. Monroe left London that night for home, much to the regret of him (the Premier); for he could say that when a gentleman undertook to perform an important public duty such as this, no matter how urgent his private business might be, he should have remained until the Bill was arranged, or we had failed to come to a conclusion. However, Mr. Monroe did go, and before leaving he had requested that a letter should be given him assenting to his leaving because of his alleged urgent private business, which the delegates gave him. Now, it might be seen why that letter was asked for, and why Mr. Monroe had left. We expressed our regret at his leaving us; but, of course, we could not say he should not go. On the following Monday, 8th June, he (the Premier) again went to see Mr. Bramston, when he was informed that it would be several days before the proposed Bill, submitted by the delegates, would be considered by Her Majesty's Government, and a counter-draft given; and that such would be communicated when ready. On the following day he (the Premier) left London for a short while, as nothing could be done until the receipt of this counter-draft. On the 22nd June the counter-draft was sent by Her Majesty's Government to the delegates. He (the Premier) was not there, until the evening of that day, when he learned from Mr. Harvey that he and Mr. Emerson had, upon receipt of the counter-draft, gone to the Colonial Office, raised several objections to it, and that Mr. Emerson had just left for Newfoundland, taking with him this counter-draft of the proposed Bill. This leaving of Mr. Emerson was a source of regret to him (the Premier), for he thought that his Honour should have remained and seen the end of it. Between the 22nd June and 8th of July, Mr. Harvey and he (the Premier) were in constant intercourse with Her Majesty's Government; objections were taken and discussed, and several drafts of objections were printed and considered. On the 8th July a draft was arrived at, with which Mr. Harvey expressed himself to be perfectly satisfied; but there were some points that he (the Premier) wanted further discussion of and alteration, but as Mr. Harvey had stated that he was satisfied with the Bill in its then condition, and he was anxious to leave, of course he (the Premier) could not offer objection. He (the Premier) then received a telegram from the Colonial Secretary, Mr. Bond, stating that Mr. Emerson had arrived with copy of the counter-draft Bill, and requesting him (the Premier) to wait until he received per mail objections which they had to the Bill. Between the 8th of July and 3rd August, he (the Premier) was in continuous communication with Her Majesty's Government, and in personal interviews, and upon receipt of the objections mailed to him he found that they had all been previously taken by him (the Premier), discussed and disposed of either by being admitted, modified, or refused. In August his (the Premier's) discussion of the matter had ended. He had to express his deep obligations to Lord Herschell, a warm friend of the Colony, for his most valuable aid in the construction of this Bill, and the present Bill he (the Premier) was advised contained the only terms which Her Majesty's Government would accept. He (the Premier) would now turn to the Bill itself. After reciting the Treaties, Declarations, and agreement on arbitration on the lobster question, the preamble reads as follows:—

“And whereas it is expedient that permanent arrangements should be made both for the legal enforcement of the provisions of the French Treaties, and of the arbitration award, and also for the decision of questions which may from time to time arise under those provisions upon the Treaty Coast.”

It would be gathered from this preamble that the jurisdiction of the court was intended to be extensive for the legal enforcement of the Treaties, and for the decision of questions arising under the Treaties, &c., upon the Treaty Coast and waters. The first section provides that Her Majesty the Queen shall appoint Judicial Commissioners, who shall receive a commission from the Governor of this Colony. The first section constitutes the Court, to be “called the Judicial Commission Court, and the said Judicial Commissioners shall be Judges of that Court.” Objection, he heard, had been taken to their being called Judicial Commissioners. The delegates had stipulated that “Judicial Officers” should be appointed, and Lord Knutsford says in his despatch to him (the Premier) of 3rd August, “As regards the title of ‘Judicial Commissioners,’ which is objected to, Her Majesty's Government are of opinion that it is a suitable title, looking to the purely judicial functions conferred upon these officers, while it is

“ a clear advantage that they should bear a distinctive designation, which would prevent any confusion between them and the Judges of the ordinary Courts.” And if we read the speeches of Lords Herschell and Kimberley, both of whom warmly took up the cause of the Colony, we shall find that they spoke of the Court to be erected as an Imperial Court. The second section is in exact accord with the proposals of the delegates in their letter of May 1st, providing for the naval officer bringing all matters before the Court, and judgment being given, after trial in the ordinary way, before action by the naval officers. Section three provides that the judgment of the Court may be executed by a naval officer, or by any civil officer who executes the judgment of the Supreme Court. Section four provides that the judges may sit together, or apart, and the intention is that there shall be, at first, two, one of whom shall be on board each of the British ships of war patrolling the coast; and this section also provides that, for the purpose of getting the fullest aid as regards local knowledge and experience, the judges might call in assessors to sit with the judges. The fifth section provides for an appeal from the Judicial Commissioners’ Court to the Privy Council. Objection had been taken that there should have been an appeal, in the first place, to the Supreme Court here. He (the Premier) could not see the advantage to result from such an intermediary appeal. It would create delay and increase expense, and he was quite satisfied to have the appeal to the Highest Judicial Tribunal in the Empire. It also provides that, in case of a party being dissatisfied with the decision of one judge, he might have his case re-heard before the two Commissioners; and it provides that an appeal or re-hearing shall not operate as a stay of execution, which exactly accords with the proposition of the delegates in their letter of May 1st. The sixth section carries out the views of the delegates expressed in the same letter, in which they say that the naval officers “ may apprehend those against whom complaint is made for infringement of fishery rights ”; this section provides that the naval officer may take and bring such person before the Judicial Commissioner. The remainder of the Bill, which is really, as a whole, very simple, provides for regulating the procedure of the Court. A perusal of the despatch of Lord Knutsford of the 3rd August will enable honourable members to appreciate the objections and points which he (the Premier) had raised, and the reasons for their being concurred in, or objected to, by Her Majesty’s Government. He (the Premier) would only refer to a few paragraphs:—

“ The Colonial Government desires to have the appointment of the proposed judicial officers, but it was explained to the delegates from the first that the selection must rest with Her Majesty’s Government, who in return have undertaken to provide the salaries of the two gentlemen who, it is believed, will be sufficient for the duties to be performed. At the same time it will be open to the Colony to ask for the appointment of a third, if they think fit to bear the expense; and in that case their recommendation of any particular person would doubtless receive favourable consideration. But, looking to the delicate international bearing of the cases which may come before the Court, Her Majesty’s Government have formed a decided opinion, at any rate at the outset, the judges should be gentlemen unconnected with the Colony, and independent of all local interests. It may safely be presumed that able lawyers will speedily make themselves acquainted with the conditions of the fishery, while the power of appointing assessors will enable them to obtain the assistance of gentlemen possessing special knowledge. And to this view, which the delegates were understood to accept, Her Majesty’s Government must adhere. Her Majesty’s Government are not able to entertain the suggestion that there should be an appeal to the Supreme Court of the Colony. It may be assumed that the questions to be decided will, in most instances, relate to matters of small value on which the judgment of the Court will be accepted, especially if the decision of a Commissioner acting singly is confirmed on re-hearing by two Commissioners, for which provision is now made in the Bill. On the other hand, if any serious question of principle arises affecting many persons, or if in any case a large amount of money is involved, Her Majesty’s Government are of opinion that the appeal should be direct to the highest Court in the Empire.”

“ 16.—It will, I feel confident, be recognised that Her Majesty’s Government have sought to meet, as far as possible, the views which you, together with the other delegates, have placed before them during the frequent discussions that have taken place, and Her Majesty’s Government trust that the Government and Legislature of Newfoundland will feel no difficulty or hesitation in passing the desired measure.”

“ 17.—The Colony will thus show that it is prepared honourably to abide by the international engagements affecting the Island, and will declare these engagements to be part of the Colonial Law. By creating the proposed Court the Legislature will

“ also have given an assurance to the Colonists engaged in the fishery that they will be dealt with only under the decisions of a competent legal tribunal.”

“ 18.—At the same time the establishment of this Court will have a further advantage, in that diplomatic complaints of infringements of Treaty rights or of denial of justice will be based upon the facts duly sifted and accurately ascertained; and not only upon the ex parte statements of aggrieved fishermen whose statements would frequently be contradicted by the other parties to the transaction.”

Here, the, was a proposed Bill to establish a judicial tribunal, to which any one suffering an injury or damage by an infringement of his fishing rights might appeal for redress, when his case would be heard and determined as in ordinary Courts; and thus those safeguards and restrictions which the delegates so much desired to have would be existing for the protection of their subjects. The Court to be created by this Bill would have no jurisdiction in other than the matters referred to, and, therefore, would not conflict with other Courts in this Colony. He (the Premier) considered the Bill an excellent one generally, as carrying out admirably the views of the delegates under the authority of this Legislature; and he saw no reason why it should not be adopted. If this is not passed, what have we to expect but that Her Majesty's Government would simply adopt that course which had been only deviated from at the instance of the delegates—that is, to pass the Bill which had been before Parliament last year, authorising naval officers to carry out the Treaties under instructions from Her Majesty's Government; and it was the opinion of many of our own friends in Parliament that such was the better mode of executing the Treaties. And if such is to be done, why were the delegates sent to England? Why was the address from this Legislature? Why all this correspondence—these prayings and beseechings? This address to the Houses of Parliament? Why this invoking the aid of British statesmen, and the sympathy of the British public? Was it all to call down contempt upon us for broken promises, and to be held up to scorn? If this Bill is not passed here, of course the Imperial Parliament will pass the Bill of last session without a dissentient voice, and he must say they would be right in doing so. He (the Premier) having been one of the delegates, had done his best in the interest of the Colony. He had gone on the delegation reluctantly, but he now felt that good work had been done, and he felt, moreover, that it was for the welfare of the Colony that this Bill should be passed; and that it was the duty of every honourable member of the House to vote for this Bill, to sustain the honour and integrity of the Colony. The House, at this time, was in a position of grave responsibility to maintain unsullied the honour of the country. The questions relating to the French Treaty coast had never been treated in this Legislature as party questions, and he (the Premier) did not now intend to treat this as such. He would follow in the steps of those who had preceded him in Governments in this respect, although he regretted to see that it was now being attempted to make it serve the purposes of a party opposed to this Government. He should not ask a man to vote but as his reason and good sense may dictate, and every man was responsible for his own vote. There was one matter he wished to refer to before he sat down, and that was the despatch from Lord Knutsford, in which it was intimated that Her Majesty's Government were willing to consider favourably the application which he (the Premier) had made, that Her Majesty's Government should guarantee a loan of 2,000,000/ sterling, for the purpose of developing the mineral, agricultural, and other resources of the Colony. Her Majesty's Government had made it a condition, however, that this Colony should co-operate with it in carrying out the French Treaties. This was no hard condition for us, British subjects; we were bound to do so. The Imperial Parliament had voted two thousand pounds to defray the costs of a Commission, which was to have come out this spring with a view to that inquiry, which was necessary before Her Majesty's Government should ask Parliament to sanction the guarantee. If this Bill is not passed, of course we must consider that this will be dropped. He (the Premier) had urged Her Majesty's Government to assist this Colony in the direction mentioned in 1879, and had urged it ever since, and now that it seemed near accomplishment, he hoped it would not be defeated by any unfortunate course of action as regards this Bill. He would not, however, urge this as a reason why they should accept the Bill, because the Bill was an excellent Bill, and should be accepted upon its own merits. We should exhibit a disposition to act honourably. We owed a duty to England as British subjects, as well as a duty to this Colony; that duty, amongst others, was faithfully to carry out England's obligations to Foreign Powers. We do not like it that the French should have any rights upon our coasts, but they have such rights, and these rights are as sacred to them as ours are to us, and we must respect them. In conclusion, he (the Premier) would say that he trusted that the House would carefully consider the address of the Legislature to

the British Parliament passed last session—the prayer of that address—the proposition and promises made by their delegates, by virtue of the authority then given—the duty resting upon the Legislature to carry out Treaty obligations—the manner in which they had been met by Her Majesty's Government, and that the House would cast such a vote as would vindicate the honour and integrity of the Colony. He (the Premier) felt now that he had done his duty, and upon them would rest the odium if they, by their vote, brought the country into contempt by reason of broken pledges.

Mr. Morine would reply as briefly as possible to the remarks made by the hon. Premier this afternoon and evening, and particularly to those which referred to the promises and pledges made by the delegation. As a member of that delegation, he could speak with some authority upon this point, and could give more light to the House upon it than he could concerning the second part of the Premier's remarks, namely: the subject matter of the Bill itself. He regretted that the hon. the Speaker was not privileged to speak on this occasion. He felt that a great loss would ensue by the hon. Speaker being prevented from expressing the sentiments which found a place in his heart, and to which he had so often given utterance. He would refer to the implication that had been cast by the Premier on the lack of duty of the hon. Speaker, Mr. Monroe, and himself by leaving the city of London and returning to this Colony before the negotiations were completed. He did not think that the Premier intended his remarks as a censure on the Speaker when he said that that gentleman should have remained longer in London, but some of the remarks applied more strongly to Mr. Monroe. The Premier had said that Mr. Monroe had left London for reasons best known to himself, although he had subsequently read a letter in which the delegates had said that the question of principle had been agreed upon, and much as they regretted in losing the abilities of you, sir, and Mr. Monroe, the other delegates feel that they could go on and finish the work of details. The approval was expressed in a letter which was signed by the Premier himself; notwithstanding that fact the Premier had insinuated that Mr. Monroe, in obtaining the letter, as well as in leaving London, had some personal object in view. It was well known that Mr. Monroe carried on a large business in this Colony which required his attention, and considering that all the delegates had agreed upon the principle of a measure there was no reason why Mr. Monroe should remain there to discuss its details. He would show one reason why the details of this Bill now before the House were not consonant with the principle agreed upon when that letter was given to Mr. Monroe. The Bill which was now submitted, and so ably advocated by the hon. the Premier, did not contain the principle which was agreed upon by the delegates at the time Mr. Monroe left London. He thought it was only just to say here that the Speaker, whose mouth was closed, had, during the time he (Mr. M.) was on the other side of the water, on every possible occasion jealously guarded the interests of this Colony. The Speaker was so quick to resent the slightest implication and so earnest in preserving the independence of the Colony, and so jealous in conserving her interests in every conceivable manner, that he was almost unworkable. Whether it was morning or evening, night or day, he had always found the Speaker and Mr. Monroe most indefatigable in their labour in guarding the interests of this country, and exercising those qualities of independence which it was so well known those gentlemen possessed. He was not disposed to quarrel with the speech delivered by the hon. the Premier. The delegation, as a delegation, had performed their work, and at the time of the agreement for a Bill they were acting strictly within their powers. They had been sent across at a time of a great crisis when they were not in a position to communicate with this Legislature freely and quickly with regard to the details of a Bill. He believed that they had kept strictly within the limits of their power when they promised to consider the terms of a permanent Bill; consequently he was not disposed to quarrel with the Premier on that point. The next question to be considered was whether the delegation, as a delegation, was pledged in any manner to the Bill now before the House. The hon. Premier had appealed to the honour of the Colony, and said that it would be disgraced if we refused to pass this measure, and had consequently called upon members of this Legislature to vote in such a manner that its integrity and dignity would be maintained. If the hon. the Premier would advance good grounds for acting in this manner, he (Mr. M.) would submit, but on the point raised by that hon. gentleman, he would take issue, as the delegation as a whole had never authorised the consideration of such a Bill as the one now before the House. The delegation never sought to pledge this Legislature to the adoption of such a Bill as the present one, but rather to such a permanent one as they might agree upon if ever they arrived at that point. The Premier read a great deal of correspondence, and dwelt largely on the

point, that we, in the letters quoted, had pressed upon the Imperial Government the necessity of dealing speedily with this matter, but that hon. gentleman forgot to point out that the terms of this correspondence had been rejected by the British Parliament; consequently he was endeavouring to apply a state of affairs which had arisen long after those letters had been written. Let us inquire as to why we said that immediate action was required. He would draw attention to the fact that at the time there was pending before the Imperial Government a permanent Bill, and we were desirous of having a temporary measure passed before this House would close, so that there was every necessity for an agreement being arrived at as speedily as possible. Whatever the delegates did one day in London it had to be telegraphed to this Legislature, and confirmed by it the next before it was fully ratified, and if we had not urged speed, the result would have been the passage of the permanent Act by the British Parliament. The reason why we advocated haste was not because we were anxious to agree to a permanent measure, but because everything we did should be confirmed by this Legislature, which could only be done whilst the House was in session. Every one of those letters, then, applied to a state of affairs which existed before our offers had been rejected by the British Government. Ought we, therefore, to be told by the hon. Premier that we were bound in honour to pass this Bill? The only pledge that we had given was that we would use our influence with this Legislature in passing a temporary Act, and would then go on to discuss and arrange the terms of a permanent one which could be agreed upon either by the Legislature or by the delegates. Supposing, for instance, that we had pledged this Legislature to pass a permanent Act, had we before us the Bill agreed upon by the delegation? The Premier occupied rather an anomalous position as he was one of the delegation, and, as such, was pledged to abide by the decision of a majority of that delegation. He would draw attention to the resolutions of the joint select committee of both branches of the Legislature submitted here on March the fourth of last year, which ran as follows—(here hon. member read resolution)—The hon. Premier was a member of this delegation, and being such was bound to submit to the decision of the majority, but far from doing that he had introduced this Bill against the suggestion made in the majority report, that the measure should not be brought forward this session. This action on the part of the Premier was in violation of the terms of the agreement entered into by the delegates. We were not in honour bound to pass this measure, because the delegates had no power to bind the Legislature to accept any Bill. It would have been monstrous for any delegation from this Legislature to arrogate to themselves the power of concluding a permanent measure while this House was in session. At the instance of the other delegates he had been sent out here to report the existing state of affairs, after which a temporary Act was passed until the end of 1893 for the purpose of giving the British Government power to deal with the matter until after the next general election to be held in England. When the temporary Bill was passed, and after the withdrawal of the second reading of the Bill before the English Parliament, the delegates submitted their draft of a Bill prepared by them, but which was widely different from the one now before the chair. When Mr. Monroe was leaving, the remaining delegates gave him a letter containing the principle of the proposed measure, and a few days later the Speaker followed, bringing out the draft Bill of June 30th, which had been put into his hands only a few hours before he left London. That draft Bill was discussed by the Speaker with the members of the Executive, and certain objections had been taken to it which were forwarded to the hon. the Premier. He, Mr. Monroe, contended that the Premier and Mr. Harvey, whilst in London, should have remitted the progress and result of their labours to the delegates on this side of the water, upon whose authority they proposed to be speaking at that time. We were told in a newspaper letter to-night, over the signature of Mr. Harvey, that the delegation were bound by the conduct of the Premier and Mr. Harvey while they remained in London, because the other members of the delegation had left of their own accord. If these two gentlemen were speaking for the whole delegation, they should have put those members of it who were on this side of the water in possession of every matter that had transpired in connexion with this question. On the contrary, they had never even sent the draft Bill to, nor communicated with, the other members of the delegation, nor did they endeavour to obtain their opinions until they had signed and sealed the draft Bill which was now before the House. How could it be contended that the delegation were bound by the conduct of the minority, when they had never consulted the majority, of the members of that body? It is well understood that nothing was to be done, unless first agreed to by a majority of the members of the delegation. The first thing he objected to in this Bill was the substitution of "Judicial Commissioners" for judges, to whom all dis-

putes on the Treaty shore were to be submitted, and in addition to this the appointment was to be by Her Majesty instead of by the Government. It would not be so bad if proper men were to be appointed, but the probabilities were that some Downing Street hacks would be sent out, men who, in order to retain their positions, would give their decisions rather with a view to prevent friction between the Imperial Government and France than with a desire to do justice to the fishermen of Newfoundland. The hon. Premier said that even-handed justice would be given our fishermen by the Commissioners appointed by Great Britain. He (Mr. M.) thought there would be all the difference in the world between the conduct of judges appointed from amongst ourselves than of those sent out from England. The former, from experience of the fisheries question, would not only know how to deal fairly with cases arising on the coast, but they would also sympathise with our people in the many hardships incident to their position. The latter, on the contrary, knowing little of the life and condition of our people, would care for nothing but pleasing their Imperial masters by having things run smoothly between Great Britain and France. Furthermore, the first Bill provided for a right of appeal to the Supreme Court, but the present one admitted of no such condition, leaving only a right of appeal from the Commissioners to the Privy Council of Great Britain; and yet under those circumstances the Premier had the hardihood to state that there was no practical difference between the two Bills. The Premier had quoted from a letter from the delegates to Lord Knutsford, dated May 1st, 1891, to prove that the principles embodied in the present Bill were at that time admitted by the delegates as far as the appointment of Commissioners was concerned. If the hon. gentleman had quoted the whole of that letter, it would be found to bear a very different meaning from the construction he had put upon it. For instance, these words were contained in that letter * * * "In cases of complaints of interruption of rights of fishing, the judicial officers should have power upon the trial of such complaints to issue and enforce such orders or injunctions as they deemed necessary to prevent such interruptions; and the parties to such complaints should have a right of appeal, upon points of law, to the Supreme Court of the Colony, &c., &c." The hon. Premier should have gone on and quoted that part of the letter also. Another point that should not be overlooked was that if the present Bill passed, the fisherman on the Treaty coast would have no practical right in law. If he committed a breach of the Treaty law, or did anything that could be tortured into so being considered, he could be brought before the Commissioners, and if found guilty by them he could have no appeal to the laws of his own country, but he could, if he wished, appeal to the Privy Council of England, which, for many reasons, he could not afford to do. If, on the other hand, a Newfoundland fisherman had a complaint to make against a naval officer he would be debarred the privilege of doing so by the terms of the Bill. In short, the Newfoundland fisherman would have no right to open his mouth, even if he had a complaint to make against a British officer, while if he were alleged to have done wrong he could be jerked by the neck before one of those Downing Street Commissioners, in whose hands he could expect very little of either justice or mercy. The Bill would, if it became law, place the lives and fortunes of the fishermen practically at the mercy of those Commissioners, and altogether he thought it was worse than that of George the Third. The Premier had gone so far as to threaten the re-enactment of George the Third Act, if the House did not pass this Bill. These threats were idle as far as he was concerned, for he would lift up both hands for the George the Third Act as against the Bill. The naval officers entrusted with the carrying out of the law under the old Act could not be removed at pleasure, and therefore some sort of justice could be expected from them; while under this measure, the Commissioners being removable at a moment's notice, they would be sure to do justice to themselves in order to maintain their positions. Beside, the men sent out would be only third, fourth, or perhaps tenth, rate lawyers, for no man who could make his mark at the British Bar would come out to this country as a Commissioner. There were far abler men, and men better qualified in every way to do the work in this country. The next point in the Bill worth noticing was in reference to the right of the Commissioners to impose a fine of the fishermen brought before them and adjudged guilty of a breach of the law. These Commissioners would have a right to confiscate the men's property and give them no right of appeal. He (Mr. M.) did not see why any special machinery was required at all to carry out the Treaty laws between this Colony and France. We had also a Treaty with the United States; and our ordinary courts adjudicated on cases arising in connexion therewith. He did not see why the same rule should not apply in the case of the French Treaty. Nearly every British Colony had certain Treaty rights to carry out, but in not one of them was a special machinery brought into requisition except in Newfoundland. The Premier said that if we did not

pass this Bill, it would be passed by the Imperial Parliament; but that would be preferable to having it passed by ourselves, because if it once went upon the Statute Book we could not protest against it, while if passed by the Imperial Parliament, we could take advantage of the fact of its having been passed against our will, and would have a favourable opportunity of protesting against it. Surely we are not going to be led away by the blandishments of the Imperial Government, by the promises of a loan held out as a bribe to do away with our own independence by putting this Act on our Statute Book, and thereby destroying all grounds upon which we could demand the abrogation of the Treaties. Let us continue to uphold the rights and dignity of the Colony, and let us not place on our Statute Book the badge of our own shame and dishonour by consenting to such a measure. The hon. the Premier had said that he would not dwell on the fact that a sum of money had been offered to the Colony, and gave the House to understand that if they passed this Bill the money would be forthcoming, but if they did not pass it they would lose that 2,000,000*l.* sterling. This was offered as a bribe to the Legislature by the Imperial Government, who guaranteed that sum to be expended under a British Commission upon new works in the Colony. The Commission would come out here to find out the state of the country, and if their report was favourable, and if the Legislature passed the Bill, we would get the money. Some people might think that a portion of this money was to go towards lifting off the debt of the Colony, and that the balance was to be expended on new works by the Government of the Colony, but as a matter of fact the whole amount was to be expended on new works and by a British Commission—\$10,000,000 more added to the debt of the Colony, with the interest to be paid by ourselves, was certainly a great boon to hold out to the country as the price of our dishonour in passing this Bill. It was a huge, dishonourable bribe offered by the British Government for the purpose of inducing us to sell our birthright, and it was in this spirit that the hon. the Premier had referred to it to-night. He (Mr. M.) had shown as plainly as he could that there was no necessity for hurrying over this matter, and why he thought the Bill ought not to be accepted, and he would give another reason for it, and that was, he believed the majority of the delegates never contemplated that it should be accepted. He thought that it ought not to be passed now, even if it were a better Bill, because the object in passing the temporary Act was that there might be time given to bring about a settlement of the difficulties. The delegates had been sent home to avert the present danger by doing their utmost to stay the Bill before the Imperial Parliament, but not to enact it in this Legislature. Newfoundland did not object to the enforcement of the Treaties because she knew that, so long as they existed, they should be carried out, but the Colonists quarrelled with the manner in which the Treaties were carried out, and demanded that the earliest opportunity should be taken by the Imperial Government of abrogating those Treaties, and thus freeing our coasts from the hardships which they entailed. The Legislature passed the temporary Act last session, because they knew that by so doing they would cause the permanent Act, then before the Imperial Government, to be dropped, and as the general election would be held while that temporary measure was in force, the changes that would take place in the personnel of the British Parliament might bring about the desired opportunity for the Colony to be freed from those burdensome Treaties. By passing the temporary Act they had gained the support of the Liberal Party, and as the general elections would in all probability result in the defeat of the Salisbury Government, and the coming into power of the Gladstone Party, they could demand from France that in return for concessions to her in Egypt or in other parts of the world, she should make concessions in Newfoundland. As there was much more accord between the Gladstone Party and France than between the Salisbury Party and France, there was every reason to believe that if the former Party came into power, this Colony would get the concessions she asked for. He did not believe that France valued the French shore for its own sake, but held on to it as a means of obtaining concessions from the British Government elsewhere, and, therefore, if the Gladstone Party got into power, they would be willing to make those concessions to France in other parts in return for concessions here. He did not say for a moment that the Gladstone Party was more favourable to Newfoundland than the Salisbury Party, because he believed the latter was more disposed toward the Colonists than the former, but there was a better feeling between the Gladstone Party and France, and, therefore, there would be a better chance for them to obtain concessions from the French. The temporary Act would hold good till the end of 1893, and if this permanent Bill was not passed now, Mr. Gladstone could not ask his Party to pass it through the Imperial Parliament after the manner in which they had favoured the cause of the Colony, and, moreover, the Radical portion of his party would bring such pressure

to bear on him that he would have to make concessions to France elsewhere in return for concessions on the Newfoundland coast. If we put this Act on our Statute Book now we would close the book and lose the leverage by which we might be able to secure the abrogation of the Treaties, for Gladstone could say: "You have put in our hands all the power we want; you have sealed your own doom by passing this Act and have therefore no just reason to complain." Even if the Gladstone Party was not returned in the general elections, our salvation would lie in keeping the sore unhealed, because as long as there was life there was hope, but the moment this Act was placed on our Statute Book, we dropped out of the mind of the Imperial Parliament. And what was the Legislature asked to do this for? There was a letter in this evening's "Telegram" from Hon. A. W. Harvey, in which, after summing up some of the advantages the Colony would deprive from passing this Bill, the hon. gentleman said that they would get clear of the *modus vivendi*, which was tantamount to saying that a man might get clear of the measles by taking the small-pox. How would it free the Colony from the *modus vivendi*? The Bill certainly provided for arbitration upon the lobster question. It meant an arbitration which might probably end the present state of affairs, but on the other hand, while the *modus vivendi* continued, thirty or forty factories on the French shore could be carried on as long as there were no new ones erected by either Party. But the arbitrators might decide that neither the Newfoundlanders nor the French had any right to erect factories on the Treaty coast, and an order would be issued closing up all existing factories. Was it not better then to have the measles of the *modus vivendi* than the small-pox of the arbitration? There was going to be an arbitration in Paris, and the Hon. A. W. Harvey would be sent as a delegate for the Colony, and would probably win a title for himself, while Sir W. V. Whiteway would be there as counsel for the Colony to plead her cause. All the delegates protested against that arbitration from the first, and yet to-night the Hon. Mr. Harvey would uphold a Bill which provided for the very arbitration against which he had protested. Furthermore, the Bill did not contain a provision for a single cent of compensation to those whose factories or houses might be removed as a result of the arbitration. If the Imperial Government passed the Bill, the Colony would have a very good claim in equity, for we could go to them and say: "You have passed this Act in spite of our protest, now compensate us for the damages our people have sustained;" but if we passed it ourselves, the Imperial Government could say: "You passed the law yourselves, now you must abide by the weapons you have put into our hands." It would be infinitely better that the Imperial Government should pass this Bill if it must be passed, because then we could always ask for its abrogation, and always demand compensation. There were a number of other points to which he would like to refer, but, as it would be unnecessary at the present moment, he would simply repeat that the delegation never assented to this Bill, nor gave the hon. Premier any authority to introduce it into this Legislature. This House was free at the present time to do as it pleased, for it could not be bound even if the majority of the delegation had given a pledge that the measure would be passed. If the majority of the delegation agreed to any Bill, they could only pledge themselves to use their influence to have it accepted by the Legislature of this Colony; but they have never assented to this Bill, and the majority who signed the report recommended that no steps be taken to place on the Statute Book a Bill this session. He contended that the hon. Premier and Mr. Harvey were bound in honour to hold to the agreement, and support the Bill of the majority of the delegates in all matters. This House was free to adopt any course in this crisis, and he trusted and believed that hon. members would exercise their own independence in voting on the second reading of this Bill. For the reasons he had given he intended to vote against the second reading of this measure, and he trusted the majority of this House would be of the same way of thinking. He believed that the man who would vote for this Bill under the threats and inducements of the Premier would be signing away his birthright and the independence of the Colony. It would be selling the best portion of this country, but he trusted that hon. members of this House will show their independence and a sense of justice sufficient to sustain them in refusing to vote for the second reading of this Bill.

No. 7.

SIR TERENCE O'BRIEN to LORD KNUTSFORD.
(Received June 30, 1892.)

Government House, St. John's,
June 22, 1892.

MY LORD,

IN continuation of my despatch of the 8th instant,* I have the honour to forward herewith further copies of our daily papers, giving the remainder of the debate on the French Treaties Enforcement Bill, by which your Lordship will observe that Mr. Webber was the only member who spoke in favour of the measure and supported Sir William Whiteway, though, as reported by telegraph, seven others voted with him on it.

I have, &c.

(Signed) T. O'BRIEN,

Governor.

The Right Hon. Lord Knutsford, G.C.M.G.,
&c. &c. &c.

Enclosure in No. 7.

HOUSE OF ASSEMBLY.

Thursday, May 12.

Hon. Colonial Secretary (Mr. Bond).—It was exceedingly painful for him to be obliged to differ from his leader, Sir William Whiteway, on the question now before the Chair, because for the past 10 or 12 years it had been his pleasure and privilege to support the hon. gentleman in every measure which he had brought before the House. He looked upon the question now under discussion as one which involved such serious consequences to the Colony that he was constrained to move an amendment to the motion now before the Chair. He considered that the hon. Premier had displayed marked wisdom in abstaining from making this a party question. That hon. gentleman was evidently not oblivious of the truth that when a great national question such as this was before the House a man would forfeit his own self-respect and become wanting in his duty to his country if he ignored his convictions and submitted to act by order. The hon. gentleman has elected to permit room for private judgment. Had he done otherwise on a question of such magnitude, his conduct would have involved a bondage more humiliating and more demoralising than the theories of Hobbes or of Filmer. When this matter was before the British Parliament the distinguished gentleman who presided over the destinies of the British Empire had made use of the expression that Newfoundland was "the sport of historic misfortune." The phrase was strikingly applicable—"the sport of historic misfortune"—not misfortune entailed upon us by the blundering incapacity of those local statesmen who from time to time have shaped the destinies of this country, but misfortune entailed upon us by the neglect or indifference of those who from time to time have presided over the Colonial affairs of the British Empire. We were not suffering to-day from any misfortune of our own creation; it behoved us therefore to be careful at this time that we do not take the first step in that direction. Let us pause and consider what the result of our action in this matter is likely to be. In dealing with the question, he did not propose to recapitulate all the negotiations that had taken place in reference to this vexed fishery question, but would simply revert back to the year 1890. On the 12th day of March of that year a *modus vivendi* had been negotiated and concluded between Her Majesty's Government and that of France in reference to the Treaty Shore of this Island. It will be remembered that this was done without the knowledge or assent of the Legislature of this Colony, and it was contended, with very much force, that in so concluding this arrangement, the Imperial Government had violated its pledge of 1857, namely, "that the consent of the community of Newfoundland was to be an essential preliminary to any modification of its territorial or maritime rights." It is within the knowledge of every hon. member that this action on the part of the Imperial Government resulted in the awakening of bitter animosities in this Colony, and called forth an expression

* No. 6.

of sentiments that have doubtless tended towards greater complication rather than towards a solution of the difficulties. Public meetings were held and so strong was the expression of opinion on those occasions that he thought he was correct in saying that the dignity of the proud and great nation of France had been touched, and it had been made impossible for the Imperial Government to treat with France in such a manner as it otherwise would have been. It was a matter of regret in the first place, that the Imperial Government had acted without reference to this Colony, or had concluded a *modus vivendi* with France without having first submitted it for the consideration of this Legislature. He thought he would be supported in saying that the present position of affairs was the outcome of the unwise agitation that occurred here in 1890 and that subsequently led to French resentment, to litigation at the instance of our own people, and to the demand of the Imperial Government for the legislation before us. We must remember that the French are a great nation, and that they are not likely to be influenced in the direction of relinquishing their claims by any demonstration that we may get up. He would suggest that, if we want to bring that people to our own way of thinking, we should rather proceed in a diplomatic manner, and not by agitation. There was no use in merely regretting the past. If there had been a lack of wisdom, it was a matter for regret, but it was no use for us to dwell upon a condition of affairs that might have been averted, but rather to gather wisdom from experience. The *modus vivendi*, as set forth in the despatch from Lord Knutsford, of date the 21st March 1890, was a truce, for the purpose of enabling the Imperial Government to negotiate with France for a settlement of the difficulties which had existed for more than 200 years. "It was to afford time for effecting some more permanent settlement of the question." In the month of May 1890, the Government of this Colony, accepting in good faith the assurances conveyed in the despatch of Lord Knutsford, sent a delegation to the Colonial Office for the purpose of advising with the Imperial Government as to the condition of affairs which were then existing. This delegation, of which he had the honour of being a member, proceeded to London and remained there nearly five months, during which time they had endeavoured to impress upon the Imperial Government the difficulties, the evils, and injustices under which the Colony laboured. The delegates admitted the Treaty obligations of the Empire—no sane man could deny such; but they pointed out to the Imperial Government that if those Treaties appeared to present obstacles in the way of a settlement, it was to be remembered that we lived in an age of definition, and that it was time that obsolete Treaties received an interpretation compatible with the dignity of the British Empire and the welfare of this Colony. They pointed out the fact that while France possessed a mere easement or right of fishery only, she had been permitted to place her own interpretation upon the Treaties, and had really put forward claims to territorial rights, and had enforced them. They also pointed out that France had placed an interdict on our mining, agricultural, and lumbering operations on the Treaty Shore, and had thus retarded the development of the best portion of the Island. They pointed to the fact that thousands of our people were leaving for the neighbouring countries on account of the lack of employment in this Colony, which was in part owing to the difficulties alluded to. Although they had brought these several matters forcibly under the notice of the Imperial Government, their prayers and protestations had availed nothing, and they had to return after months of weary waiting without any satisfactory answer being vouchsafed. Things remained in this position until March 1891, and the Journals of this house will speak as to what then occurred. On 12th March of that year the attention of the hon. Premier had been called to a newspaper record which stated that an arrangement concerning the French Shore had been made between Great Britain and France, and the hon. member, Mr. Morine, had asked the hon. the Premier if he was aware that the said report was correct. In reply to that question, the hon. Premier laid upon the table of the House a cable despatch from Lord Knutsford, intimating that an agreement had been signed the day previous for an arbitration, and that full particulars would be sent as soon as possible. On the 18th of March the Premier laid certain despatches and correspondence on the table of the House. The House went into committee on those despatches, and the outcome of the deliberations was that the Committee were in favour of a consultation between both branches of the Legislature for the purpose of considering the despatches and the best means of impressing the Imperial Government and people of Great Britain with the views of this Colony respecting the objectionable legislation with which this Colony was threatened. We find, in the next place, that a Select Committee of both branches of the Legislature was appointed, consisting of the honourables the Premier, Colonial Secretary, Morris,

Shea, Harvey, Monroe, Speaker, and Messrs. Morine and Greene, and this Committee proceeded at once to deliberate. He remembered distinctly the discussion which took place, and that the resolutions arrived at were of such a character and were so framed that they could not be possibly misunderstood by any person. They were to the effect that five members of the Legislature, representing both sides of the House, should proceed to England for the purpose of laying before the British Parliament and people the opinions of this country respecting the legislation proposed, or what was termed coercive legislation. He remembered distinctly a question being put as to whether these delegates were to have power given to them to approach the Imperial Government on this question. He remembered distinctly that it had been laid down by the Committee that the said delegates were not to approach the Imperial Government, but were to appeal to the British Parliament and people to try and prevent the passing of the Imperial Bill, and then report the result of their efforts to this Legislature. There could be no mistake whatever about the decision of that Committee. Every member of it was aware that only 12 months previous delegates from this Government and from the people had appealed to the Imperial Government for redress without avail. Hence the reason why it was decided not to appeal to the British Government, but to the Parliament of Great Britain. He remembered the question being put as to what the delegates were to do after they had presented an address to the British Parliament. The answer was that it would be their duty to seek the aid of the press, and, if necessary, to stump the country, and thus lay our case before the British public in every important town in England. Such was the intention of that Committee when they passed the following resolutions:—

“ Resolved,—That a delegation, to be selected from members of the Legislature, be appointed by the Legislature to proceed forthwith to lay before the British Parliament and people the reasons of this Colony for opposing the proposed legislation in reference to the French Treaties question, and that in the meanwhile the Committee proceed to consider the propositions which the delegation shall be empowered to make for the settlement of the whole question.

“ Resolved,—That the delegation proceed to England immediately for the above purpose.”

These resolutions having been brought before the House, and ratified, the delegates proceeded to England. The first news that this Legislature heard from them was on the 22nd day of April. On that day the delegates sent the following telegram to this House:—

“ Will be heard bar Lords before second reading; good public reception here. Intervued Salisbury Saturday. Bill much more objectionable than reported; legalises all future arrangements without concurrence Colony or Parliament, and applies Act George to them.”

This was the first information that the House received from the delegates after their arrival in England. The next thing we heard from them was contained in the telegram dated May 6, and ran as follows:—

“ We proposed Legislature pass temporary Bill enforcing modus arbitration award in present manner for this season, provided Imperial Bill dropped; compensation secured to possible sufferers under award, and principle admitted creating courts to discharge judicial functions now performed by naval officers; details to be arranged and made into permanent Bill to replace temporary Act. Proposals not yet accepted, partly on ground no proof Legislature will do as we promise. Recommend you suspend rules and pass resolutions both branches, announcing your confirmation of our proposals, and your readiness to pass temporary Act immediately under suspension rules. If adopted, telegraph resolutions to us. Prompt action needed. No other course open, apparently, and unanimously urge adoption this.”

Immediately upon the receipt of that message the House resolved itself into a Committee of the whole to take the same into consideration, with the result that a suite of resolutions were passed almost unanimously by the House condemning the action of the delegates for proposing any legislation whatever to the Imperial Government, without first having received the assent of this Legislature thereto. That resolution was telegraphed across to the delegates, and the next day a reply was received from them to the following effect:—

“ Delegates' proposals were contingent subsequent approval of Legislature; made without previous approval, solely because pressing emergency would not permit delay; proposals not accepted by Imperial Government. We requested resolutions hoping their refusal would be reconsidered; unless Legislature supports proposals by resolu-

tion, no possibility defeating present Bill, and no support given Colony by any party ; if resolutions immediately adopted, acceptance proposals possible and support Liberals certain ; delay or decision fatal and present Bill will pass in permanent form ; unless our unanimous decision is warmly supported, our usefulness gone ; measure Knutsford requested was permanent ; ours temporary and with valuable conditions not included in Knutsford's. If Legislature does not approve our proposals it aids opponents and leaves Colony friendless, losing everything.

“ DELEGATES.”

The Legislature proceeded again to take into consideration this second telegram received from the delegates and finally declined to recede from their former decision. It was appreciated that the delegates had acted contrary to the instructions so clearly laid down for their guidance in reference to a permanent Bill, and further that if the Legislature were to sanction the action of the delegates, they would be approving that which had been so recently condemned by the whole Colony, not alone from public platforms, but through the unanimous voice of Parliament. They would be making themselves ridiculous in the eyes of the world, for such action would declare that their solemn resolution was a mistake. But above all, the House appreciated that they were invited to assent to legislation most detrimental to the best interests of the Colony and most repugnant to the feelings of the people. Therefore after the most careful and dispassionate consideration, the House resolved as follows, namely :—

“ That whereas this Legislature did on the 31st day of March last past appoint certain delegates to proceed to London for the purpose of bringing before the British Parliament the views of this Legislature, and of the people of this Colony, respecting certain legislation about to be introduced by Her Majesty's Government in relation to the French Fisheries question in Newfoundland :

“ And whereas the said delegates have not succeeded in inducing Her Majesty's Government to withdraw the proposed legislation, and it has been read a second time in the House of Lords :

“ And whereas the said delegates have advised this Legislature that they deem it advisable that this Legislature should immediately pass a temporary Bill enforcing *modus vivendi*, arbitration award, and Treaties, in present manner for this season, provided that the Imperial Bill is dropped, that compensation is secured to possible sufferers under award, and the principle is admitted of the creation of courts to discharge judicial functions now performed by Naval Officers, which temporary legislation is to be made into permanent Bill :

“ And whereas this Legislature, after the most careful consideration of the delegates' proposal, deemed it necessary to ask for fuller information before arriving at a conclusion respecting their proposal, and resolutions to that effect were cabled by this House to the said delegates :

“ And whereas the reply received this day from the delegates does not furnish a satisfactory explanation to the Legislature of the action taken by the delegates, nor even bear out the contention of the delegates that the legislation proposed is of a merely temporary nature :

“ Resolved,—That this Legislature cannot assent to the proposal made by the delegates, or to pass any measure of legislation whatsoever.

“ Resolved,—That a copy of the foregoing resolution be cabled to the delegates.”

This resolution was cabled to the delegates immediately, and there was a feeling of relief that suspense was over, and that the House had done its utmost to prevent the obnoxious legislation ; and that if it had failed, still it had done its duty. On the following day, the 8th day of May, another telegram was received from the delegates, which contained the following :—

“ Just received despatches from Knutsford positively declining to accept anything but permanent Bill, therefore no danger now from approving our proposals ; such approval will secure support of public and Liberal Party.”

This telegram would not be found in the Journal of the House, because it was sent to a member of the other branch of the Legislature ; but it was brought before this House and was used to induce every member of the House to vote for rescinding the resolution passed on the previous day ; this was done upon the authority of the following telegram, received the same day from the hon. the Premier, namely :—

“ All delegates will publicly declare equal responsibility for proposals. See message to Pitts. All urge adoption of suggestions there made.”

The importance of this telegram from the delegates will be appreciated by the House. It will be noticed that the delegates declared in the most unmistakeable language that

if this House would only pass a temporary Bill, it would never be called upon to pass a permanent Bill. That they simply asked for a temporary Bill to be passed so as to "secure support of public and Liberal Party." Accepting this assurance in good faith, and being desirous to aid the delegates in their efforts to secure the support of the public and Liberal Party in England, this House faced public ridicule and contempt, and rescinded the resolution of condemnation, and did promise to pass a temporary Bill, and did subsequently pass a temporary Bill. It was under the influence of the telegram which he (C. S.) had just read that this was done. Had that telegram not been received, had this House not been deceived by that telegram, the first resolution would not have been rescinded, and we should not have been called upon to-day to pass a permanent Bill. It was an unfortunate thing for this Colony that the delegates had transmitted that telegram, for if that message had never been written, the Colony, the Legislature, and the delegates themselves would not have been found in the unenviable position in which they are to-day. He did not wish it to be understood that he thought the delegates had wilfully deceived this House. Apparently they had been misled by a letter from Lord Knutsford, of date the 8th May, wherein that gentleman had stated that the Bill "should be permanent in form," and that Her Majesty's Government could not "withdraw the Bill which they introduced." Whoever was to blame, there was no denying the fact that the House had been deceived into a promise to pass legislation, and therefore the promise to which the hon. the Premier had referred as binding upon this House could not be considered as such. But granting, for the sake of argument, that the promise to pass a permanent Bill is binding upon the Legislature, the questions arising are: First, Is the hon. the Premier justified in now calling upon the House to consider the question? And secondly, Is the Bill before us of the character contemplated when the alleged promise was given? As regards the first question he would direct [the attention of?] the House to the fact that two reports from the delegates were before them, a minority and majority report, and that as the majority of the delegates had reported against the Bill the House should not have been called upon to consider it. At this point he would refer the House to a resolution which had been passed by the Legislature for the guidance of the delegates in this connexion. It had been resolved, as would be seen by reference to page 3 of the "Correspondence of the Newfoundland Delegates with Her Majesty's Government," as follows:—

"That when a majority of the delegates agree to any basis of arrangement and settlement, the delegation shall recommend it to the Legislature; and that each member of the delegation shall be bound by the decision of a majority of the delegation and pledged to use his best efforts to procure adoption afterwards by the Legislature of any arrangement made by the delegation."

It would be noticed that this resolution stipulated for a unanimous report from the delegates to this Legislature. If a difference of opinion existed at any stage of their deliberations, that difference had to give way to the weight of the opinion of the majority, and those in a minority, to be true to their obligation so plainly set forth in the resolution, had not only to forego their opinion, but had also "to use their best efforts to procure adoption afterwards by the Legislature of any arrangement made by the delegation," that is to say, by the majority of the delegates. This the minority have not done, for we find them bringing in a minority report, which is the Bill before the Chair. The proceeding was to him, C. S., most incomprehensible and unjustifiable. No matter how desirable the Bill might appear to be to the gentlemen who had reported it, in the face of the resolution to which he referred, and which they had voluntarily accepted as binding upon them when they proceeded to England as delegates, they could hardly attempt to justify themselves for the course they had adopted. He submitted that, if for no other reason than that the majority of the delegates had reported against the reception of the Bill, the House must reject it. But there were other and good reasons why the Bill could not be approved, which he would presently point out. The hon. and learned Premier had stated that no man could read through the correspondence between the delegates and Her Majesty's Government, a copy of which had been placed in the hands of hon. members, without arriving at the conclusion that the delegates had undertaken to report in favour of a Bill, and that the delegates had led the Imperial Government to believe that they would so report. He thought the hon. gentleman was perfectly correct in the observation. There could be no doubt upon that point. But the question arises, what Bill? Had the delegates such a Bill as that now before the House in view at that time? Certainly not. The proof of that would be found right through the correspondence. The Bill that the majority of the delegates evidently had in view contemplated the establishment of local courts presided over by judges to be

appointed by the Colony, with power to try the subjects of France or England who might be guilty of an offence under the Treaties, and certainly as a first principle, the compensation of any persons who might be sufferers under the arbitration award. The Bill before the House does not contain one of those provisions. The judges to be appointed under it are to be either some third-rate Downing Street lawyer, for, as had been observed, no first-class lawyer would accept the paltry position, or possibly a naval or military pensioner, of whose peculiar fitness to discharge judicial functions the Colony has had ample proof. The Commissioners, under the Bill, would have no power to try a French subject, no matter how outrageous an offence a Frenchman might commit against a Newfoundland fisherman. The judges, under the Bill before the Chair, could not attempt to try or punish him for the offence. A Frenchman might go and pull down a man's house or his flakes, or destroy his fishing gear, and for such offence the Newfoundlander would have no redress under the Bill before the House. How could it be supposed that such a Bill would be approved by the House? It must be remembered that the French have in the past committed grave offences against the people of this Colony. Two years ago the hon. the Speaker and he had visited the so-called French Shore for the purpose of collecting information relative to the Fisheries question, and many cases of French aggression had been brought under their notice. They had been informed by Mr. Shearer of Halifax, who was then doing business at Port Saunders, that the year previous, namely, in 1889, the French made an attack upon his fishing trawls at St. Margaret's Bay. They took 510 lobster traps out of the water, landed them in piles, cutting the rope and utterly destroying the traps. Mr. Shearer's father stated that he had no more fishing for the season, and lost 1,000 cases of lobsters. A complaint was made by him to H.M.S. "Lily," but no redress was forthcoming. Mr. Duggan, J.P., at La Scie, had informed them that he knew the French to proceed from that locality to Harbour Bound, many miles away, and take up the nets belonging to English settlers there, merely to exercise their assumed right, and to prevent them from fishing. Also that he remembered seeing the French man-of-war enter Harbour Bound and tow out schooners that were fishing there; and still further that in 1881 the French had entered La Scie and "burnt down the stages and house of one John Clance," and no compensation had been given. The Bill before the Chair made no promise [provision ?] for the trial of such cases as those. Then, again, by the operation of the Bill before the House, very great injury might accrue to the peaceful and industrious fishermen of this Colony. For instance, a Newfoundland fisherman might be prosecuting the fishery in White Bay, a Frenchman perchance comes along, and finding this fisherman doing well, he makes a charge against him, and lodges the complaint on board of one of Her Majesty's ships. A naval British Officer immediately takes this man and his fishing gear in charge, and conveys him to the Commissioner, who may possibly be at Bay St. George or 300 miles away. When he arrives there the charge is found to be frivolous, and the case is dismissed; but what redress has the unfortunate fisherman? His voyage is lost, and the season gone. Could any person imagine a greater case of hardship? Yet such was possible under the Bill before the House. Again, the Newfoundland fisherman could not bring his case directly before the Commissioner. He had first to go to the Naval Officer of one of Her Majesty's ships, and if the Naval Officer thought fit to grant permission, the fisherman could bring forward his case, but if he thought otherwise, the fisherman could not get a hearing. He (C. S.) felt that if this Bill was known by the people of this Colony, it would be just as repulsive to them as the Coercion Bill was to the people of Ireland. The hon. and learned Premier had said in support of this Bill that the Rev. Dr. Howley, of the West Coast, had telegraphed the Colonial Office in favour of a similar measure. If he (C. S.) judged the Rev. Dr. Howley aright, there was no greater lover of freedom, no stronger or more persistent advocate for the rights of the people of this Colony than he, and he (C. S.) could not therefore believe that the rev. gentleman would favour such a measure as that before the Chair. If the Rev. Dr. Howley appealed to the Imperial Government two years ago to pass legislation of this nature, it was because he perceived the trouble that must accrue to his parishioners by reason of party strife in this Colony. At the time referred to, the French Shore question was unfortunately made a party question by those in opposition to the Government, and doubtless, the rev. gentleman fearing that the interests of those residing on the West Coast would be sacrificed between contending parties, expressed a willingness to accept what he believed to be the lesser evil, namely, Imperial legislation. As another argument in favour of this Coercion Bill so-called, it had been hinted by the hon. and learned Premier that the Imperial Government is likely to guarantee a loan of ten millions of dollars for this Colony if the Bill is passed by this House. It was perfectly correct that one of the despatches tabled stated that the guarantee of loan was

to be contingent upon the passing of this Bill, and hence it partook of the nature of a bribe. Now, if this was to be the price of our liberty, let it go? He would repeat that if this loan was to be the price of the liberty of our people, the liberty to live upon their own soil, to fish within their own waters, to mine and till that which was theirs by a birthright, let it go? He would never support the Bill upon such conditions, and he felt sure the House would not. In conclusion, he trusted that he had demonstrated to the satisfaction of the House, first, that there was no obligation resting upon the members of the House to pass that or any permanent Bill; secondly, that the delegation which the House had sent to England had not undertaken to recommend the Bill before the Chair; and, thirdly, that if the majority of the delegates had to have reported in favour of the Bill before the Chair, the House could not possibly have approved the same. The next question which presented itself was, what course should the House adopt in reference to the matter? There is upon our Statute Book a temporary Bill to enable Her Majesty's Government to carry out their Treaty obligations with France. That Act will expire next year. In order to afford ample time to Her Majesty's Government to negotiate for the evacuation of the Treaty Coast by the French—for nothing short of this would ever satisfy the people of this Colony—he would move a resolution pledging the Legislature to re-enact that temporary Bill for a further period of two years from the date of its expiry. He believed that if the bounty question was kept distinct from the Treaty Shore question, our difficulties were capable of solution. They had not been kept distinct. The question of French bounties was a great national military question, for the French looked upon the Bank fishery as a nursery for her Navy, and it was absurd, therefore, to suppose that we could ever coerce her to remove or reduce her bounties. But, if we were prepared to treat upon fair terms in regard to the Treaty Shore, he felt certain the present difficulties were capable of solution. The present Bait Act was at the bottom of the whole trouble. He appreciated, and would endeavour to lead others to believe, that a pacific and conciliatory feeling towards the Imperial Government is the duty of the House and of the country, but it was not our only duty. We owe a duty to ourselves and to our native land. Surely there was no man so abject as to think that Imperial courtesy required him to hush up the grievances under which his countrymen were labouring, or to stifle his convictions respecting this matter. Let us pause and consider before we place a yoke upon our own necks and those of our countrymen—a yoke which, if voluntarily assumed, we could not consistently protest against later on. Let us further appeal to the sympathy and honour of the Imperial Government and great British public, to lessen, if it be not possible wholly to remove, the evils which threaten us. This he felt was the desire of the people of the country, and it would be well to remember that in proportion as we meet the wishes of the people and attain those ends, we shall be true to the spirit of the great maxim of constitutional government, that the voice of the people is the voice of God. He begged to move the following resolutions in amendment to the motion before the Chair:—

Whereas the Legislature of this Colony did on the 6th day of March 1891 appoint five of its members as a delegation to proceed to England to lay before the British Parliament and people the reasons of this Colony for opposing the legislation brought forward by the Imperial Government in reference to the French Treaties question:

And whereas it was resolved by this Legislature that when a majority of the said delegates should agree to any basis of arrangement and settlement, the said delegation should recommend it to the Legislature, and that each member of the delegation should be bound by the decision of a majority:

And whereas a difference of opinion has arisen between the said delegates, and the Legislature has had a majority and minority report presented for its consideration:

And whereas the Bill now before the House does not provide for the payment by Great Britain of compensation due to persons who may suffer by the enforcement of the Treaties, the *modus vivendi*, and the arbitration award, provision for which compensation was insisted on by the Marquis of Salisbury when speaking in the House of Lords on the 29th day of May 1891, to be a condition precedent to the enactment of any permanent Act by this Legislature:

And whereas the Bill now before the House is not acceptable to this House in other respects:

And whereas the Legislature did, on the 30th day of May last, pass a temporary Bill to enable Her Majesty's Government to carry into effect engagements with France respecting fisheries in Newfoundland during the period of negotiations for the settlement of difficulties concerning the Treaty shore:

And whereas it is provided that the said Act shall continue in force only until the end of 1893, and no longer:

And whereas the said negotiations may occupy a longer period than at first anticipated :

Be it resolved,—That this House undertakes to extend the operation of the Act entitled, “An Act for the purpose of carrying into effect engagements with France respecting fisheries in Newfoundland,” for a further period of two years from the expiration thereof, so as to afford time for fuller negotiations.

Be it also resolved,—That the further consideration of the French Treaties question be referred to a joint Select Committee of both Houses, with a view to aiding Her Majesty’s Government in procuring a satisfactory solution of all existing difficulties.

Hon. the Premier.—As the hour was late, nearly midnight, and the debate promised to be a protracted one, he thought it would suit the convenience of the House to adjourn the debate till to-morrow. He therefore moved that the consideration of the notices on the order paper be deferred, and that the House adjourn till to-morrow at 4 p.m.

The House adjourned till to-morrow (Friday) at 4 p.m.

Friday, May 13,

The House opened at 4 o’clock.

DEBATE ON THE FRENCH TREATIES BILL.

Mr. Greene.—It was so late last night when he rose to second the amendment of the hon. Colonial Secretary that he gladly complied with the Premier’s request for an adjournment of the debate. He was at liberty now to discuss the subject at greater length, though he intended to be brief; for he was persuaded that each and every member had made up his mind as to his course of action, and that no argument which he could put forward would affect the vote. He would be, therefore, contented with placing himself on record, and stating his reason for opposing the Bill. At the outset he would say that he could not agree with the Colonial Secretary when he stated that the agitation of ’89 threw difficulties in the way of a settlement of the French Shore question; for he (Mr. G.) was convinced that it was the means of accomplishing a great deal of good. It aroused an interest in the question, and it created a feeling all over Great Britain and the Empire which did not exist before. There was not a newspaper nor public man but advocated our cause and created a public sentiment strongly favourable to the Colony. So marked was the state of the public mind that, had outside pressure been brought to bear upon the Lords and Commons, the question would have been decided in our favour at that juncture. When the delegation of ’91 went over to England they found the way paved for them. The public mind had been instructed in our case, and all the leading men of Great Britain had been conversant with our grievances through the medium of the pamphlet published by Mr. Morine, Mr. Scott, and Sir James Winter. No part of the question was presented by the delegation of ’91 that had not been made known by the delegation of ’90 and all that was left for the latter to do was to accentuate the pronouncements of those who preceded them. With those prefatory remarks he would address himself to the immediate subject before the House. The Bill before them, it was stated, was the result of propositions in correspondence, consented to by each member of the deputation; but it was difficult to see how far the correspondence bore out that contention. The Colonial Secretary asked, was this a Bill which would be acceptable to the people of this Colony? But whether it was the result of the unanimous opinion of the delegation or not, he (Mr. G.) would ask himself whether it was one that commended itself to his judgment and sense of right? In answer to this question he would say unhesitatingly that it was a Bill of such a character as he could never give his assent to. Any person who voted against the temporary measure should vote against a permanent one, and though hon. members of this House, and some people outside of it, may differ from him, he could claim one thing, namely, consistency of action throughout all discussion and debate in this Legislature, upon the question of the French Shore. He had to thank the hon. Colonial Secretary for one observation which was also applicable to the hon. members, Messrs. Murray, Tait, Carty, Murphy, with regard to our opposition to the motion to rescind the resolutions of last session. The hon. Colonial Secretary was correct when he said that we opposed the motion, and also that if those resolutions had not been rescinded there would be no occasion for our presence to-day to discuss the terms of this Bill. He considered this measure was of a far more obnoxious character than any Irish Coercion Bill that had ever been introduced into the British House of Commons. He was not

going to harp back to the circumstances which led to the rescinding of those resolutions, and the passage of the temporary measure, for the hon. Colonial Secretary had shown in an able speech why those resolutions had been rescinded and why a subsequent course of action had been taken. He was under no such obligation to explain his conduct with regard to the matter. It was quite true that an appeal had been made by one of the delegates who came out here, for the passage of the temporary Bill, which appeal came from their chief, and no matter what personal views might be entertained the hon. the Premier was considered their accredited leader in Great Britain. In his opinion there were weighty considerations to influence them in voting for the Bill on that occasion. There was no such allegiance due from him, as he had acted individually and according to his rights. For the information of the delegates he would say that he was not present in this House when the resolutions against the temporary measure were passed. It had been said, and even telegraphed, about him, that he was one of the two hon. members who were most active in having the resolutions passed, but he was not in St. John's at the time of the discussion, nor was he here when the resolutions were adopted. He arrived here the day after the telegrams had been received and action taken by this House to rescind the resolutions, but he endorsed most heartily what had been done in his absence. The terms and tone of the resolutions, no matter what may be thought of them now, were well warranted at the time, owing to the condition of affairs that then existed. He endorsed the statement of the hon. Colonial Secretary when he said that when the delegation were about to leave Newfoundland, so far as this Legislature was concerned, they were to go direct to the British public and not to the Imperial Government, to agitate to the best of their ability in order to prevent the passage of the permanent Bill. He remembered during the debate hon. members opposite objecting to the delegation going, and saying that their mission would be fruitless. One hon. member who was present in this House now had said that the delegation would accomplish no more than what had been done in the past, and one of the delegates answered him by saying that was no argument, because their efforts had been directed chiefly to the Colonial Office or to the Imperial Government, while this delegation would appeal to the people of Great Britain. He was not now going to find fault or to say that everything opposite had been done to that which was intended, for he believed that when the delegates found themselves in England confronted with the permanent Bill, the only course open to them was to provide for the passage of a temporary one. He would say that now, in the light of the correspondence and other information received during the present year, no such information was given when we passed the resolutions or committed ourselves to them. The correspondence which had taken place between the delegates and the Imperial Government pointed to the fact that after the passage of the temporary measure the terms of the permanent Bill would be discussed. He considered the position taken by the hon. Premier with reference to his remaining in London with the Hon. Mr. Harvey was a sound one. No matter what business brought the other delegates home it was the duty of those who remained behind to negotiate with respect to the details of the permanent Bill. If any details or matters had been left unfinished by his Honour the Speaker, Messrs. Morine and Monroe, he contended that it was clearly within the province of the others to alter any matters of form in the Bill without affecting the substance. But we find in the measure before the House that it is not according to the lines agreed upon and is in direct opposition to the wish of the majority of the delegation who have signed the report. In view of the importance of this subject and of the responsibility which the delegates were under to this House, we should never have had conflicting reports laid on the table of this House. We should never have had a minority report, for the delegates, by the agreement which they had entered into amongst themselves, were bound to stand or fall by the report of the majority of that body. The delegation consisted of five, three being against the Bill and two in favour of it, and now it was left for us to say how far we were prepared to accept it. He submitted that this was a Bill of such a character which we, as representatives of the people of Newfoundland, should not be called upon to discuss; it was obnoxious in the extreme, and intended to make us colonists do the dirty work of the Imperial Government. It was intended once and for all to settle the French Shore question beyond all dispute. We had been agitating for the last half century for a settlement of this question; delegates had gone to England and Canada with a view to having it arranged, but their efforts were without success. If hon. members now want the French Shore question settled once and for all, let them vote for this Bill, for they would then never hear anything more about it, or any complaints made concerning the condition of affairs that would exist on the French Shore. France, by this Bill,

would obtain all she wants, and England would get out of her international difficulty at the expense of Newfoundland. We were told that when we came into possession of this Island, that it was subject to certain Treaty rights by a foreign nation, and if we were content to remain here, we must accept those Treaties in their entirety, and that we had no right or reason to complain. We had a right and a reason to complain. We had a right to appeal to the Imperial Government, day by day and week by week, to rid us of a burden which was too oppressive for us to bear, but we could never again ask the people of Great Britain to help us out of our difficulties if we once put the sign manual and seal on our actions by passing this measure. What would then be our position with regard to our fellow colonists, and could we ever go again to the people of the Dominion and ask them to help us? Could we go to the Legislature of Prince Edward's Island and obtain resolutions in support of our rights and in approval of our agitations? Could we go to the various Chambers of Commerce in the Provinces and ask their assistance, as we did a short time ago? Could we obtain from them testimonials in approval of our actions, if we went back on our position and had ourselves passed the very act of coercion which we had asked them to assist us in inducing the Imperial Government to discontinue? Most decidedly we could not. If, then, the Imperial Government wished this Bill to be passed, in God's name, let them do it themselves, but he would be no party to committing an act of suicide. If the chains were to be fastened upon us, let John Bull be the blacksmith. We had no hope of having those Treaties abrogated if we passed this law ourselves, and our only chance was to look forward in the hope of some modification being made which would be advantageous to this Colony. He had no hesitation in saying that a grave doubt existed on his mind whether the Imperial Government would take upon themselves the responsibility of passing a permanent measure. In looking over the debates of the House of Lords and Commons, and judging from the expression of opinion given by hon. members on this question, he very much doubted if the Bill would have been pressed to its final stage by the British Parliament, even if we had not sent them word that we had passed the temporary Act. A year has passed since then, and Great Britain was now on the eve of a general election, with diplomatic complications surrounding her on all sides, and those who were ruling over her destinies had sufficient to occupy their minds without endeavouring to pass a coercive measure affecting the Treaty Shore of this Island. He would go further, and say that Great Britain would not pass this measure, and if she would decide upon that course of action, let her do so, but we would still have our ground for agitation. In view of the fact that the suggestion of the delegates had been accepted, and a temporary Bill enacted by this Legislature was sufficient to show that Great Britain was satisfied with what we had done. She was contented with having the power of carrying out the *modus vivendi*, for she had made no attempt to proceed with the question of arbitration, and he doubted very much if, after a permanent measure was passed, the matter of arbitration would ever be finally settled beyond the portion of it relating to the lobster question, which was a *sine qua non*. We were told that, under this Bill, our fishermen would have the right of appeal to the Privy Council. If one of our men had his traps and other gear confiscated to the value of, say, 100*l.*, which was probably all he had in the world, how could he possibly appeal to such a tribunal without any means or assistance? It was simply a bitter farce to make provision for those poor toilers of the sea to appeal to the Privy Council, even if they could afford it or would live long enough to see the termination of the suit. The expenses of an appeal to the Privy Council would be so heavy that it would take more than the value of half the floating fishing craft to defray the cost, and if it were possible to increase the irony contained in that provision, it was the fact that before an aggrieved fisherman could appeal he would be obliged to give security. In what manner could this unfortunate man give the necessary security when all that he possessed in the world had been taken from him? If he were even allowed the use of his craft on giving security, with the provision that he would surrender it if the appeal went against him, there might be some justice in the section; but when the craft would be sold and the fine collected he would be reduced to a helpless condition. Even if he had made an appeal and after years of waiting his vessel and other gear that had been confiscated were returned, what could be given to that man to compensate him for the loss he had sustained? The first section of the Bill provided that a judicial commission would be appointed to carry out the terms of the Treaties, which Commission would, no doubt, be composed of gentlemen of standing and legal ability in Great Britain; consequently we would not be allowed to have a voice in the adjudication of matters appertaining to our territorial rights. Surely, when we were granted a charter which gave us the

establishment of a Supreme Court having civil and criminal jurisdiction all over the Island, we ought to be considered competent to deal with questions that might arise in the carrying out of those French Shore Treaties. But should disputes arise in the future involving the interpretation of those Treaties, our Supreme Court was not considered competent to adjudicate upon them, but two gentlemen from Downing Street were to be sent here to administer justice. Was there ever anything more insulting to our Supreme Court, and was it to be considered so narrow-minded and lost to all sense of honour that it could not be entrusted with the interpretation of those Treaties? Could not a judge be found in this country capable of deciding those questions, and was there not to be found amongst us a man above suspicion, and possessed of sufficient legal ability to adjudicate upon and settle any disputes that may arise in the carrying out of England's obligations to France? He was safe in saying that those gentlemen who would be sent out would not be lenient with the fishermen of this Colony, but would come here imbued with Imperial and French views, and interpret the Treaties accordingly. They would be thoroughly versed in reading the Treaties according to the light given to them by the authorities in Downing Street, and would have no compunctions in acting in a tyrannical manner towards our people. He could not be a party to the passing of this Bill, nor was he going to wade through its sections one by one. His course of action had been consistent all through, and he still believed if this measure had to be passed our proper course was to let Great Britain herself do it. In bringing his remarks to a close, he would say that he had been thinking of some befitting words to place upon record. He had been asking himself what words would best convey to this House and the people of Newfoundland his objections to the passing of this Bill. He had turned over in his mind everything he had read, with the hope of discovering a sentiment that would express his views. He had at last found that language; he had found words befitting the occasion used by the hon. the Premier at the Bar of the House of Lords, which ran as follows: "If our fellow colonists must submit to coercion it must be the coercion of a power they cannot control, and not to that of a Legislature every member of which is deeply sensible of the oppressive character of the measure which Her Majesty's Government now appears to regard as indispensable."

Mr. Morison.—The House was now called upon to face a most important question, and it spoke well for the sentiment of hon. members present, that amongst all the speakers who had preceded him, not one had as yet seconded the motion that the Bill be read a second time. He had hoped that some other members of the Executive would have spoken on this matter, and he had waited to give them a chance, but as none of them seemed inclined to do so, he (Mr. M.) would now proceed to give his views on the matter. He was sorry that he was not present last evening whilst the hon. the Premier was speaking, but with the knowledge gained from a glance through the correspondence submitted to the House and the details of the Bill itself, he felt he was justified in opposing it to the utmost. The only reason which he (Mr. M.) believed the Premier could assign for introducing the Bill was that both the Premier and the Hon. Mr. Harvey had promised and had pledged themselves to the Imperial Government to pass the Bill, and they were now trying to do the best they could to redeem that promise. The reason assigned by the Premier, to the effect that the honour of the country was pledged to pass the Bill, he (Mr. M.) believed was not a valid one, and, if there was any reflection on anyone's honour, it was on that of the Premier, who, with his co-delegate, Hon. Mr. Harvey, promised of themselves to have this Bill passed. In 1890 the Premier had information in his possession on this subject, but he did not produce it in the House until a despatch was received at the "Athenæum," announcing the *modus vivendi*. Shortly after that, when protests were pouring in from every part of the country, the hon. Colonial Secretary had said that our agitation would irritate the French without effecting any purpose. He (Mr. M.) thought, however, that a good effect had been the outcome of the agitation; for if we had remained silent we would not be in the excellent position which we were to-day. To return to the Premier—that hon. gentleman had stated that the honour of the country was involved in the passing of this Bill; but the correspondence did not bear out that contention. Beside, even if we had to accept a Bill, we were, at least, not bound to do so unless it was introduced here by the wish of the majority of the delegates. The majority had reported on a Bill which was likely to be acceptable to this country, but after they had left for home the Premier and Mr. Harvey made so many concessions that the majority report and the present Bill bore no resemblance whatever. If there was any promise made to pass this Bill, it was made by the Premier and Hon. Mr. Harvey alone, and on them alone should fall the responsibility. In the letter to Hon. M. Monroe, dated June 6, 1891, the date of the last official act of the delegates, the principle of the Bill, to which all the

delegates agreed, was stated, but that principle was not in any way like that which was contained in the present one. It was important in this connexion to note what concessions the Imperial Government were willing to give this country on the 29th of May, at which date they did not exact anything like what was asked by the Bill under discussion. It must be borne in mind that the temporary Bill would not expire until the end of 1893, and therefore there was no necessity to bring in a Bill at all on the subject this year. The Premier had said that it was necessary to pass the Bill this year, yet Lord Knutsford had stated, in effect, that it was not necessary to do so, as the temporary Act would be in force until the end of 1893. It was scarcely necessary for him to refer to the suffering which had been entailed on our people by the action of the Naval officers on the French Shore. The records of the House in the journal would show their conduct. It could not be denied that the British officers had not extended justice in the true sense of the word to the people on the French Shore, and this was one of the greatest arguments in favour of the establishment of a tribunal the same as the Supreme Court. If such a tribunal were established, then all concerned would get even-handed justice ; that was all the people wanted ; the men wanted the right to fish quietly and not to be disturbed every day by the French on the smallest possible pretence. He (Mr. M.) knew of one harbour in which the French had not fished for 16 years nor the Newfoundland fishermen either, yet while a number of Newfoundland schooners were fishing there a year or two ago the French came in and drove them out by the order of one of their men-of-war. It was very rough at the time and the Newfoundland schooners had to beat about in the Straits of Belle Isle all night at the risk of losing both schooners and lives. And this was what some persons would call justice. To some extent he blamed the Newfoundland fishermen for the present condition of affairs, for they were too quiet and law-abiding, thus permitting the French to impose upon them. If all of them followed the example of Joe Aylward, a stalwart fisherman of Knight's Cove, Bonavista Bay, the French Shore question would have been settled long ere this. Joe was quietly fishing in one of the harbours on the French Shore, when he was boarded by a French crew with intent of destroying his gear and taking his boat. The Newfoundlander was practically alone, while there was a boat-load of Frenchmen. But he had faced larger odds than this, and the man who could beat his skiff single-handed in a north-west breeze up Knight's Cove Bight, with her lee gunwale in the water was not to be deprived of his boat and fishing gear by a handful of Frenchmen. He waited until (to use an expression of the "tented field") he saw the whites of their eyes, and then arming himself with his "spread" he felled ten of them. The Frenchmen recognised that they had tackled the wrong man, and as soon as they had recovered themselves, they pulled away from the spot with might and main. Every day during the season, there were fishermen disturbed on the slightest pretext possible, and this was what would be called British fair play and British law. Where was the remedy for this state of affairs? First, in the appointment of judges like those of the circuit court, whose decisions the Newfoundland fishermen could accept without a suspicion of bias. Second, an appeal, if necessary, from these judges to the Supreme Court of the Island, and further, if necessary, to the Privy Council of England. Third, the fishermen should have the right to make complaint if they considered themselves aggrieved. Under the present Bill not only was there no appeal to the Supreme Court but the fisherman had no right to take action at all, however much he might have reason to do so. This law has no precedent on the British or Colonial Statute Books. The Naval officer can make a complaint, and if the fisherman be found guilty by the Commissioners, fines can be imposed, the man's property confiscated, even though he had in the meantime appealed to the Privy Council.

What was wanted on the coast was an independent tribunal which could sit during the fishing season, and whose judges could not be removed without sufficient cause. It had been stated that, if this Bill were not passed, the old Act of George the Third would be re-enacted. If England wants to do so she has might on her side, and can do it herself ; but never let it be done without a protest from Newfoundland, who will never willingly accept an additional link in her chain. If we accepted the present Bill, farewell to all hope of settlement of the French Shore question for the next 25 years. If we asked the Imperial Government to free us of these French Shore claims, the reply would be, "You passed a Bill in your Legislature settling the question practically, and we will "leave matters remain as they are at present." Yes ; it was only by continued protest against the existence of the entire French claims that the question would ever be satisfactorily settled. The Premier had hinted, amongst other things, that if we passed this Bill we would be given a loan of ten million dollars by Great Britain. This was the golden bait thrown out to dazzle our eyes and cajole us into an unguarded acquiescence ;

but it would be well to look at this matter from a proper standpoint before committing ourselves. In the first place, we may never get the money at all, for no definite promise had been given to that effect; and if we did get it, with the debt we had already got to shoulder, the end would be bankruptcy or confederation. While he (Mr. M.) was a believer in confederation, he did not believe that the people should be driven into it by underhand means. The getting of this ten million dollars loan, even if the Bill were passed, was contingent on the report of commissioners sent out here to examine our soil, mineral prospects, &c.; but when it would be found that we already had a debt of from five to six millions, the prospects for the extra loan would be very small indeed. If this Bill passed, there would, of course, be considerable pickings for some hon. gentlemen in connexion with the lobster arbitration; but if hon. members on the other side could not see through this, they had not astuteness for which he would give them credit. It was right, perhaps, from the standpoint of hon. members who expected to gain something by the passing of the Bill to strenuously support the Bill, but in doing so they were advancing their own interest and ignoring that of the public. Every man, on the other hand, who viewed the matter from a purely public and national standpoint, would vote against the Bill. He believed that the British Government were under the impression that the Government party in Newfoundland were pledged to carry the Bill, through, and he was led to this conclusion by the debates in the British House of Commons during the early part of the session. In answer to a question asked by somebody in the House of Commons on the 10th of February last, in connexion with Newfoundland affairs, a responsible Minister of the British Government stated that a permanent Act had been agreed to between the Newfoundland and British Governments, and only awaited the opening of the Colonial Legislature to be passed. This showed that some person—whether the Hon. Mr. Harvey or Sir William Whiteway he could not say—had given the British Government to understand that the Government party here were prepared to pass the Bill; but he was glad to find that such was not the case, and that hon. members on the other side of the House were prepared to come out manfully, as the hon. Colonial Secretary had done, and record their opposition to this iniquitous legislation. He believed the fate of the second reading of the Bill was sealed; that the motion of the hon. Colonial Secretary would be carried, and when the question came to a vote he would record his vote in favour of the hon. gentleman's motion.

Mr. Webber.—Although the subject now before the Chair was not new either to the House or the country, the actions of some hon. members would give the impression that it was now before us for the first time. He was not surprised to see those hon. members adopt the same tactics which they adopted last year, when they wanted to go across the water on a delegation to England. At that time they made a hue and cry on this question, and quickly floated a delegation on the wave of popular excitement which their own tactics had created. Was this the proper way to deal with an important question like the one before us? He thought not. Last year, when this matter came up, he stood up in his place in the House and pointed out the utter inutility of sending men to Great Britain to prevent what every unprejudiced person knew would be upheld, namely, the enforcement of the Treaties with France; but great things were to be accomplished, and he and those who sided with him had to give way to the majority. And the very same persons who were then clamouring for a delegation are now shouting about "Coercion," "Native Rights," &c., in order to arouse popular discontent with the Bill before us, and thus induce hon. members to vote against it. And why? Because the Bill before us provided for the enforcement of the Treaties, upon which point the Parliament and public of Britain are a unit; and because this Bill is based upon the proposals of the delegates themselves, who wisely admitted the necessity of enforcing the Treaties, but who asked to be allowed to provide the necessary legislation for that purpose. Could any position be more ridiculous or inconsistent? It had been argued that when the delegates left here last year it was understood that they went to lay our case before the public and Parliament of Great Britain, and he must say there was good reason for that statement. When he (Mr. W.) got up and pointed out to the House that in the light of recent experience it was useless to send delegates to the British Government on the French Shore question, one hon. member who subsequently went on the delegation replied to him by saying that if they were to simply go to the British Government, they would not ask the House to send them, but that they were going to appeal to the British public and Parliament and thus bring pressure to bear upon the British Government in the interest of this Colony. When he heard this statement he took it for what it was worth; he knew hon. members were determined to have a delegation, and every effort should be made to overcome the objections to it. What did they find when the delegates reached England? They found

that the delegates went first to the Liberal party instead of to the Government; they went to those who were doing all they could to oust the Government of the day, and he did not think that any member of the delegation would deny that the leader of the Liberal party refused to treat with them at all, unless, as a precedent condition, they promised to provide effective legislation on the enforcement of Treaties. The delegates, acting upon the advice of their friends and sympathisers, approached the British Government on the matter, and we are all familiar with what took place. The Bill before Parliament was stayed. The delegates had been censured for acting as they did while in England. He (Mr. W.) heartily endorsed the conduct of the delegates, believing that they had done the best they could under the circumstances, and that any other course would have only resulted in covering themselves and the Colony with ignominy. They went to the British Government, and from them to Parliament, and what did they ask for? He would first take up the petition to the Imperial Parliament adopted here by the Legislature on April the 3rd. In speaking of the Bill before the Imperial Parliament they said:—

“This Act (Geo. IV.) embodied provisions of an oppressive and arbitrary character, wholly repugnant to those principles of liberty and justice which are said to be the basis of modern British legislation. They conferred upon the officers of Her Majesty’s ships engaged in the fisheries protective service, who were entrusted with the settlement of Treaty disputes, powers of summary adjudication independent of all the restrictions and safeguards which British law has devised for the defence of the inherent rights of British subjects. Those powers extended to most severe penal inflictions, and were beyond appeal. (He never could find out what those penal inflictions were.) And when it was remembered that they were exercised by persons unacquainted with legal procedure, and whose peculiar training and habits of thought and action dictated unquestioning submission to their decrees, it must be manifest that excessive hardships and injustice were the frequent and inevitable results.”

The burden of the petition was the extensive powers exercised by naval officers, and it was to get over this trouble and bring about a better state of affairs that the delegates went to England. On April the 2nd the delegates addressed Lord Knutsford in these words:—

“First. (a.) The Newfoundland Legislature to pass immediately an Act authorising the execution, for this year, of the *modus vivendi*, the award of the Arbitration Commission regarding the lobster question, and the Treaties and Declarations under instructions from Her Majesty in Council; (b.) The further progress of the Bill before Parliament to be deferred until the passing of the above Act, and the Bill then to be withdrawn; (c.) The terms of an Act to empower courts and provide for regulations to enforce the Treaties and Declarations to be discussed and arranged with the delegates now in this city as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.”

On Monday, May the 1st, the delegates said:—

“If the Bill now before the Lords be not further proceeded with, and if Her Majesty’s Government admit the principle of a measure for the creation of courts to adjudicate upon complaints arising in the course of the enforcement of the Treaties and Declarations relative to French Treaty rights, and engage to discuss and arrange with us as soon as possible the terms of a Bill embodying that principle, we will with all possible speed procure the enactment by the Colonial Legislature of a measure giving power to Her Majesty in Council during the current year to enforce, in the same manner as heretofore, her rules and regulations for the observance of the *modus vivendi*, the award of the arbitration, and the Treaties and Declarations with France; which temporary Act the Colonial Legislature will replace by a permanent measure for securing the enforcement of the Treaties under the orders of the special courts referred to above.”

It would be seen from the foregoing that the delegates did ask for *special courts*, and that was one of the things which the Bill provided for.

Mr. Morine.—The special courts asked for by the delegates had no connexion with those in the Bill.

Mr. Webber.—His contention was that they had, and he would show the hon. gentleman how. By the promises he had just quoted the delegates led the Imperial Parliament to believe that they intended to fulfil the conditions laid down, and this was the reason the Bill was defeated in the House of Commons. This Colony was pledged, through her delegates, to the British Parliament to pass the Bill before the House, and it would be a very serious matter for the Legislature to break faith with the Imperial

Parliament. He would now quote what one of the Colony's great friends, and one who took a deep interest in the delegates, said on the subject. Lord Kimberley says:—

"I should suppose that by special courts the delegates mean *special Imperial* courts, which would act independently of the ordinary courts of the Colony."

It was clear that Lord Kimberley inferred that the delegates asked for special courts, and the whole burden of the address showed that what the Colony objected to was the enforcing of the Treaties by naval officers, which was considered an outrage on British subjects, and not compatible with British justice. Those who supported the cause of Newfoundland both in the House of Lords and the House of Commons were under the impression that the delegates had asked for special courts, and they could come to no other conclusion from the correspondence of the delegates. He supported the position taken by the hon. the Premier. The Premier had been charged with a breach of faith in bringing in this Bill, but he would like to see some proof in support of that charge, and he thought the resolution passed last year before the delegates left for England was sufficient answer to the charge. It ran thus:—

"Resolved,—That when a majority of the delegates agree to any basis of arrangement, the delegation shall recommend it to the Legislature; and that each member of the delegation shall be bound by the decision of a majority of the Legislature, and pledged to use his best efforts to procure adoption afterwards by the Legislature of any arrangement made by the delegation."

Was there anything in that resolution to prevent the Premier from bringing in the Bill? It did not say bound by a majority of the delegates, but by a majority of the Legislature, and the hon. Premier was perfectly justified in bringing in the Bill, for he was one of the men who remained in England to do the work he was sent to do, and if the other gentlemen had followed the example of Sir William Whiteway and Hon. Mr. Harvey a different state of affairs would exist to-day.

Mr. Morine.—You are misquoting the resolution. It says "a majority of the delegation" not Legislature.

Mr. Webber was quoting from the authentic journals of the House, and if the hon. gentleman went to the manuscript copy of the same he would also find the words "a majority of the Legislature." The delegates held their authority according to the credentials given them by this House, and there was no breach of faith in the Premier's bringing this measure before the House for its refusal or acceptance. Some hon. members seemed to be making a great deal of noise about nothing. They all admitted that the Treaties should be carried out, and he submitted that it made very little difference how they were carried out, for what the Colony wanted was to get clear of the Treaties altogether. By passing this Bill we would not delay their abrogation 24 hours, for though we might have 50 laws on the Statute Book to enforce them, when the time came for doing away with them the British Government would do so.

The Colony asked to be allowed to pass a permanent Act, because she was jealous of her rights, and wished to retain the power of legislating, and not have the British Parliament legislating over our heads, and, therefore, it mattered very little how or by whom the Treaties were carried out so long as the rights of the Legislature were preserved. While the Treaties existed they would work hardship to the country by preventing the opening up of the mineral and agricultural lands on that coast; but while they were there they would have to be carried out. He had heard a great many complaints about the court provided for under the Bill. It was going to be a terrible affair, as bad as the naval officers; but he would just refer to page 12 of the correspondence as another proof of what the delegates asked for.

"Heretofore," they say, "the orders, regulations, and instructions of Her Majesty in Council for securing the observance of the Treaties and Declarations with France have been carried into effect by naval officers, who have apprehended, judged, and punished our fellow-colonists, combining, in fact, the functions of policemen, judges, and juries, and no right either of appeal or redress has been possessed by those who may have considered themselves aggrieved."

That was the great objection, not only because they were Naval Officers, but because they occupied the position of constable, judge, and jury, contrary to all principles of British law and justice.

"We do not desire to cast any imputations upon the Naval Officers, many of whom have proven true friends of the Colony, but the very nature of their duties and powers has made hardship inevitable. We propose that they should now be relieved of a portion of their functions."

Did not the Bill before the House do that? How in the name of goodness were they going to hold a court on the Treaty Coast if they had not men to apprehend offenders

and bring them before the judges? Were they going to have a staff of local police, as they had on the bait protection service, and if so, was the Colony able to afford it? The delegates went on to say:—

“ They may continue to patrol the Treaty Coasts, and may *apprehend* those against whom complaint is made for infringement of fishing rights; but in all cases the decision upon such complaints should be given by a qualified judicial officer, appointed for the purpose, who would hear the evidence in each case and decide summarily, and whose decision the Naval Officers could carry into effect.”

That was just what the Bill before the House provided for, special courts presided over by judicial officers, and he had shown that during the debate in the House of Lords, while they were all strongly in favour of continuing the present system, they at the same time agreed to the propositions of the delegates with regard to the establishing of special judicial courts. Was it not plain then, to every unbiased mind that, what the delegates asked for was contained in the Bill? The hon. the Premier and the Hon. Mr. Harvey, who remained in England last year and had the details of this Bill worked out, were authorised and justified in doing so, and their opinions should carry great weight with this House. Some hon. members opposed the temporary Bill last year, because they said it was going to cause an insurrection on the French Shore, and they were going to have arrests and trials down there every day, but he had heard nothing of it after, and he ventured to say that, if they passed this Bill the people most affected by it would give very little trouble. They ought to have sufficient faith in the Home Government to be convinced that they would act wisely in their selection of the men to be sent out here as judges or commissioners, and he could see very little reason for abusing the naval officers, who had always shown great tact and discretion in the discharge of their duties. For his part he would just as soon see men appointed by the British Government to discharge those judicial functions, as to see them appointed for political purposes by the local government. They had officials enough in the Colony already, and the taxpayers would rather that Great Britain should provide for the enforcement of those Treaties than that the burden of it should rest on them. Besides, if hon. members would just look at the blunders and mistakes committed every day by some of those appointed to perform judicial duties here, they would see that there was more danger to be apprehended from the appointment of local than of Imperial judges. Look at the decision given a few days ago in one of our courts in the case of those steamers which sailed before the time, and ask if a more absurd judgment than that would likely be given by any judges appointed by the Imperial authorities, or that the people on the French Shore would suffer if Great Britain appointed officers to carry out the Treaties there. Such a contention was pure rubbish and moonshine. Last night the hon. member for Bonavista, Mr. Morine, had held out great hopes of the good things that were going to accrue to the Colony when the Gladstonian Government came into power, as a reason why we should defer the Bill. This was truly a happy thought. Now, in the first place he (Mr. W.) had great doubts as to whether the Gladstone Party were coming into power or not at the next elections, as the Salisbury Government had a good record at home and abroad. But even if they did, he would like to know how our prospects would be improved by such a change. He would ask the House to consider what men in the British Parliament were stronger in maintaining that the Treaties should be strictly enforced than the Liberal Party. But, says the hon. gentleman, the Radical wing of the Gladstonian Party would force that party into taking some action towards settling the Treaty question. If the hon. gentleman meant by the “Radical wing” the Home Rule Party, upon whom Mr. Gladstone will have to depend in a large measure for support, he would just refer him to the conduct of that party last year when our case came before the British House of Commons. Where were the members of the Home Rule Party at that critical period? They were conspicuous by their absence from the House. He would ask if those were the men who were going to force Mr. Gladstone into doing great things for Newfoundland? Whatever hope the Colony had of obtaining a settlement of the question, it was in the Salisbury Government and not from Mr. Gladstone, who had enough to occupy him for the remainder of his natural life in perfecting his Home Rule Bill, without thinking about Newfoundland. No doubt both he and party would be glad if the whole matter was shelved before they came into power. He supported this Bill, because he did not believe it would have been brought in here by Sir William Whiteway and the Hon. Mr. Harvey unless there was some necessity for it, and that it was calculated to benefit the Colony, in which both these hon. gentlemen were so deeply interested. What man had done more to bring about a better state of things on the French Shore than the hon. the Premier, or whose

opinions on this matter were more entitled to respect? There was not a man in the country to-day who from long experience in connexion with this question had more knowledge of it than the Premier. The Hon. Mr. Harvey was one of the foremost, if not the foremost merchant of Newfoundland, and therefore he would take his opinion before that of many others. Could it be supposed that Mr. Harvey, with so much at stake in the Colony, would support a measure that was going to work injuriously against its interests? He (Mr. W.) did not think such a thing likely. But that hon. gentleman knew the position in which the Colony was placed abroad; that she was pledged to pass this measure, and he was not prepared to sacrifice the honour of the Colony for political purposes. Therefore, when a matter like this came before the Legislature, supported by those two members of the delegation who remained in England to do what they were sent to do, while the others did not, their opinions ought to be taken in preference to any others. He admitted that the hon. member, Mr. Morine, had been sent here by the delegates, but the other two gentlemen should have remained till some satisfactory arrangement was arrived at, and not have allowed their private interests to take them away from the public duties they were sent to perform. There was no need for him to say any more on this subject. He did not imagine that any words of his were going to influence the vote of hon. members, but felt it his duty to give expression to his opinion on this matter, and do his best to maintain the honour and integrity of the Colony by supporting the second reading of the Bill before the House. Its adoption could not in any way injure the Colony, or delay for 24 hours the abrogation of those Treaties, which now worked so much hardship to our people. While, on the contrary, he thought its rejection might affect us injuriously for years to come. He seconded the second reading of the Bill.

Mr. Shea felt it his duty on such an important matter to offer some remarks before he gave his vote. It was certainly the most important matter that had come before the Legislature the present session. When the subject was discussed last year he with other hon. members strove to support the action of the delegates who were sent to England, and who asked the Legislature to take a certain course which appeared, on the face of it, to be very repugnant, but as it seemed to be the unanimous wish of the delegates, the House was guided by their decision and adopted the course they had suggested. He considered that he would only be adopting a consistent course now by following out what he did then, in adopting the views of a majority of the delegates. He would therefore offer his opposition to the second reading of the Bill, because that course seemed to be the wish of a majority of those who had gone on the delegation. They had two reports before them, one signed by two members of the delegation, and the other by three, and if the Legislature was to be bound by the action of either portion, he should certainly say they were bound to adopt the course recommended by the majority. He did not say for a moment that the Legislature was bound in any way by the action of the delegates, but he contended that, if they were to take the views of any portion of that delegation, they should take the views of the majority, and as the majority reported adverse to the second reading of the Bill, he would, in order to preserve a consistent position, have to vote against the second reading. From all he could learn, whether from the remarks of Lord Kimberley and Lord Herschell on the one side, or Lord Knutsford on the other, there was no question in his mind but that the Bill was an obnoxious one to the people of this country and Great Britain. There could be no doubt that if it came into operation it would bear harshly on the fishermen of this Colony, particularly on that portion of them who carried on the fishery on the so-called French Shore. If such legislation was to be enacted, let the Imperial Government who framed the Bill pass it, and let the burden rest on their shoulders. He was not here to pass any measure unless he saw it was going to benefit the labouring classes and fishermen of the country, and he failed to see anything in the remarks offered in favour of the Bill, that it was going to be a benefit to the country, and such being the case he should give his opposition to it. What were they going to gain if they passed this measure? Had any hon. member pointed out a single benefit that was going to accrue to the Colony from such an enactment? We were told that it was going to allay the irritation that existed between the French and British Governments, but he would ask, why should the Colony of Newfoundland step in to allay the irritation between them? As far as he could see that was in reality all the good it was going to do, and as he remarked before, if the British Government wanted this Act passed let them do it themselves, but do not let this Colony step in the breach and have it thrown in her face that she passed such a measure of coercion against her own people. He did not believe in all the clap-trap he heard about no coercion, but he would say that this Bill was obnoxious on the face of it, and though he had only glanced through it, everything he saw there implied a protection of French interests. He was not running away with the

idea that the French had not as much rights on certain parts of the coast as we had, but he was not going to act a part with the British Government to make it easier for the French to carry out their Treaty rights. The British Government had sent out ships year after year to protect the rights of this country forsooth, but in reality to protect the rights of the French. He remembered a few years ago to have heard a commander of one of Her Majesty's ships say that after one year on the coast he felt ashamed to come here again. We all know that when trouble arose on the French Shore, in nine cases out of ten the decisions were against our people. The French interpreted the Treaties in their own light and were not afraid to act up to it, while the English finessed the question, and now the Colony was asked to make this finessing easier by passing the Bill before them. The Premier, in the course of his remarks yesterday, would lead them to suppose that if the Bill were not passed it would be a breach of faith on the part of the Legislature, but he failed to see how any argument adduced by the hon. gentleman could convince the House of the correctness of that position. As a matter of fact the Imperial Government had done nothing since last year on the promises made by the delegates, and matters were in the same position now as they were twelve months ago. Again, there was nothing before the House to show that the Imperial Government was asking them to adopt this measure. The temporary Act would not expire before the end of 1893, and why, in the name of common sense, were we going to rush this measure through and close the doors against ourselves before there was any necessity for it? There was no necessity for any haste in this matter, and he supposed if the measure passed into law no one would be more surprised than the Imperial Government, because the temporary Bill would hold good to the end of 1893. Towards the close of his remarks the Premier referred to the loan of 2,000,000*l.* provided by the Imperial Government, but he should say that he did not see the connexion of a loan with the settlement of the French Shore question. He would not say that the hon. gentleman held it out as a bribe. So far as he, Mr. S., was concerned, he hoped that this loan would never be given to the Colony, because it was the most humiliating offer that could be made. At the end of this year a commission would come out here, and if the financial condition of the Colony was found to be satisfactory, the loan might be taken up. Then the Imperial Government would send out persons to disburse it in such manner as they deemed fitting, which was positive proof of the opinion they had of the people of the Colony. He could only repeat what he said before, if this measure was to be enacted, let it pass into law by the Imperial Government who sent it out, but let Newfoundland step outside of the matter, for she had nothing to gain and everything to lose by the adoption of such a measure. He did not think it necessary to detain the time of the House, but he considered it his duty to express an opinion on this important matter, a duty which he owed, not alone to his constituents, but to the people of the whole country. He considered that he would be recreant in his duty if he did not take up a position in the interests and welfare of the general community, and whether this position was a right or wrong one, he was prepared to take the consequences. He hoped that when the time arrived for voting for the second reading of this measure the good sense of the House would see the necessity of forcing the responsibility and onus on the shoulders of the Imperial Government. Let the responsibility of passing this measure rest with the Imperial Government and with them alone.

Mr. Murray.—So much had already been said on this matter that he felt it was not incumbent on him to view it historically, nor go back to the time when those Treaties were first entered into between England and France. Every hon. gentleman in this House was aware of the position he had assumed with regard to this question since the very beginning. When the matter was first mooted he had stood up against the organisation of a delegation proceeding across the water to interview the British Parliament concerning the Coercion Bill. He had resisted the passage of the temporary Bill by voting against it, and, as the hon. member, Mr. Greene, had said, it was not likely that any one who had voted against that Act would consent to the passage of a permanent one. He had no wish to enter upon the merits of this Bill, but would refer to the actions of the delegates who had been appointed to proceed to Great Britain. When the delegates asked this House to pass the temporary Bill we, in deference to their wishes, agreed to accept it, although he considered that such a position was the first mistaken step. That temporary Act was now on the Statute Book and would be the law of the land until the end of 1893. We had heard nothing more about this question until we received the final report which was signed by the majority of the delegation and who recommended us not to adopt further legislation this session. As a legislator, he maintained that he had no option but to abide by the recommendation of the delegates as contained in their report. If we were bound to carry

out their wishes we were also bound to accept their recommendations, and the same rule that made it binding upon us to pass a temporary Bill was equally binding upon us to reject this permanent one. We all remembered the circumstances under which the delegation was appointed, how the debates were stifled, and hon. members refused to be allowed the privilege of making their sentiments known to the outside public. The instructions of those delegates were drawn in a very hurried manner, and they seemed to be imbued with a desire of getting out of the Colony as quickly as possible, which resulted in the fact that they had virtually received no instructions at all, but were allowed to do just as they pleased. We ought to have sat down at the time, and in the calmest manner, deliberated upon and formulated such instructions that the delegates would be confined within the four walls of their commission. In the year 1836 the late Mr. Nugent left this Colony to go across the water as the first delegate, and he returned within 12 months, and stated that he had settled the French Shore question. It was as far now from being settled as it was then, and the question was simply one that had been advantageously used by our local politicians to suit their own purposes. The hon. the Premier had said that this was not a party question, and he (Mr. M.) would like very much to know why it had not assumed that aspect. It seemed that this Government since they came into power had never assumed the responsibility of bringing in any party question, but had always treated every important matter like the present one. Would the people of Newfoundland allow their Government to say with regard to this important question that they disclaimed all responsibility, and would they allow the Premier to introduce it as a private member of his party? It was well known that the Government were divided on the matter, one half of them seeming to be in favour of, and the other half rife in their opposition. He knew what was meant by the option to allow each member to vote independently. It was simply that each might retain his position, and all hold on to office. Was that a principle of British Parliamentary Government on such a crucial question? Instead of meeting issues squarely they shirked, dodged, and evaded every important question of policy raised here; and there was not a single occasion when they rose to the courage of their convictions. This was a party question, and it was one on which the people of Newfoundland should know how their Government stood. We have given the delegates a charter to go over the water and settle this French Shore question, but they returned leaving it more unsettled than ever. They should have said to the English Government, You should settle this question; it was not for us to interfere as between England and France. Sir William Whiteway was correct when he asserted here that the British Government would carry out their Treaty obligations at all hazards; and his words had been abundantly verified. When the delegates arrived in London, and laid their case before Parliament, they found that its members, friends and foes alike in politics, were united as one in the determination to carry out the Treaties. The Irish, Radical, Liberal, and Conservative parties were all united in their estimate of the good faith in which Treaties should be kept. What would become of us if we were to repudiate our agreements? But as this Bill conflicted with the interests of the Colony, our first duty was to refuse to accept it; and as it devolved on the British Government to carry out their Treaties, let the British Government, if there was anything objectionable in these Treaties, carry them out; for we were only their tenants. By adopting this course we could enter court with clean hands. He must say that he could not give his assent to the resolutions of the Hon. Colonial Secretary which proposed to extend the temporary Act for another two years. It should not be extended for a single day, and it was a mistake to have extended its operation till 1893. He also objected to the Colonial Secretary's resolutions, because they asked us to refer this subject to a joint select committee of both Houses. He wished to see the question buried beyond all hope of resurrection, for we have had enough of worry and expense on account of it, since the closing of Mr. Baird's factory by the captain of the "Emerald." For these reasons he could not agree to the Colonial Secretary's resolutions. He omitted to mention, concerning the Bill, that it would not only maintain the present status, but the court to be appointed under it would make matters worse than they were before. It provides that, "When an officer shall think it necessary to take action to enforce the Treaties, and maintain peace and good order, he shall bring the matter before the Judicial Commission Court, and before taking any action obtain a judgment of the court, directing such action." Sub-section 2 states that, "A Naval officer shall have power, with a view to any proceeding in the Imperial Commission Court, to take and bring before the court any person, or vessel, or boat, or any tackle, equipment, or nets, and for that purpose, and for the purpose of the execution of any judgment of the court, shall have the authority and be entitled to the immunities given by law to any sheriff, bailiff, tipstaff, constable, or officer executing a warrant or judgment of the

“ Supreme Court, or Stipendiary Magistrate.” This section actually leaves all to the discretion of Naval officers, and was in this respect the most infamous Act he had heard of since he knew anything of political life. To legalise such conduct was impossible.

That an officer might take the person, nets, and equipments of any fishermen and treat them in the arbitrary and summary manner set forth in this Bill, without being responsible, was a piece of outrageous legislation to which he would not submit. This Bill would not make the position of affairs better than they were previously. At present we could trust to the blunt sense of justice of British officers; but now we had imported into the French Shore difficulty that child of the devil, “the educated lawyer,” who was to be sent out here for the express purpose of carrying out his instructions, like the agent of a supplying house was sent to carry out the orders of his masters. There was no appeal from that court; they were bound hand and foot, and in the power of the worst possible tribunal, composed of Naval officers on the one hand and the imported lawyer on the other. Without wishing to detain the House any further, he would submit the following resolutions for the consideration of hon. members:—

“Whereas a delegation was appointed by this Legislature at its last session to visit Great Britain and represent the views and interests of this Colony in relation to the settlement of the so-called ‘French Shore’ question:

“And whereas an agreement was entered into with the delegation by the Legislature at the time it was constituted, under the terms of which agreement the Legislature bound itself to confirm and give effect to the recommendation of a majority of the delegation:

“And whereas in terms of that agreement and in accordance with the recommendation of the delegation, a temporary Bill to provide for carrying into effect Her Majesty’s engagements with France was accepted and passed by this Legislature and is now in force:

“And whereas the operation of that Bill will not expire until the end of the year 1893:

“And whereas another and permanent Bill of the same nature and effect has since been presented to this House and urged upon its acceptance, the second reading of which Bill is now proposed:

“And whereas a majority of the delegation has reported against the acceptance of this permanent Bill:

“Therefore resolved,—That, as our acceptance of this Bill would be a violation of our agreement with our delegates in relation to this matter, and as no necessity exists for the enactment of another measure by this House at present to give efficacy to the Acts of Her Majesty for carrying out her Treaty engagements with France, this House would be recreant to its duty in the interests of Newfoundland to pass the permanent Bill now before us, and that said Bill be read a second time this day six months.”

Mr. Murphy.—On behalf of 15,000 of his fellow countrymen resident on the so-called French Shore, he would enter his protest against the principle of coercion which was sought by this Act as a yoke to be placed around their necks. On behalf of 4,000 other Newfoundlanders who went down upon the Treaty Coast in the early spring fishery in search of cod, he would enter his solemn protest. For no man in public life in this Colony had he a higher respect than he had for the worthy Premier, who sat at the head of the dominant party in this House, but he could not, and would not, vote with him for what he considered a misfortune to our people and a disgrace to our Legislature. He would do the hon. Premier the justice of stating here, on the floor of this House, what he (the hon. Premier) had told him when the Bait Act was first introduced into this House. For, in conversation with him, the hon. Premier had pointed out all that had transpired since that Act had found a place upon the Statute Book of the Colony. In looking back now he felt that he must have been gifted with almost prophetic fire. All that he then stated had since been realised. We had our troubles on the French Shore. We had our troubles in Fortune Bay. The Colony was now having its trouble with Canada, and, worse than all, with the Mother Government in Great Britain. He would do the hon. Premier the further justice of stating that, while the other three delegates had been inconsistent on this question of permanent legislation upon the Treaty Coast, that he and Hon. Mr. Harvey had been consistent. When the hon. member, Mr. Morine, came out as a delegate from the four others at London, he, Mr. Murphy, demonstrated from the correspondence between Lord Knutsford and our delegates, the representatives of the Colony had committed themselves to a permanent Act. He was the only member who voted against the second reading of the Bill introduced to this House by Mr. Morine. But five or six members, out of a House of

thirty-six, had endorsed the position then taken by him when the doors were closed in privilege from the general public, while he knew that a majority were here to-night prepared to vote against coercion. But the public were admitted to-night, and would be able to learn through the reports of what had transpired in the House. He did far more vehemently declaim against and denounce the temporary Bill of last year than he would the permanent Act of this. The reason of such a course would be manifest to all who knew the slightest upon this French Shore question, that the famous Labouchere Despatch of 1857 was the charter of our liberties. Under that famous despatch it was provided that the Imperial Government would do nothing so far as the Newfoundland fisheries were involved without the local Legislature having been first consulted. That despatch was the sheet anchor of our Island. It was the *magna charta* of our liberties and rights, and the delegates whom we sent to Westminster abandoned all the ripe fruit of years of struggle when they consented to the temporary Coercion Act of last year. This House, when with closed doors it slavishly consented to the passing of the said Act, was travelling in the same lunar orbit. Mr. Speaker, he would claim the right of freedom of speech in this his native Legislature. If the British Government on the question of free trade with the United States would side with the stronger Canada and [against?] the weaker Newfoundland; if the British Government would still continue to restrict us in the control of our bait fishes; if the British Government would maintain the rights of French fishermen as against British and Newfoundland fishermen; if the British Government had felt tired of this Colony and would dare pass coercion upon our people, then the quicker the Union Jack was pulled down and the Stars and Stripes ran up in its place then the better for the people of this downtrodden Colony! What, pass this Bill and deny 20,000 of his fellow-countrymen the right of subsistence in their native land? He would never do it. Deny those men who live on the rocks of Newfoundland from taking those fishes which God Himself had sent to their very doorsteps! It would be committing an outrage—a sin against humanity. He remembered when Sir Frederic Carter and the present Premier obtained, in 1878–9, the right of representation, the administration of laws, and the settlement of land upon the Treaty Coast. They deserved their meed of praise for this successful advocacy, and the Bait Act had since occasioned a serious disturbance of those valuable privileges as well as being the source of many other misfortunes to our Island. If he were living on that Treaty Coast, having hungry children at home, and a French or English Naval officer dared to take his net from the water, then such an officer should have a wrestle with him for his life. Would it not be as well to take from him his life as to rob him of his bread? In some wild hour it shall and must be learned how much the wretched and hungry may dare! Thank Heaven, when 70,000,000 of a free-born democracy on this side of the Atlantic would [not?] allow a man to be shot down for the maintenance of his God-given rights, and in defence of his family! He would vote against Hon. Mr. Bond's amendments, as they were simply procrastinating—playing—with a measure which, in his judgment, should be dealt with at once. In conclusion he would support Mr. Murray's motion, that the Bill be read this day six months.

Mr. Thompson.—The Bill before the House at the present time was a very important one, and one on which every member who intended to vote should give his reasons for so doing. He had been partly in favour of the delegation going across last year on this French Shore question. He might say in explanation to some remarks made last evening by the hon. Colonial Secretary that the actions taken by some hon. members in voting for the temporary Bill were self-explanatory. Owing to the position we were placed in at the time by the delegates who were on the other side of the water, there was nothing left for us to do but to adopt the course of action that we had taken on that occasion. If we now pass this measure we would never have any redress for our grievances, and although Treaties exist between the Imperial Government and France which should be recognised, he did not think that we were called upon to pass a measure for their observance. If it was necessary that such Treaties should be carried out, the Imperial Government should pass that measure, which she had now sent out for acceptance by this Legislature. He did not see any reason why we should place the yoke upon our own necks, for in a matter like this the responsibility should rest on the right shoulders. It was well known that fishermen visiting the French Shore year by year did not enjoy a concurrent right of fishery with the French fishermen, and the British will take good care that those Treaties would be interpreted in favour of the subjects of France. From his own personal observation and from the authority of others, he knew that many of our fishermen who had gone down on the French Shore during the past few years had found several harbours unoccupied by Frenchmen, and being allowed to pursue their avocations undisturbed they had reaped a bountiful fishery. Matters would be entirely

different if this Act now before the House was placed on the Statute Book with a view to enforcing the Treaty obligations between England and France, for then additional hardship would accrue to the people of Newfoundland. He believed that if this Act was made law our people would not enjoy a concurrent right of fishery upon that coast, because the Treaties would be interpreted according to the views of the French, who were under the impression that the people of this Colony had no right to fish in the waters of the French Shore. The provisions of this Bill appeared to be very arbitrary, and as a native of this Colony he was not disposed to cast his vote in favour of such a measure. If the Imperial Government wanted their dirty work done, by all means let them do it themselves, and if those Treaties had to be observed let the British Government pass a Bill for that purpose. When this Legislature sanctioned the sending of a delegation for the purpose of inducing the British Government to withdraw the coercive measure then before the House of Lords, it was not contemplated that they would bring back a measure of the same nature for this Legislature to place on the Statute Book of this Colony. The idea was for the delegates to protest against that measure and to use their best endeavours to have the objectionable parts removed from it. The Bill that was before the House of Lords did not appear to be more objectionable than the present one; consequently he was not in a position to support it, but would vote for the amendment of the hon. Colonial Secretary. He did not think that anything could be lost by delaying the passage of this measure, for it could not be foreseen what may turn up before the expiry of the temporary Act. In view of these facts he considered it prudent to postpone the passage of this measure until some future time.

Mr. Woodford.—He agreed with the gentleman who had just sat down that this was a very important question, and it was incumbent on every hon. member who intended to vote to express an opinion one way or the other. He considered that a duty rested upon him to give an opinion of what he thought of the Bill now before the House. When the matter was engaging the attention of the Legislature last year, he was one of three or four who had taken an independent stand upon the matter, and at that time he expressed an opinion that it would be a useless expense to send a delegation across the water for the purpose of trying to bring about a more favourable condition of affairs. He was told on that occasion that he did not know what he was speaking about; that he was not acquainted with the Act of George III. That may have been the case, but in his opinion there were very few hon. members in this House, with the exception of the legal gentlemen, who were well up in the provisions of that particular statute. He was told that under that statute our fishermen would be slung up to the yardarm if they violated the terms of the Treaty, and that it was absolutely necessary for us to send a delegation to protest against its re-enactment. Since this discussion had taken place hon. members have asserted that the present Bill was even worse than the Statute of George III.; and if this was the case, why were we called upon to pass it, or consider it for one moment? He could not conceive the necessity for bringing such a Bill here which would be detrimental to the interest of the Colony, and which, if enacted, would place us in a worse position than heretofore. He would support the amendment introduced by the hon. member, Mr. Murray, because he considered if the matter were deferred until next year, it would mean another delegation to England. Notwithstanding the cost to the Colony and the futility of such a mission still it would be advocated, and then in all probability some gentleman upon it would be looking for a title in England instead of endeavouring to secure the object for which the delegation was sent. He thought we should exonerate the hon. Premier from any blame for having gone on the delegation, because no man in this House had less faith in the result than that hon. gentleman. He knew that for a fact and that the hon. Premier had been forced into it by the wish of the House. At that time the olive branch of peace had been held out by Mr. Morine, who contended that this should not be a party question, but that delegates should be appointed representing all shades of politics in this country. We accordingly appointed the delegates on those lines, and instructed them to appeal to the British people, and to use every influence to prevent that statute from being re-enacted. He could not, therefore, conceive why we should be asked to pass a measure ourselves which was far more obnoxious in its provisions than the one against which the delegates were sent to protest. This matter had been well ventilated by some of the ablest debaters in this House, but it was one on which every hon. member ought to express an opinion. This was not a mere trifling matter, but one which involved national complications, and as far as we were concerned it was a question as to whether or not we were going to give up our birthplace [birthright?]. He would like to read to the House one or two clauses of the correspondence—(here hon. member read the same). This would mean that if this Bill passed, the French nation would certainly demand that every Newfoundland fisherman

be drawn off the French Shore during the fishing season, and that every building should be removed. It had always been our contention since we were granted Responsible Government that we had a concurrent right of fishery on the French Shore, but if we passed this Bill it would mean the giving up a right which we had always maintained belonged to us. For the reasons that he had given he would vote against this Bill, and support the amendment of the hon. member, Mr. Murray.

Hon. Surveyor General.—He was sorry he could not agree with the hon. member, Mr. Woodford, in reference to the position which he had taken upon this question. He could not agree with him that it was our duty to support the amendment of the hon. member, Mr. Murray, on the ground that we would be getting rid of this question once and for ever. He thought that that would not follow by any means, and by the adoption of that amendment we would be left in no better position than we were at present, or before we made any pronouncement upon the Bill now before the Chair. It was a correct thing to say that every hon. member in the House should be prepared to give his reasons for voting, and with this end in view he rose for the purpose of explaining to the House his attitude towards this momentous question. It was not to be expected that hon. members who were not given to speaking very much could deal with a question of this sort in a manner it deserved, and he trusted that allowance would be made for him if he did not set forth his views as fully and effectively as he would like to do. He was not present when the delegates were absent on their mission, and when the correspondence was going on between them and the Legislature, being laid up with *la grippe*. When, however, he found out what had taken place, he had heartily endorsed the action of the Legislature. It was not now necessary for him to refer to the history of the delegation, for that was already fully recited and well known. After reading the correspondence and hearing the various speeches of hon. members, he had arrived at the conclusion that the delegates had no authority to conclude permanent arrangements without first submitting the same to this Legislature, and also that they had no power to recommend any legislation except by a majority vote of their body. These two positions had been fully proved by the speakers who had preceded him in this debate. It appeared to him that there were two questions which we were called upon to consider here to-night; the first one being whether any legislation whatever was necessary at the present time on this French Shore question. And the second: whether this permanent Bill now before the House embodies such legislation as would be for the future interests of this country? With regard to the latter, he would agree with those who have contended that it does not, and it was quite unnecessary for him to refer to the weighty reasons that have been adduced in support of this contention, and which are fresh in the memories of hon. members who have to record their votes on this question. In reply to the first question as to whether any legislation was necessary at the present time, he would say no. The *modus vivendi* now in operation would not expire until the end of 1893, and no interests could materially suffer in the meantime, and there was no reason why that arrangement could not be extended indefinitely, pending further negotiations for a final settlement. In his (S.-G.'s) opinion, we should endeavour to secure, through the Imperial Government, either the withdrawal of the French from the Treaty Shore altogether, or the definition, by arbitration or otherwise, of the respective rights of both nations under the Treaties. No satisfactory permanent Bill would be possible without such a definition as a basis. This he believed to be the kernel of the whole question. What would be the benefit of a court or judges, unless they were in a position to give a judicial decision? What would be the use of appointing either judges or commissioners if the Treaty laws were capable of as many translations as the opinions of the individuals who would be called upon to carry out the law? Under the Treaties, as at present, it would be just as well to have Naval officers carry out the law as judges or commissioners, if they had to abide by the instructions of the British Government. He thought that there was no necessity to carry the Bill this session, we had nothing to lose by postponing it and possibly something to gain. In the present condition of affairs in Europe changes may be made any day by which France would be willing to exchange her rights on the Newfoundland coast for territory elsewhere. Events might transpire that would induce an arbitration by which at least the rights of both parties would be defined. To pass a permanent Act, therefore, by which we would be bound to a defined course of action, and put ourselves in a position from which we could not withdraw, would, in his opinion, be suicidal. Besides, if we passed the Bill now, it would be equivalent to placing the yoke on our own shoulders. There was, he thought, a good deal of force in the remark that if even it were this country's fate to enter the Dominion of Canada, the chances for good terms would be considerably minimised by the fact of the Colony's bearing a self-imposed French Shore yoke. It would naturally be said

that the arrangement was of our own choosing, and we would have no one to blame but ourselves. If this Bill were not passed, and we did enter confederation, which some of us may hope to be far in the future, our own protest, joined to that of Canada, would probably have the effect of relieving our French Shore trouble. Under all the circumstances he, Hon. S.-G., thought he would be only doing his duty to vote for the amendment. He regretted exceedingly that he had to vote against the Premier, for whom he entertained the highest possible respect, and he respected him all the more that he had not made this Bill a Government measure; on the contrary, the Premier had left every member of his party free to vote as their consciences dictated, and for what they considered would conduce most to the best interests of the country.

Dr. Tait.—Before the vote was taken he desired to place upon record his views respecting the Bill now before the House. It had been stated that this was the most important measure of the session, and he agreed with that expression of opinion. His position upon the question was well understood to hon. members in the House. While some had contended that they had taken a consistent part throughout, he maintained that he had pursued the consistent course from the beginning. He might be said to occupy a unique position in this connexion, for he was about the only member in the House who opposed the thing from its very inception. When a delegation was first hinted at, he vigorously opposed such a proposal. He stood in his place in the House and to the best of his ability pointed out that no possible benefit would accrue to this Colony by sending a delegation. The cost to the country would be far in advance of any tangible benefit, and all their efforts to effect good would be futile and unavailing. His anticipations were fully realised, for it is now clear to every unprejudiced mind that the French Shore question was further off than ever from any final settlement. Nay, more, he believed that the position was worse than before, as the delegates, by their negotiations, had further complicated matters, and placed the difficulties in such a disadvantageous position as would take years of careful legislation to correct. When the proposal was first made to this Legislature to pass a temporary Bill, he (Dr. T.) had also opposed the measure, and on the 7th of May last, when the House met, and decided not to pass any Bill which would coerce in any way the people of this country, he both spoke and voted with the majority. And, again, three days after, when the House rescinded that decision and nearly all hon. members had changed their minds upon this matter, he, with four or five others, again had spoken and voted against it. The explanation why hon. members had changed their minds in such a short space of time was owing to certain telegrams which had been received from the delegates to the effect that a temporary measure must be passed, and in the event of that passing no permanent measure would be asked for from the Legislature. He still held the same opinions respecting this Coercion Bill, and he believed that if it were passed by the House it would prove a spectre ever rising up before the mind—a condemnation in the eyes of all patriotic Newfoundlanders, and they would regret the day it had ever been placed upon the Statute Book of the country.

Although he was not a native of the Colony, yet he had lived here for many years, and felt in duty bound to stand up for what he considered the rights of the people of the country. Some hon. members had regretted the position assumed by hon. the Premier in this matter, but he, Dr. Tait, admired him for the stand he had taken. He, hon. Premier, had deemed it his duty to introduce this Bill, but he did not make it a Government measure, thus leaving it to the private opinion of every member of his party to speak and vote as they desired. In this he had shown a liberal spirit, and he, Dr. Tait, respected him for the high ground he had taken. He had many reasons for opposing the Bill, and he would give some of them. First, he believed the delegates exceeded their duty in accepting any Bill at all, for, as he understood it, the delegates were only instructed by this House to proceed thither for the purpose of using every effort to abort the Bill then before the Imperial Parliament, and not, as they did, take steps at once towards negotiating a new measure. Second, it was understood that the delegates, besides conferring with the British Government, were to have gone to the Press and the people of Great Britain, and endeavoured to enlist their sympathies in the cause of Newfoundland. On the contrary, what did the delegates do after being a few days in England? They immediately proceeded to negotiate a Bill which was completely outside their province. Up to that time everything seemed to have worked harmoniously between the delegates, and it was only while the details of a permanent Bill were discussed, which none of the delegates had power from this Legislature to negotiate, that they began to differ. The hon. the Premier thinks that the courts referred to in the correspondence are the same as the Judicial Commission Courts which are to be appointed by Great Britain, while the majority of the delegates believe that these courts

should be constituted by this country—by resident judges of the country. This was the most important point in connexion with the Bill, and therein lay the stumbling block between the two sections of the delegates. No person denies the existence of the Treaties, or that the laws in connexion therewith should be carried out by some properly constituted authority; but it made a great deal of difference to the people of this country as to whether this authority should be composed of men appointed by this Colony or by Great Britain. These were some of the reasons why he felt bound to continue in the course he had never departed from, and why he would vote against the Bill. The delegates tell us that it was necessary to pass a temporary Act for one year, so as to give time for the details of the permanent Act to be worked out. They further tell us that it would “be necessary to agree upon the terms of that permanent legislation before we leave the city, and extremely desirable to come to an agreement as speedily as to make it possible to enact the measure in the local Legislature before the present session concludes, so that it should come into force at the beginning of next year. We represent all parties in the Legislature, and therefore a Bill agreed upon by and with us will be more satisfactory to the Colony, and be more likely to obtain acceptance than a measure arranged at any other time and with any other persons.” That was what the delegates asked for—that the “details of the Bill should be arranged as soon as possible so as to receive the approval of this Legislature that session”; but that was not done. Another proposal of the delegates was:—

“That compensation will be given to those persons, if any, whose property may be disturbed by the award of the arbitration,” and there was a telegram laid on the table of the House last year promising compensation, which was strongly instrumental in changing the minds of hon. members towards passing the temporary Act at that time. When the Legislature was asked to pass a temporary Act last session, some hon. members refused to do so, because it was repulsive to them, as there was a permanent Act to follow. But when a telegram was received from the delegates saying that there was no danger, that they would not be asked to pass a permanent measure, as all the British Government required was the adoption by us of a temporary Bill for one year only, then the party gave way, and the assent of this Legislature was given upon these considerations. Compensation also was promised to all those persons whose property might be disturbed by the award of the arbitration, but there was no such principle found in the Bill now before the House. Then the letter of the delegates went on as follows:—

“Her Majesty’s Government have already recognised the principle of recompensing the owners of lobster factories, by ordering the appointment of a commission to investigate into their losses under the original *modus vivendi*; and the same principle would, of course, be applicable to those who suffered as the result of the present *modus vivendi* or of the award. The recognition of the principle in the latter case would be very acceptable in the Colony.”

Twice in the same letter reference had been made to this compensation business, and the Legislature was led to believe that such a principle would be embodied in the permanent Act, but it was not. He had shown as clearly as he could that as soon as the delegates arrived in London they commenced to negotiate the terms of an Act providing for the establishment of courts to carry into effect the Treaty regulations, but those were to be local and not Imperial courts as were provided for in this Bill. These courts asked for by the delegates were to be presided over by local, not Imperial judges, and the meanest subject living on the Treaty coast who considered himself aggrieved could bring the matter before the highest tribunal in the Island—the Supreme Court of Newfoundland—and had also the privilege of appealing to the Privy Council, but there was no such provision in this Bill. There were other harsh clauses in the Bill that it would take him too long to refer to. He would now say a few words about the Treaties themselves. When the Treaty of Versailles was concluded in 1783, it confirmed the previous Treaties regarding Newfoundland, and to a slight extent altered the coast line by exchanging one portion for another, and to that Treaty was attached the solemn Declarations of the Kings of England and France. The Treaty of Paris was signed in 1814, which placed affairs between England and France in the same condition as they had been in 1792, but the Coercion Act that had been in force previous to the Act of George IV. was lost sight of. He referred to the Act of 1788, and he would call the attention of the House to it, as it was the first Coercion Act ever passed against the Colony. It was not the Act that the delegates went to protest against last year. It ran thus:—

Section J.—“It shall be lawful for His Majesty, his heirs and successors, by advice of Council from time to time to give such orders and instructions to the Governor of

“ Newfoundland, or to any officer or officers on that station, as he or they shall deem proper and necessary to fulfil the purposes of the definitive Treaty and Declaration aforesaid; and if it shall be necessary to that end, to give orders and instructions to the Governor, or other officer or officers, to remove, or cause to be removed, any stages, flakes, train vats, or other works whatever, for the purpose of carrying on the fishery, erected by His Majesty’s subjects on that part of the coast of Newfoundland which lies between Cape St. John passing to the north, and descending by the western coast of the said Island to the place called Cape Rage, and also all ships, vessels, and boats belonging to His Majesty’s subjects which shall be found within the limits aforesaid; and also, in case of refusal to depart from within the limits aforesaid, to compel any of His Majesty’s subjects to depart from thence, any law, custom, or usage to the contrary notwithstanding.”

That Act was passed in the year 1788, five years after the Treaty of Versailles, and was the first coercion measure ever placed against the Colony. It was a strange thing that for a great number of years—75, he believed—before that time, it had not been found necessary to have any Act to carry out the Treaties, because the English and French lived at peace with each other, and it was only when quarrels arose that the British Government had to enact this measure to provide for the enforcing of the Treaty regulations. He would now call attention to the Act, George IV., or Coercion Act, so-called, the second of its kind, and which was passed in 1824. Hon. members would find that it followed very closely the first Coercion Act of 1788, and ran as follows:—

“ It shall and may be lawful for His Majesty, his heirs and successors, by advice of his or their Council, from time to time to give such orders and instructions to the Governor of Newfoundland, or to any officer or officers on that station, as he or they shall deem proper or necessary to fulfil the purposes of any Treaty or Treaties now in force between His Majesty and any foreign State or Power; and *in case it shall be necessary* to that end, to give orders and instructions to the Governor or other officer or officers aforesaid, to remove or cause to be removed any stages, flakes, &c.”

The Act did not say that “ *it shall be necessary* ” but “ *in case it shall be necessary,* ” they were to cause to be removed all stages, flakes, &c.; and the most thing they could do in the case of a refusal was to fine the person offending 50*l.* sterling, while in the first Coercion Act the fine was 200*l.* With few exceptions the two Acts he had mentioned were almost identical—the latter but slightly more stringent than the former. Now the British Government wished to place a third Coercion Act against Newfoundland which was worse than either of the other two, and it would seem that the further they legislated in this direction the more severe they became, so that in a short time the people would be legislated and coerced out of the country altogether. The first and second Acts said, “ *if it was necessary,* the Governor or other officer or officers shall have power to do certain things, and also make provision for enabling the people on the Treaty Shore to have the case tried before the Supreme Court of Newfoundland, with the right of appeal to the Privy Council afterwards ”; but this third Coercion Act said, That these judicial officers might order the thing to be done, might say, lay hold of that fellow, bring him before the Judicial Court, fine him, confiscate his vessel and other fishing apparatus, punish him by imprisonment, and, in fact, do what they liked with the unfortunate fisherman. And if the arbitration on the lobster question was adverse to us, the Judicial Commissioners might prohibit the taking or canning of any lobsters on the French Shore. That provision was not in the other two Acts, but it was in this one, showing that it was the worst of the three. The lobster canning industry must be stopped, and Mr. Baird, who was in the House to-night, must not establish any more factories on that coast, or he would be subject to fine, imprisonment, and confiscation of his gear. Bad as the 1788 Act was, bad as the 1824 Act was, there was some show of fair play, and a certain amount of British justice in them; but he found no British justice in this Act, and nothing but the quintessence of coercion, and all applied against our own people, and were hon. members of this House going to cast their votes in favour of such an Act? Never! As he had said before, he had taken a consistent view of this question from the very first, and if he spoke warmly it was because his feelings were strong upon the matter, and he was not afraid to express his sentiments, nor did he believe that any hon. member of the House would find fault with him for so doing. The hon. the Premier had, in the largeness of his mind, not made it a Government question, and therefore he, Dr. T., felt it his duty to express his views before the matter went to a vote. He had much pleasure in supporting the amendment of the hon. the Colonial Secretary.

Mr. Whiteley.—After the very powerful and lucid speech of the hon. and learned Doctor, it would be needless for him to enter into any lengthy explanation of the circumstances which induced the British Government to ask the Legislature to pass the Bill before him. They were asked to pass the second reading of “a Bill to provide for carrying into effect Her Majesty’s engagements with France.” What had Newfoundland got to do with Her Majesty’s engagements with France, and why should this House be called on to pass a Bill to carry out those engagements? It was true that Newfoundland sent delegates to England last year in connexion with this matter, but if she did, the Legislature guarded themselves well, and he did not think that there was ever a delegation left the country with instructions more explicit and binding than those of the French Shore delegation last year. What were those instructions? They amounted to this, “Take no step in the matter without reporting to this House; for nothing you may do will be of any value without the assent of this Legislature.” Those were the conditions on which the delegates went to England, and not many days passed after the arrival there before the Legislature was called on to decide whether the delegates had kept within their instructions or not, and the decision was that they had not done so; but further telegrams were received from them which threw a new light on what they had done. They were told in one of those telegrams that there was not the slightest danger in passing a temporary Act, because the British Government would never accept it, and as there was a great deal of friction on the matter the members of the Assembly were requested to hold a conference with the Upper House. They attended that conference, and were provided with seats in the Upper Chamber, but were informed that they were to keep their mouths shut and take no part in the discussion which ensued. They sat there during the conference, returned to this Chamber and still stood firm in their resolution not to do what the delegates asked, until other circumstances subsequently induced them to do as the delegates recommended, and pass the temporary Act.

But now they were called upon to pass the second reading of a permanent Act to carry out the Treaty arrangements on the French Shore. It was a well-known fact that those Treaties had existed for a long time, but had hon. members of this House looked up the records and considered how long they were in existence, and what wonderful changes had taken place in the world since those Treaties were concluded? Look at the changes that had taken place in France herself since those Treaties were made! When they were made France was under the control of an absolute monarchy, and since that time there had been two revolutions, two empires, three republics, and several constitutional monarchies. England stood in the same position as to Government that she did 130 years ago; but our English laws of to-day were not the same as they were when those Treaties were made. Many changes had taken place, Reform Bills passed, and a number of abuses swept away in Great Britain since then, but Newfoundland must stand by those absolute Treaties, no matter what happened, and hon. members had been told during the course of this debate that settlers came to this Island with the full knowledge that the Treaties existed, and if, knowing this, they chose to settle down here, they would only have to take the consequences. He would remind the House that if settlers came here they followed the flag, and wherever the British flag was carried it brought with it the privileges of citizenship, and those that were born beneath its folds, whether in Newfoundland, Australia, or elsewhere, were just as much British subjects as if they were born in the city of London. That was what brought settlers to this Colony; they relied on the protection of the British flag, and was that to be denied them? This Bill contained one very glaring defect, and that was that there was not the slightest provision made for compensation to those persons who might suffer from the enforcement of the law. The Bill was so obnoxious that a man would require to have a greater control of the English language than he had, to pass upon it the verdict which it merited. A few Canadian fishermen go into Behring Sea, under the protection of the British flag, and come in contact with the Americans who had privileges there. The British Government say to them: “You must come out, you have no right there;” but they gave the fishermen compensation by paying them for their losses, and why, he would ask, were the people of Newfoundland to be refused compensation for what they might suffer on account of the enforcement of the Treaties or the award of the arbitration? He knew it was the fashion to pass Bills without providing compensation for those who might be injured by them. The Bait Act was an instance of this, but he hoped the House would not follow up this unjust precedent in the present case. It was not necessary for him to multiply words on this question, but he held very strong opinions with regard to it, and he had reason for so doing, for there was no hon. member in the House who had such a long connexion with the French Shore as he had. He knew

what the people prosecuting the fishery there had gone through in former days, and would say here that if such an Act as the one before the House was passed, the French Shore would soon be depopulated. He would vote against the second reading of this Bill, and, quoting the words of a great British statesman—spoken on a similar question to the one now before the Chair—“If I were a Newfoundlander born, as I am English born, I would *never, NEVER, NEVER* vote for such a Bill, while a Frenchman trod my native soil.”

The *Hon. the Premier* presumed that every hon. member who intended to speak upon the subject under discussion had now done so, and it was his privilege to reply to the objections which had been taken. In doing this he would be as concise as possible. This French Treaty question had always been a rankling sore with the people of this country; and it was quite sufficient to use the phrase “French Shore” to arouse a popular clamour. Such had been got up at this time; and it was all very smooth and pleasant for hon. members to be applauded by the gallery when they denounced what they were pleased, absurdly, to call a “Coercion” Bill. When the wind is fair, and the sea is smooth, sailing is pleasant; but it is different when the sea is rough and the wind adverse, as appeared the case with him (the Premier) at the present moment. Legislators were supposed at all times to be calm and to be guided by reason and common sense, and not to be twisted and turned by every popular cry. They were supposed to act judiciously, prudently, and with foresight, and to legislate with calm judgment for the best interests of the people. It was not pleasant for him (the Premier) to oppose this so-called popular cry, and it would be much more agreeable for him to go along with the current if he could conscientiously do so; but if he stood alone he would pursue the course he was now taking—when he knew that he was right and that they were wrong, as in this instance; and that opponents to this Bill were doing what would be found a serious injury to this country in the future, and putting upon it the stamp of dishonour and disloyalty. The first objection taken by the hon. member for Bonavista, Mr. Morine, was that the principle of this Bill was different from the principle of the Bill agreed upon when Mr. Monroe left London. Now, what were the facts? The principle of the Bill asked for by the delegates was, in their own language, as follows: they asked Her Majesty’s Government to “give assurance that the terms of a permanent Bill to be passed by the Colonial Legislature based on the principle of the establishment of courts under judges or magistrates for the adjudication of questions arising under the Treaties,” &c., should be immediately arranged with the delegates then in London. The delegates earnestly requested that this might be done “as soon as possible,” stating that they represented every shade of political opinion; and they left no doubt with the Imperial Government but that it would be passed in this Legislature; and they stated that they wanted it passed in the then session of our Legislature (1891), to be substituted by the temporary Act providing for the execution of the Treaties by the Naval Officers. The delegates wound up by saying that *they are now ready to perform their part*, and they press upon Her Majesty’s Government to perform theirs. Her Majesty’s Government accepted the proposition. Here, then, is the principle of the Bill—“the establishment of courts”—and that is the only principle which was agreed upon between Her Majesty’s Government and the delegates; and that is the principle of this Bill. Upon that principle I drafted a Bill providing for the judges of the court to be appointed by the Local Government, and for an appeal to the Supreme Court of this Colony and thence to the Privy Council, and we (the delegates) submitted and discussed that draft at three meetings on three consecutive days with Mr. Bramston and Sir Thomas Sanderson, who were appointed by Her Majesty’s Government to meet us; and if it is considered that the question of what Government was to appoint the judges, and to whom the appeal was to be made, is a principle of the Bill, then he (the Premier) would tell the hon. member, Mr. Morine, that Mr. Monroe could not truthfully assert that this was admitted before he left London; for Lord Knutsford had distinctly stated to the delegates (Mr. Monroe being present), and which Mr. Monroe had entered in his diary—and this not four hours before he left London—that Her Majesty’s Government would not consent to the appointment of judges by the Local Government. It was untrue, therefore, to allege that it had been agreed upon before Mr. Monroe left. The fact being that nothing was agreed upon before Mr. Monroe left, except the principle that a Bill for the creation of courts should be arranged and nothing else; nor, in fact, had anything been agreed upon, nor any arrangement made, nor any refusal to arrange until after the Speaker, Mr. Emerson, had left—that is the 22nd June. And he left it for the House to say whether these gentlemen had fulfilled their promise to arrange a Bill before they left London—“before they left the city”—which Bill all the delegates had said in their correspondence they could not conceive it possible would not be arranged

by them and Her Majesty's Government; and, since telegrams had been quoted, he (the Premier) would quote from a telegram sent by the delegates to Mr. Bond, May 6th, wherein they said, "We propose Imperial Government pay expenses of courts suggested." Surely, if the Imperial Government paid the judges, it could not have been supposed that the Local Government should appoint them; and it was, he (the Premier) did not doubt, taken for granted that the Imperial Government would appoint the judges. Again, Mr. Monroe, in a telegram to Mr. Morine, on the 28th of May, says, "Don't fear our agreeing permanent legislation." This was sent immediately after Her Majesty's Government had assented to the delegates' proposals for a *permanent Bill to create courts*. This telegram may be construed in two ways: One, that Mr. Monroe would certainly agree; and if this is the true construction, why did he not remain and try to agree? and the other way, that Mr. Morine need not fear but that Mr. Monroe would never agree to such legislation; and Mr. Monroe leaving without trying to agree would confirm the latter construction. It was untrue, therefore, to allege that he (the Premier) and Mr. Harvey had altered anything that had been agreed upon before Mr. Monroe and Mr. Emerson had left, because nothing had been agreed upon before they left. The fact being that he (the Premier) and Mr. Harvey had remained, pursuant to their promise; they had discharged their obligations as well to the Legislature as to Her Majesty's Government, and had procured the best Bill they could. The hon. member for Bonavista had alleged that all the delegates were bound by the action of a majority of them, and because Messrs. Monroe, Morine, and Emerson had reported against the passing of this Bill therefore he (the Premier) and Mr. Harvey were bound. He (the Premier) did not so construe the resolution, which is as follows:—

"Resolved,—That when a majority of the delegates agree to any basis of arrangement and settlement, the delegation shall recommend it to the Legislature; and that each member of the delegation shall be bound by the decision of a majority of the delegation, and pledged to use his best efforts to procure adoption afterwards by the Legislature of any arrangement made by the delegation—all of which is respectfully submitted."

Mr. Morine had left London on the 12th May, but before he had left a "basis of arrangement" had been arrived at, i.e., "a Bill for the creation of courts." This basis a majority had not recommended to the Legislature, or used their "best efforts to procure its adoption by the Legislature." The three—Messrs. Monroe, Emerson, and Morine—had done nothing of the sort. Again, was it because Mr. Monroe and Mr. Emerson had not fulfilled their promises to arrange a permanent Bill for the establishment of courts, but had gone away after making a proposal, that he (the Premier) and Mr. Harvey were to be dishonourable and come away also? If the other delegates had all left, he (the Premier) should have considered that he was bound to remain and fulfil his promise and endeavour to arrange the best Bill that he could upon the principle laid down, and to report that Bill to the House, using "his best efforts to procure its adoption;" otherwise he might justly be charged with a breach of promise to Her Majesty's Government on the one hand, and to this Legislature upon the other. After the other delegates had left, he (the Premier) and Mr. Harvey constituted the delegation; he (the Premier) had no power to compel them to remain. Again, it had been contended that the authority of the delegates only extended to their protesting against the Bill then before the British Parliament, and to propose nothing in substitution. He (the Premier) had dealt fully with this objection yesterday. It would have been an idle and idiotic proceeding for the delegates to have simply protested against that Bill, and when asked what they proposed as a substitute (for we all admitted that the Treaties must be executed in some way), to say, "we propose nothing, only don't pass that Bill." Anything more puerile could hardly be conceived; but he (the Premier) had shown that the address of the Legislature had clearly indicated what the delegates were to propose as a substitute; that is, a Bill for the establishment of courts. Then objection is taken to the name, "Judicial Commissioners." Why, the delegates had asked for the appointment of "judicial officers;" and it is provided in the Bill that the "Judicial Commissioners" shall be "judges" of the court to be created. Here we had the very designation, "judges," which hon. members had now argued should be used. It seemed to him that hon. members were feeling hard pressed to discover objections to the Bill—in fact, for something to say. They wanted to get the immediate applause from the gallery, and to do so must make a noise. Then it was asserted by the hon. member for Bonavista, Mr. Morine, and others, that "musty lawyers from Downing Street," "Downing Street hacks," "fourth and fifth-rate lawyers," and so on, would be sent out as

“Judicial Commissioners,” who would disregard the interests of the fishermen of the Colony and adjudicate according to their instructions from Downing Street. He (the Premier) had yet to learn that a British Government would appoint a British judge to carry out its orders and not administer the law, and would dismiss him if he did not carry out the behests of the Government. The judges, when appointed, discharged their duties under the sanctity of an oath; and he (the Premier) felt sorry to hear the observations which had been made by Mr. Morine. But why, if hon. members are so fearful that the judges appointed by the British Government would be partial in their decisions, are they not afraid that judges appointed by the local Government would be partial in their decisions in favour of the other side? Is it likely that the Government of England would appoint partial judges and the Government of this Colony appoint impartial men? May not the Imperial Government fairly say, “You are all so deeply interested that it would be hard to get a man impartial.” Besides, is it not an Imperial Treaty that is to be carried out? and did not all our friends in the British Parliament concur in the view that the court was to be an “Imperial Court?” He (the Premier) thought it a great concession when Lord Knutsford had said that if a third judge was needed the Colony might appoint him, subject to the approval of Her Majesty’s Government. Why did hon. members desire that the judges should be appointed by the local Government? Was it because they thought such judges would be partial in favour of the Colony?—would disregard their oath of office—a compliment, certainly, to the local bar of Newfoundland; or was it that the hon. member for Bonavista, who, he heard, was seeking admission to the bar, wanted a judgeship on the Treaty Coast; and perhaps there may be others in the same line? Then we had an objection to passing this Bill because it was stated that the question would then be settled, and we should have no cause hereafter to complain. Did we not desire it settled? He (the Premier) certainly desired harmony and peace. It was a good thing, some hon. members had said, to keep the sore open so that we may have something to grumble about. These hon. members reminded him (the Premier) of naughty little sulky boys, who wanted something, and when it is offered to them turn their faces to the wall, and, kicking the skirting board, say they won’t have it. If they wanted to grumble, why did they send delegates to London? They could have grumbled and protested and all that sort of thing, and saved all the expense of the delegation and not stultified themselves, and brought discredit upon the Colony. Then it had been argued by the hon. member for Bonavista that no person could appeal for redress to the Judicial Commissioners except through the Naval Officer. He (the Premier) must take issue with him upon this. The words of the Act were clear upon this point. Anyone aggrieved might appeal to this court; but neither the Naval Officer nor any other person could do anything in the execution of the Treaties except under previous adjudication by the court. It was stated also by some hon. member that the jurisdiction of our Supreme Court was interfered with. Why, the Bill expressly provides to the contrary, and it was urged that there should have been an intermediary appeal to the Supreme Court, where, it was said, we could be adjudged by our own law. He (the Premier) did not understand what was meant by this. What laws have we relative to these Treaties to be judged by? None that he was aware of. He (the Premier) believed that he had disposed of all the objections which had really been taken to the details of the Bill, but at this time we were only discussing, at the second reading, the principle of the Bill, and that is the principle of the *creation or establishment of a court to intervene between the Naval Officer and the subject*. This is what the delegates had prayed for and promised to sustain; and in his (the Premier’s) opinion, they and the Legislature would place themselves in a contemptible position if they did not do so. Some hon. members had talked about upholding the dignity of the Colony by not putting upon their Statute Book such an Act as this. In his (the Premier’s) opinion they would be upholding the dignity of the Colony by honourably, as loyal British subjects, co-operating with Her Majesty’s Government to fulfil honourable engagements, and not shirking their responsibility. In one breath they were claiming—as possessing Constitutional Government—the right to legislate in this matter and promising to do so, and immediately afterwards, in the next breath, repudiating those promises and telling the British Government to legislate. The hon. member for Bonavista, Mr. Morine, says he would hold up both hands with joy to see the old Act of George III. re-enacted, or the Bill which was before the British Parliament carried, rather than that this Bill should be carried by this Legislature. Then, what had all the late agitation been about? What were all the bands and flag-demonstrations about in the early part of the year 1890, when banners were displayed with mottoes, “Down with the French!” “The French must go!” and the like—when exasperated, disappointed politicians were giving expression to their disappointment in howls against the French. No man of

common sense, certainly, looked upon the demonstration as availing anything but to enhance the value of the Treaty rights which France has in the eyes of the French. The hon. member, Mr. Morine, wants to keep the sore open until after the elections in England, when he hopes Mr. Gladstone's party will be returned to power, and that he will make concessions in Egypt in return for the French to give up their rights upon this coast. It is hardly worth while to discuss this, but he may observe generally that if Mr. Gladstone came into power to-morrow, it is very unlikely he would change Lord Salisbury's foreign policy; that Mr. Gladstone's Colonial policy has not been, as a rule, very favourable to the Colonies—although he hoped it had changed of late—but that it was highly improbable that the large body of holders of Egyptian stocks and bonds, and a variety of other British interests, would be set at naught for the removal of a few French fishermen from our coast. The hon. member, Mr. Morine, then accuses him (the Premier) and Mr. Harvey of advocating this Bill from interested motives, as Mr. Harvey wanted to be appointed as arbitrator upon the Lobster Arbitration, and he (the Premier) wanted to go there as counsel for the Island. This was rather amusing in face of the fact that the delegates, when in London, had passed the following resolution:—

“Resolved,—That, under the present circumstances, and in view of the present position of the French Shore question, it is desirable, in the opinion of the delegates, that the Colony should be represented on the arbitration of the lobster question by an arbitrator from the Colony, provided that Sir W. V. Whiteway, or some other person of high professional standing at the bar of Newfoundland, be appointed by the Colony.”

This resolution will be found in the minutes of the proceedings of the delegates, and although the Government and not the delegates would nominate the arbitrator, still he (the Premier) thanked the delegates for their confidence; and he could not see how, under these circumstances, Mr. Harvey, who had voted for this resolution, could desire the appointment for himself. The fact was this: that the now opponents to this Bill felt that they had no arguments against it, and the hon. member, Mr. Morine, resorted to personal attacks on him (the Premier) and Mr. Harvey such as this, and the attack made upon him (the Premier) in the hon. member's paper, the “Evening Herald,” a few days ago. The hon. member, Mr. Morine, had next said that no compensation was provided for in the Bill for those who suffered damages by interference with their prosecution of the lobster fishery. In response to that allegation he would refer the hon. member to a despatch of the Colonial Office to the delegates, which he would find on page 16, under date of May 4th, and containing the following assurance: “They (Her Majesty's Government) will also carefully consider the question whether compensation should properly be given to those persons whose property may be disturbed by the award of the arbitrators, although they see no ground for admitting any liability on the part of the Imperial Government to pay such compensation.” Regarding further proof of the matter, he would call attention to the letter of the delegates, dated May 27, in which they say: “Relying upon the assurances contained in your previous correspondence with us, especially with reference to the limitation of the present arbitration on the lobster question, and compensation to be made under the *modus vivendi*, we are of opinion that the Newfoundland Legislature will accede to our propositions made herein.” So the assurance was considered by the delegates as ample; and, moreover, the question of arbitration would hardly be found in a Bill for the establishment of courts. This was a little something to catch the ear of the gallery. As to this matter of compensation, he believed that the action of those in this Colony who had endeavoured to embarrass Her Majesty's Government respecting the French Treaty question, had prevented the claims from being inquired into and compensation afforded. He (the Premier) had good ground for arriving at this conclusion. Much injury had been done to the Colony by the unwise course which had been taken in those demonstrations and the like. The hon. member, Mr. Morine, says that he agreed that the Legislature of this Colony should pass the temporary Act in 1890, only to stop the passage of the Bill then before the British Parliament—that Bill which he says he now would throw up his hands to see passed. Does the hon. member really mean to say that when he, with the other delegates, agreed to arrange and pass a Bill for the creation of courts he had no idea of doing so? It seems as though such was the case from what he now says and what has since occurred. He (the Premier) believed that he had replied to all the objections which had been taken by the hon. member for Bonavista, which had been re-echoed by those who had followed him. There were, however, one or two points which had been taken by the hon. the Colonial Secretary, to which he

wished to refer. The Colonial Secretary had quoted telegrams dated 6th and 7th May and part of a telegram dated 8th May; but he had omitted to quote the whole of that telegram. He (the Premier) had requested the Colonial Secretary to furnish him with a copy of this telegram of the 8th May, and he had done so. It was as follows:

London, May 8th, 1891.

To Pitts, St. John's,—

Use carefully. Just received despatch from Knutsford, positively declining accept anything but permanent Bill; therefore no danger now from approving our proposals. Such approval will secure support public and Liberal Party. *Suggest Council not agree resolutions Assembly, but request conference both Houses and conference adopt resolutions approving proposals; or, as last resort, deferring final decision till some delegates, leaving 12th, arrive home. Persistent Assembly's refusal sheer madness. Delegates unanimously approve. Show Bond. Tell Harvey, LeMessurier, careful not telegraph anything adverse our proposals. We strongly urge our personal friends stand by us for Colony's sake. Explanations ample.*

DELEGATES.

This telegram, although signed "Delegates," had not been submitted to or sent by the delegates to Mr. Pitts. The delegates had never sent a telegram to Mr. Pitts. He (the Premier) was aware of the suggestion which Messrs. Monroe and Morine proposed to make to Mr. Pitts in the Legislative Council, and concurred in the desirability of urging the adoption of those suggestions; but as to the first part of the telegram and the latter part, he (the Premier) had no knowledge. He (the Premier) had also inquired from the Hon. A. W. Harvey if he recollected anything of these first and latter parts, and he had no recollection of them whatsoever. The purport of the telegram itself would confirm this, for it would hardly be conceived that he (the Premier) would be a party to sending a message to Mr. Pitts, a political opponent, to "use carefully," or to tell the Reverend Mr. Harvey and Mr. LeMessurier, two other political opponents, to do or not to do anything. It bore absurdity upon its face. As to the suggestions, viz., "Suggest Council not agree resolution of Assembly, but request conference adopt resolution approving proposals, or, as last resort, deferring final decision till some delegates, leaving 12th, arrive home; persistent Assembly refusal sheer madness; delegates unanimously approve"—the delegates did send the message which Mr. Bond has quoted, urging the adoption of these suggestions. On the 7th of May the delegates received this message:—

"Acting Speaker, to Delegates, 7th May,—

"House passed following: Unanimously resolved that, owing to the insufficiency of information contained in message received by Legislature, this House cannot intelligently discuss the question now before it; resolved, that further consideration of this question be deferred until such further information be obtained; resolved that Colonial Secretary put himself in communication with the delegates of this Legislature with a view of obtaining such further information."

After all this, and the further information which was asked for, had been furnished to the Legislature, the Acting Speaker of this House cabled on the 10th May to the delegates as follows:—

"Acting Speaker to Newfoundland Delegates, May 10, 1891,—

"Legislature passed following to-day:—Whereas this House did on the sixth instant pass certain resolutions relative to proposals submitted to the Legislature of this Colony by the delegates appointed by it, to express to the British Parliament and people this Colony's objections to the Bill proposed to be enacted by the Imperial Parliament for the purpose of carrying into effect engagements with France respecting fisheries in Newfoundland; and whereas since passing of the same the said delegates have furnished that fuller information which this House expressed its desire for by a resolution adopted and transmitted the said delegates on the seventh instant; and whereas it now appears to this House that the proposals made to the Imperial Government and Parliament by the said delegates without the approval of this Legislature, embodied the only terms that would likely meet with the approval of the British Parliament, and thus prevent more objectionable legislation;—Resolved, that this House will adopt such legislation as may be necessary to carry into effect the proposals made to the Imperial Government and Parliament by the said delegates."

That last telegram was a conclusive endorsement of all the acts of the delegates by the Legislature, and now to repudiate seemed to him a course of action which would

reflect only great discredit upon the Legislature; and how hon. members can reconcile their present position with their past actions he was at a loss to know. Then the Colonial Secretary had stated that no Frenchman who committed a wrong upon a British fisherman could be brought before this Court. Where did he find this? There is no exemption of any man of any nationality in the Bill. Then he had told us a long story about a Mr. Shearer, and what he had stated. Well, if this Bill and Court had been in existence, Mr. Shearer would have had a court to which he might have appealed for redress. Again, we had a supposititious case of a man being arrested at White Bay, and taken to St. George's Bay to be tried. This could not occur, as it is proposed to have the judge on board the man-of-war, and there would be no delay in the administering justice. The Colonial Secretary had said that we had some of the most distinguished men in Parliament in our favour. This was quite true when they saw that we were acting as rational men, objecting to the Treaties being executed by Naval Officers, but agreeing that such should be done by a judicial tribunal; but he (the Premier) did not believe there was one who had espoused their cause before would uphold them in rejecting this Bill, and so breaking our pledges. The Colonial Secretary had insisted that the delegates ought not to have negotiated with Her Majesty's Government at all, but should have gone direct to the Houses of Parliament. This was a singular proposition. If the Legislature wished the delegates to accomplish anything, he (the Premier) presumed that they should go to the Government of the day. He (the Premier) had certainly heard some ridiculous idea of someone going to stump England last year before the delegates left. He (the Premier) believed that he had either yesterday or to-night dealt with all the objections which had been raised as concisely as he could. He had purposed referring to a number of telegrams which had passed to and from the delegates and others, but the hour was late, and he would only add that, although he had yesterday alluded to the favourable manner in which his (the Premier's) application for the guarantee of a loan for the development of this Colony had been entertained by Her Majesty's Government, and that a vote had been passed in the Imperial Parliament of 2,000*l.* to defray the expense of a preliminary inquiry, showing that Her Majesty's Government was in earnest, and that this favourable view taken by Her Majesty's Government was coupled with a condition that there should be a co-operation between Her Majesty's Government and the Government of this Colony to fairly carry out the French Treaties, and he (the Premier) did not consider this condition unreasonable, for under any circumstances we were bound to carry out the Treaties; yet he had said that this Bill should stand upon its own merits, but if it was negatived, he (the Premier) was quite prepared to see the guarantee refused, and such he viewed as a calamity. He (the Premier) had laboured for years to get means to develop our resources, and to procure the aid of Her Majesty's Government to that end. It now seemed attained, and was going to be thrown away. The Colonial Secretary had said, "If ten millions of dollars was to be the price of our liberty, then away with the money." This was very high-sounding, but he (the Premier) would like to know what liberty was being sold by passing an Act to establish a Court wherein those who may be aggrieved could obtain redress; and the Colonial Secretary had wound up by calling upon the House to carry out the desire of the people, for the voice of the people was the voice of God—*vox populi, vox Dei!* This was all very high-sounding, but people often made for themselves false gods. There were many worshippers of Mammon. It was unwise to listen to a cry and obey it without ascertaining whether it had a solid foundation and was based upon truth. It may be that those who cried "Hosannah!" to-day might cry "Crucify him!" to-morrow. Hon. members would act more wisely by the exercise of common sense and reason. The Colonial Secretary had proposed certain resolutions to the effect that this Legislature would extend the Act for two years, which was passed last session and which would expire at the end of 1893. This was a most extraordinary proposal: First to send delegates to England to stop the passing of the Act, which was viewed as obnoxious and called a "Coercion Act," then to agree to pass that Act to meet immediate difficulties, providing that an Act to create courts was immediately passed, to be substituted for the other; then to refuse to pass the Courts Act and to agree to pass the so-called "Coercion Act," to exist for certain until the end of 1895. This was a singular proceeding and incomprehensible to him (the Premier); but he (the Premier) would remind the Colonial Secretary that the British Government were determined to proceed with the Lobster Arbitration at once, and they could not do so until a permanent Bill was passed; and if this Bill was not passed, then he had no doubt the British Parliament would pass the Bill which was before it last session. He (the Premier) would now say, in conclusion, that of course he saw that there was a determined opposition to the measure in the House. Only one member besides himself—that was Mr. Webber—had

spoken in favour of it. He (the Premier) had three times refused to go upon that delegation last year, and it was at the most earnest solicitation of hon. members that he had at last consented to go; and now he was about to see this House repudiate its sacred promises, and bring discredit and dishonour upon itself and upon the Colony. The delegates had evoked sympathy from the British Parliament, Press, and public. This, he feared, would now be changed into contempt. As he (the Premier) saw that there was so large a majority opposed to the Bill, he would ask leave to withdraw it.

Hon. the Speaker.—The Bill cannot be withdrawn without the unanimous consent of the House.

Mr. Morine.—He would not give his consent for the withdrawal of the Bill. The Premier had chosen his own course, and the Bill should stand or fall by the result. It would be unnecessary to follow the Premier through his lengthened speech, but there were one or two points which should be referred to. The Premier said that if the Bill were not passed the honour of the Colony would be discredited in the eyes of the Imperial Government and of the British public. This was not true, as had been said again and again, for the Legislature was not bound by its resolutions to accept any Bill from the Imperial Government, and the present one had not even been approved of by a majority of the delegates. He would show from the speech of Lord Salisbury delivered in the House of Lords on May 27th, 1891, that the Newfoundland Legislature was not expected to pass a permanent Bill until the end of 1893. Here was the quotation from his Lordship's speech delivered on that occasion:—"The Colonial Legislature is at present in the position of having bound itself absolutely to the *modus vivendi*, as I understand, until the arbitration shall take place, and after the arbitration has taken place has bound itself to the execution of the award up to the end of 1893." It had also been stated that the old Act of George III. would be re-enacted at once if we did not pass this Bill. This was also untrue, for the British Government would not be called upon to pass any Act until we refused to pass a permanent one after the end of next year. The Premier had stated that if this Bill were passed, we would be likely to get compensation for damages done to the property of the fishermen of the Treaty Shore. We had no assurance that this would be the case beyond a letter from Lord Salisbury, in which he said that the matter would be considered. We had experience enough of what might be expected in this matter already in the case of Mr. James Baird, who, though sustained by the judgment of the Supreme Court of the Island and the Lord Chancellor of England, had as yet received no compensation for the damages he had sustained. Many months had now passed since the case went to the Privy Council of England, and Mr. Baird was just as far off as ever from getting his money. The Premier also stated that if the House would not accept what had been done by the delegates, why had they been sent home at all. He (Mr. M.) had already shown that the House was not bound to entertain any Bill that was not reported favourably by a majority of the delegates, and the province of the delegates did not extend beyond submitting a Bill, which the Legislature were in no way bound to accept. The Premier had intimated that some of the delegates had left for home before a final understanding had been arrived at with the Imperial Government, and perforce the minority left behind had to accept what the majority would not wait to receive. This statement was calculated to produce a wrong impression, for when Mr. Monroe left England he brought a letter in which it was stated that the principle of a basis of understanding had been arrived at, and the two delegates left behind had only to attend to details. Under those circumstances, Mr. Monroe felt he had a right to leave, having confidence that the two delegates left behind would finish the work of the delegation satisfactorily.

The hon. the Premier had remained several weeks in London after Mr. Monroe and the Speaker had come out, and he wished to say here, in justice to the Speaker, that, when he came on this side bringing the Draft Bill with him, he immediately went before the Government and stated his objections to it. He had those objections to the Bill in his hand, and could show that the objections made by Mr. Emerson on the 30th of last June had been disregarded in the Bill accepted by the Premier, and therefore the hon. gentleman knew that he was opposing the wishes of the Executive and the majority of the delegates, and flying in the face of everybody authorised to deal in the matter by bringing in this Bill. He would call attention to the objections of the Speaker, and would first refer to sub-section (1) of section 1, in which the hon. gentleman objected to the appointment of the Judicial Commissioners by Her Majesty the Queen, and said he thought they ought to be appointed by the Governor-in-Council, subject to Her Majesty's approval, but the Bill before the House left that provision unchanged. The hon. Speaker gave as his reasons that, if those judicial officers were appointed by Her Majesty, they would not have that knowledge of local laws and customs which men appointed by the Government of the Colony would possess. The

hon. gentleman then went on to make numerous objections to the Bill, and amongst other things said there were sections in it which would give arbitrary powers to Naval Officers, and make it so obnoxious that he did not think any hon. member could be found reckless enough to ask the Legislature to enact such a measure. But the hon. member was mistaken, for Sir William Whiteway, the Premier of the Colony, now asked them to adopt a Bill containing the same obnoxious provisions to which the Speaker had objected. The numerous objections made by the Speaker would show that he had not lost his interest in the Colony; that his judgment was better than the Premier's, and if the latter had been led by the views of the Speaker they would not have him advocating this Bill to-night. In reference to the telegrams which passed between Mr. Monroe and himself (Mr. M.), and between the hon. the Premier and the Colonial Secretary, he would say that the hon. the Premier admitted that he had seen the telegram forwarded to Hon. Mr. Pitts before it was sent, and yet he found fault because it was signed "Delegates" instead of "Monroe and Morine." What difference did it make by whom it was signed, if the Colonial Secretary received another from the Premier the contents of which were the same. The hon. the Premier said he had that telegram in his (Mr. M.'s) handwriting, and if so, he must see that it was a fac-simile of the one that appeared in the printed correspondence. The hon. gentleman admitted that he saw all the telegram except the words asking Mr. Pitts to tell Rev. Mr. Harvey not to wire anything of an existing [?] nature, and to urge friends to come forward and try to change the decision of the Legislature, and he thought that when the hon. gentleman saw the first words of that message, "strictly confidential," he ought not to have read it. When the delegates received a telegram from the Colony to the effect that the Legislature would not adopt their resolutions, he pointed out to the Premier that the whole responsibility would rest on him. Mr. Monroe and he (Mr. M.) then telegraphed to friends in St. John's, urging them to come forward and secure a different line of action on the part of the Legislature. Instead of leaving the hon. gentleman in the nasty position in which he was placed by the refusal of the Legislature to do what he requested them to do, he and Mr. Monroe sent the telegram (which the hon. gentleman had read to-night) to their friends in St. John's to get them to use their influence in changing the position of affairs so that the hon. the Premier might not be turned into ridicule. In view of the fact that the telegram was sent for the purpose of helping the hon. gentleman out of the position in which he was placed, it was not creditable for him to have endeavoured to show that there had been some bad faith on the part of himself and Mr. Monroe in signing the telegram "Delegates," instead of their own names. The hon. gentleman went on to say, why should we want local judges; why not accept British judges? The British Government were responsible for the carrying out of the Treaties, but the people of this country would be the sufferers, and if they had a right to ask for judges to protect those people, it was casting an unmerited slur on our local judges to imply that they would not give justice in these matters as well as Downing Street lawyers. The hon. gentleman spoke of protecting the French in their rights, but he would say that the French had a powerful Government, with fleets and soldiers to protect them, and it was quite enough for this Legislature to protect the Newfoundland fishermen without troubling about the French. He (Mr. M.) made a statement here last night that Newfoundland fishermen could not bring a case before this Judicial Court under the provisions of this Act, and to-night the hon. the Premier denied the accuracy of the statement. He would just refer to the Bill to show that the hon. gentleman had been misleading the House. In section 2 would be found that:—

"Where a Naval Officer holding the instructions of Her Majesty the Queen, given through the Commissioners of the Admiralty for fulfilling the French Treaties and arbitration award, thinks it necessary to take any action against any persons or their property for the purpose of carrying into effect or enforcing the said Treaties or award, or of maintaining peace and good order among the persons engaged in the Treaty Coast and waters, he shall bring the matter before the Judicial Commission Court, and before taking any action obtain a judgment of the Court directing such action." He shall bring the matter before the Court when he thinks it necessary to do so, acting under instructions from the Admiralty. So then the Naval Officer whenever he thought it necessary—no matter whether it was necessary or not, as long as he thought so—could arrest any person and bring him before the Judicial Court. Sub-section 2 of the same section said that:—"Any person aggrieved by any act of a Naval Officer holding such instructions as aforesaid, may bring the matter before the Judicial Commission Court." Any person aggrieved by the action of a Naval Officer could bring the matter before the Court, but where was the power to enable him to

bring the matter before the Court, if he had been aggrieved by a French officer or French fisherman? How then could the hon. member, Mr. Webber, say that the municipal courts of Newfoundland had power to try a Frenchman?

Mr. Webber.—I was quoting the opinion of a gentleman much better skilled in legal knowledge than the hon. member.

Mr. Morine.—Sir William Whiteway denied it, and said that it had been decided in England that an action could not be brought in a British Court against any foreign subject with regard to this matter.

Mr. Webber.—You can bring an action against a Naval Officer.

Mr. Morine.—That was the very thing he had just pointed out, but what he wanted to ask was, why should this Legislature pass a law to provide for the trial of a Newfoundlander committing an offence against a Frenchman, when there was no law providing for the trial of a Frenchman committing an offence against a Newfoundlander? Sir William Whiteway's statement was this, "I deny that only Naval Officers can bring a case before the Court under this Act, for anybody can do it," but he (Mr. M.) would say that statement was not true. The hon. the Premier had said, why did certain persons agitate on the French Shore question if they were not prepared to accept this Bill, but he (Mr. M.) did not believe that the Bill was the result of the agitation that had taken place here. The hon. gentleman also said that the agitation only aroused the indignation of the French, but did he not know that the French Government were better posted on the matter than the British Government? Did they not know the diplomatic value of the French Shore, and had they not for years refused to make any concession in that direction? Had not Sir William Whiteway told the House that he had been battling with the French Shore question ever since he had a seat in the Legislature? There was no reason to believe that the French Government were unaware of the value of holding on to that shore, and he thought there was no need of agitation to show them the value of it when they had such a shrewd agent in the present French Consul in our midst, who doubtless knew more about the matter than anyone else in Newfoundland. The hon. gentleman, in speaking of that demonstration in Bannerman Park, referred to it as something for which he felt the deepest scorn and contempt. He thought the hon. gentleman was extremely injudicious in making such an assertion, when he must have known the names of those who took part in the demonstration. One of those who took part in it was the Hon. Sheriff Talbot, one of the best statesmen and politicians in the country; a man whose services the present Government would not refuse; and who, when he represented the case of the Government in the Upper Chamber, succeeded in making business go on better than it otherwise would. Then there were Hon. James Pitts, Charles Tessier, Esq., Hon. James Rogerson, Rev. George Boyd, Sir James Winter, Edgar Bowring, Esq., D. J. Greene, Q.C., M.H.A., J. McDougall, Esq., Rev. Father Clarke, M. Fenelon, Esq., P. R. Bowers, Esq., editor of the "Colonist," Sir Robert Thorburn, and Michael Connors, Esq. These were the names of some who took part in the French Shore demonstration in Bannerman Park, and for their action on that occasion Sir William Whiteway felt only scorn and contempt. The hon. gentleman said here to-night that that demonstration was got up by a number of dissatisfied politicians for the purpose of raising a cry against the present Government, and that he felt only scorn and contempt for them. Hon. members had heard the names of some of the gentlemen who took part in it and could judge for themselves whether the hon. gentleman's assertions were right or wrong, but now he (Mr. M.) would quote from the remarks of a gentleman whose opinion was an authority acknowledged even by the hon. the Premier himself. He had before him a speech made by the Hon. Robert Bond, Colonial Secretary, at the time of the Bannerman Park demonstration. The Hon. Colonial Secretary said in effect that that great demonstration that had taken place, and the mass meetings that were being held all over the country, clearly indicated the deep interest taken in this matter by the people of Newfoundland, and that these meetings were in sympathy with the action of the Government and were strengthening its hands. The day after the demonstration had taken place the Hon. Colonial Secretary had spoken in this strain, which showed that his sympathies were with those whose enthusiasm led them to get up the agitation against the passage of the Coercion Bill. The hon. the Premier, in referring to the matter of compensation, directed the attention of the House to letters dated May 4th and 28th, and also referred to the reply from the British Government, which was headed "carefully considered." He, Mr. M., wished to point out to the House that here was another reason why we were not pledged to vote for this Bill.

The delegates had said in one of their last letters that, relying upon the assurance of the Imperial Government to give us compensation, the delegates were of opinion that the Legislature would accede to their propositions. If the British Government had not shown any intention to fulfil that promise of granting compensation, was this Legislature bound to proceed with this Bill? If we were bound to proceed with it at all, did not the letter from the delegates to the British Government contain that condition which must be complied with? It was apparent that they had neglected to do so; this Legislature was at liberty to take whatever step it pleased with regard to this Bill. He had read the letter of Lord Salisbury referring to that statement, showing that he recognised the necessity of compensating this Colony before the permanent Bill was passed. The hon. Premier stated that if we did not pass this permanent Bill the British Government would do so without delay. If by rejecting this Bill we caused a permanent one to be passed, we would be no worse off than at the present time. Let the Imperial Government pass it, for then we would be in a better position to make complaints and demand redress, than if we placed it upon our own Statute Books. He had shown that the threat on the part of the British Government would not be fulfilled, because Lord Salisbury was pledged not to pass it until the end of 1893, which gave us another session in which to deal with the question. The hon. member, Mr. Webber, had said that the Salisbury Government were again coming back to power. That hon. gentleman could not have read aright the signs of the times which could be gathered from what had lately taken place all over the country. The hon. member must admit that the bye-elections which had taken place had some significance, and when it was known that the majority of the Government had been reduced slowly until it was not now half as large as formerly, the chances were that, at the next general election, another Administration would be placed in power. He would agree with the hon. member that the Salisbury Government took a deep interest in matters relating generally to the Colonies, but they were not more favourably inclined towards this country than the Gladstonian Party, who had particularly advocated our case and pledged themselves to look after our interests in a very marked manner. He believed the Gladstonian Party was more popular with the French than the Salisbury Government; consequently the French were more likely to consent to offers that might be made to them. He did not think that this Legislature ought to lose the chance of keeping alive this measure, but should agitate until we accomplished some object for the benefit of this Colony, for if we were to close our mouths by placing this law on the Statute Book we would be cutting the ground from under our own feet. The hon. the Premier had made one statement in reference to Mr. Monroe which he would contradict, which was that when Mr. Monroe left London he knew the conclusion that had been arrived at with regard to the appointment of the Commissioners. He desired to say that Mr. Monroe did not know this at the time he left. The Imperial Government said at the time that if we appointed a Judicial Commissioner the Colony should pay the salary, and if the Imperial Government appointed one they would bear the expense; but Mr. Harvey was willing, for the sake of saving to this Colony the payment of the salary, to abandon the idea of a Commissioner being appointed by this country. Mr. Monroe, who preferred keeping the power of appointment in our own hands, went to Sir Robert Herbert, who said that he quite agreed with him; that we ought to have that privilege, and that he did not believe the British Government would raise the beggarly question of the payment of the salary. With the exception above mentioned, the principle laid down in the first Bill was not altered at the time Mr. Monroe left. He was astonished at the statement made by the hon. Premier that some of the delegates had no right to leave London notwithstanding the fact that Mr. Harvey had left some weeks before the Premier, and before the final Bill had been agreed to. If any one deserved censure at the hands of the Premier for leaving London, it was Mr. Harvey, because, at the time that the hon. Speaker and Mr. Monroe left, the principle of a Bill had been assented to, while at the time of Mr. Harvey's departure the principle of the Bill had been abandoned. That censure did not apply to him (Mr. M.), as he came here at the instance of the delegation, and the hon. Premier had admitted that he (Mr. M.) had done his work well. He had no hesitation in saying that his Honour the Speaker and Mr. Monroe were the means of saving this Colony from making greater concessions. The hon. the Speaker, Mr. Monroe, and he, who formed a majority of the delegation, had from the time they left until they came back worked indefatigably for the interests of this Colony. He could not refrain, in justice to the Speaker, from saying this, whose mouth was closed by the position he now occupied. The Speaker's enthusiasm and jealousy of the rights of this Colony during the time he was across the

water, were well known, and that gentleman was always foremost in urging our claim. This testimonial was only due to this gentleman, because, after the vote would be taken to-night, he (Mr. M.) would not have an opportunity of again expressing his opinion, as he felt sure the Bill would not be accepted. He had occupied a considerable time in this debate, but it must be remembered that the measure was the most important that had ever come before this Legislature. The hon. Premier had said that he introduced it as Attorney-General of this Colony, but he would take issue with him upon that point, for Her Majesty never ordered nor instructed him to introduce it, and if the Imperial Government had instructed him to do so without the consent of the delegates, it would be a sufficient justification for this House to reject it to-night. The Imperial Government had dealt with the delegation, and if they ordered the hon. Premier to introduce it, then the delegates were free to-night to condemn it, because it was an express violation of their agreement.

Hon. Colonial Secretary (Mr. Bond) had a few observations to offer before the debate closed, and they would be very few; for as the discussion had extended over a lengthened period he did not wish to keep hon. members in unnecessary suspense upon this obnoxious question. Regarding the terms of the telegram to which much importance had been very properly attached, and which was addressed to a member of the Upper Chamber, he would say most emphatically that, so far as he was aware, it was not of a private nature; that no person had ever intimated to him that it was to be regarded as such, and that as the Premier, Sir William Whiteway, had telegraphed to him to see the message sent to the Hon. James Pitts, and had stated that all the delegates were agreed as to the suggestions contained in that message, he had, as before stated, obtained a copy of it, and had used it amongst the members of the Government party and of the House to induce them to alter their opinion respecting the passing of a temporary Bill last session. We had heard for the first time to-night that this message was intended to be private. But even if that was the intention of the delegates, it did not alter the fact that the message was sent to influence the decision of the Legislature respecting the temporary Bill, and that it had been the means of wringing from the House the promise referred to by the Premier. It had also been stated by the hon. gentleman that the said telegram was not genuine, that all that he (Colonial Secretary) knew about the matter was signed "Delegates," and that the Premier had by cable referred him to the telegrams, and in his cable stated that all the delegates agreed with the suggestions therein contained. The Premier had said that he (Colonial Secretary) was deceived; if so, the House was deceived; for he had shown the message to the House; and therefore, being deceived, they were not bound to approve the Bill before the Chair, as had been contended. It could not be emphasized too strongly that, had attention not been directed to the message sent to Mr. Pitts by the delegates, the House would not be found in the unfortunate position it was to-night. He had always entertained the greatest respect for his leader, and that respect had not abated, although he now so widely differed from him on the question before the Chair. The Premier had displayed marked ability and zeal in advocating this Bill, a zeal which was worthy of a better and more righteous cause. The hon. the Premier had said that he conceived it was his duty to the Imperial Government to present this Bill to the House. He (Colonial Secretary) conceived it to be his duty to the people of this country, whose representative he was, to oppose it. The hon. the Premier had now expressed his willingness to withdraw the Bill, and he (the Colonial Secretary) would say that, as the desire of the House was thus attained, this request should be acceded to. Their purpose, that of preventing the Bill becoming the law of the land, was accomplished. If this was not consented to, it would then be his duty to press the amendment which he had presented to the House last night.

Mr. Morine would point out the necessity of placing on record the resolutions of the hon. Colonial Secretary in order to show the British Government what was proposed instead of the Bill. On condition, therefore, that the amendment be forwarded to the British Government, that they might understand the attitude of the House, and their willingness to do their part in accepting a proper Bill, he would consent to the withdrawal.

Mr. Murphy preferred that they should vote upon the motion before the Chair, and do their duty as Newfoundlanders.

Mr. Webber objected to the Bill being withdrawn, and asked that a vote be taken.

The question being put by Mr. Speaker that the words proposed to be struck out of the main question stand part of the question, the House divided thereon, when there appeared for the affirmative eight, namely: Hon. Premier, the Chairman of the Board of Works, the Financial Secretary, Messrs. Webber, Duff, Dawe, Rothwell, and Fox; and for the negative 23, namely, Hon. Colonial Secretary, Hon. Receiver-General, Hon.

Surveyor-General, Hon. E. P. Morris, Messrs. Murphy, Thompson, Burgess, Geran, Peyton, White, Whiteley, Clift, Hallaren, Woodford, Tait, Blandford, Greene, Carty, Rolls, Morine, Morison, Murray, and Shea. So it passed in the negative.

The question being then put by Mr. Speaker and the words proposed by the amendment to the amendment to be struck out of the amendment stand part of the question, the House divided thereon, when there appeared for the affirmative 21, namely, Hon. Colonial Secretary, Hon. Receiver-General, Hon. Surveyor-General, Hon. E. P. Morris, Messrs. Thompson, Burgess, Geran, Peyton, White, Whiteley, Clift, Hallaren, Woodford, Tait, Blandford, Greene, Carty, Rolls, Morine, Morison, and Shea; and for the negative 10; namely, Hon. Premier, the Chairman of the Board of Works, the Financial Secretary, Messrs. Murphy, Webber, Duff, Dawe, Rothwell, Fox, and Murray. So it passed in the affirmative.

The question being then put that the words of the amendment be added to the remaining words of the original question, the House divided thereon, when there appeared for the affirmative 22, namely, Hon. Colonial Secretary, Hon. Receiver-General, Hon. Surveyor-General, Hon. E. P. Morris, Messrs. Murphy, Thompson, Burgess, Geran, Peyton, White, Whiteley, Clift, Hallaren, Woodford, Tait, Blandford, Greene, Carty, Rolls, Morine, Morison, and Shea; and for the negative, nine, namely, Hon. the Premier, the Chairman, Board of Works, the Financial Secretary, Messrs. Webber, Duff, Dawe, Fox, Murray, and Rothwell.

So it passed in the affirmative. The original question as amended being then put, it passed in the affirmative, and it was ordered accordingly.

Pursuant to order of the day, the House resolved itself into committee of the whole on Bill relating to the municipal affairs of St. John's. Mr. Whiteley in the Chair.

The Committee rose and the Chairman reported that the Committee had considered the said Bill, had made some progress, and asked leave to sit again.

The House adjourned until Monday next at 4 o'clock in the afternoon.

No. 8.

The MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

[Answered by No. 9.]

7th February 1893.—It is necessary that Her Majesty's Government should know, as soon as possible, intentions of your Ministers and Legislature as to permanent legislation to enable Her Majesty to carry out Treaty obligations. Telegraph reply.

No. 9.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.

(Received February 14, 1893.)

[Answered by No. 10.]

TELEGRAPHIC.

In reply to your Lordship's telegram of 7th February,* I am requested by my Ministers to transmit the following Minute of Committee of the Executive Council. *Begins*:—The Treaties Bill introduced into House of Assembly by Sir W. Whiteway " in the Session of 1892 was defeated by a majority of 23 to 8. Only two members of " the Executive Council, Sir W. Whiteway and Mr. Harvey, supported it. My " responsible advisers wish to call the attention of the Secretary of State for the Colonies " to the resolutions of the 14th May last, transmitted in the telegram of the 17th May† " as indicating the action proposed by the House of Assembly. The Legislature meets " on the 7th March. (Signed) W. V. WHITEWAY, in the absence of the Colonial " Secretary."—*Ends*,

* No. 8.

† No. 5.

No. 10.

The MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

[Answered by Nos. 11 and 15.]

16th February 1893.—Referring to your telegram of 14th February,* permanent legislation absolutely necessary to enable arbitration to proceed. French Government would not enter on negotiations for purpose indicated by Resolutions of Legislature till after arbitration.

If Houses of Legislature will not fulfil pledges given by delegates on their behalf, Her Majesty's Government will have no alternative but to introduce Imperial legislation; consequently, we hope that your Ministers will be prepared to introduce and press on Legislature satisfactory permanent measure during next Session. Draft must be arranged with Her Majesty's Government. Telegraph reply.

No. 11.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.

(Received February 27, 1893.)

TELEGRAPHIC.

Referring to your telegram of 16th February,† matter is before Select Committee, whose report will be submitted to Houses of Legislature meeting on 7th March. Till then my responsible advisers feel they cannot move.

No. 12.

FOREIGN OFFICE to COLONIAL OFFICE.

[Answered by No. 13.]

SIR,

Foreign Office, February 27, 1893.

I AM directed by the Earl of Rosebery to request you to inform the Marquess of Ripon that, as the result of personal communication with the French Ambassador, it has been decided that the "modus vivendi" in Newfoundland waters should be renewed for the present season.

I am accordingly to enclose, for Lord Ripon's consideration, the draft of a note to this effect which, with his Lordship's concurrence, Lord Rosebery proposes to address to Monsieur Waddington.

The Under Secretary of State,
Colonial Office.

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

Enclosure in No. 12.

M. L'AMBASSADEUR,

Foreign Office, [March 4,] 1893.

IN accordance with the agreement arrived at in our conversation on the 22nd ultimo, I have the honour to state that Her Majesty's Government are willing that the *modus vivendi* of 1890, relative to the catching and preparation of lobsters on the Treaty Coast of Newfoundland, which was renewed during the fishing seasons of 1891 and 1892, should again be renewed for the fishing season of the present year.

On receiving from your Excellency formal notice that your Government desire this agreement, Her Majesty's Government will consider this exchange of notes as an agreement between the two Governments, and will give the necessary directions to carry the agreement into execution on behalf of Great Britain.

His Excellency M. Waddington,
&c. &c. &c.

I have, &c.
(Signed) [ROSEBERY.]

No. 13.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 18.]

(Extract.)

Downing Street, March 2, 1893.

I AM directed by the Marquess of Ripon to acknowledge the receipt of your letter of the 27th ultimo,* respecting the renewal of the *modus vivendi* with France respecting the lobster factories in Newfoundland, and to state that his Lordship concurs in the draft note.

I am to request that a copy of the note when sent may be communicated to this Department for transmission to the Governor of Newfoundland.

No. 14.

The MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

[Answered by No. 17.]

March 9. Send by telegraph report of Joint Committee as soon as possible.

No. 15.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.

(Received March 9, 1893.)

[Further Telegram No. 16.]

TELEGRAPHIC.

REPORT of Committee presented last evening, will be discussed to-day. Prime Minister informs me that he intends to oppose because it is not in accordance with facts stated in correspondence, and misleading, but in his belief it will be adopted. It is as follows: Houses of Legislature unwilling it should be considered there was ever any intention on their part to repudiate proposals made by Delegates. Bill rejected last year was not in accord with those proposals, and did not contain principles agreed upon by Delegates and Her Majesty's Government. In reply to your telegram of 16th February, † both Houses beg to intimate their readiness, in interests of Empire, to enact legislation fulfilling proposals by Delegates, and to agree with Her Majesty's Government upon draft of measure for that purpose. They regard it as essential that such legislation should provide for Courts and compensation as proposed in Delegates' letter 1st May 1891, ‡ and referred to by Lord Salisbury in Lords, 29th May 1891. Legislature most earnestly protests against Imperial legislation for enforcement Treaties and Award of Arbitration which does not contain provision for compensation and for Courts constituted as agreed upon by Her Majesty's Government and Delegates from this Colony. Partial Arbitration now pending was agreed upon in opposition Colony's repeated protests. Legislature earnestly desires that Arbitration should not proceed unless scope extended so as to include all questions arising under Treaties, or at least French use of St. Pierre and Miquelon. Legislature urgently requests that, while negotiations for extension Arbitration and joint application Canada and this Colony for British Consul are pending, the Arbitration regarding lobster question shall not be proceeded with. A measure extending till end 1895 present Act for enforcing Treaties and *modus vivendi* will be enacted, if Her Majesty's Government desire it, pending result negotiations. Report Joint Select Committee and Address by both Houses will be forthwith sent by mail.

* No. 12.

† No. 10.

‡ No. 8 in [C. 6365] May 1891.

No. 16.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.
(Received March 15, 1893.)

[*Further Despatch No. 17.*]

TELEGRAPHIC.

REFERRING to my telegram of 9th March,* report adopted in Legislative Council by 5 to 3, and House of Assembly by 17 to 5. Despatch will be sent by mail.

No. 17.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.
(Received March 27, 1893.)

(*Answered by Nos. 20 and 29.*)

MY LORD MARQUESS,
 REFERRING to my telegram of this day's date,† I have the honour to forward, at the request of both Houses of Assembly, the report of their Joint Committee on the question of Treaty Shore legislation, which was adopted in the Legislative Council by a majority of five to three, and in the Lower House by seventeen to five.
 I would further observe that the intention of presenting an address to Her Majesty therein alluded to has been abandoned. I regret that I am unable to forward copies of the debates on this matter, but, as has been already reported in previous years, they are not published till days after they take place.

I have, &c.
(Signed) T. O'BRIEN, Lieut.-Colonel,
Governor.

The Most Hon. the Marquess of Ripon, K.G.,
&c. &c. &c.

P.S.—Since writing the above I have received this day's journal of the Legislative Council containing a protest from the Hon. Mr. Harvey against certain portions of the joint address; this protest I now enclose.

T. O'B.

Enclosure in No. 17.

HOUSE OF ASSEMBLY OF NEWFOUNDLAND.

TO HIS EXCELLENCY SIR J. TERENCE N. O'BRIEN, Lieut.-Colonel, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies.

MAY IT PLEASE YOUR EXCELLENCY,

THE Legislative Council and the House of Assembly have adopted the accompanying report of a Joint Select Committee of both Houses of Legislature on the French Treaties question, and request that your Excellency will be pleased to cause the said report to be transmitted by mail to Her Majesty's Secretary of State for the Colonies.

(Signed) E. D. SHEA,
President.
GEO. H. EMERSON,
Speaker.

REPORT OF JOINT SELECT COMMITTEE OF BOTH HOUSES OF LEGISLATURE ON FRENCH
TREATIES QUESTION.

St. John's, Newfoundland,
March 8, 1893.

THE Joint Select Committee of both Houses upon the French Treaties question beg leave to lay before your honourable House the following preliminary report:—

(1.) They have had submitted to them for their consideration the correspondence hereto annexed marked (A).

(a.) Telegrams from the Secretary of State for the Colonies to Governor O'Brien dated February 7th, 1893.

(b.) Telegram from Governor O'Brien to Secretary of State for the Colonies dated February 14th, 1893.

(c.) Telegram from Secretary of State to Governor O'Brien dated February 16th, 1893.

(d.) Telegram from Governor O'Brien to Secretary of State for the Colonies dated February 25th, 1893.

(2.) The purport of that correspondence is as follows:—

(a.) Her Majesty's Government wish to know the intention of the Government and Legislature of this Colony as to permanent legislation to carry out Treaty obligations—(telegram, February 7th).

(b.) The Government reply that the Bill introduced last Session was defeated by 23 to 8, and that the resolution adopted by the Assembly on May 14th, 1892, indicates the proposed action of the Assembly—(telegram, February 14th).

(c.) Her Majesty's Government consider permanent legislation absolutely necessary. French Government will not negotiate for purposes indicated by Assembly's resolution of May 14th till arbitration completed. If Legislature will not fulfil the pledges given by Delegates, Her Majesty's Government will introduce legislation into Parliament. Hope expressed that Government of Colony will introduce and press a satisfactory permanent measure during this Session. The draft of such a Bill must be arranged with Her Majesty's Government—(telegram, February 16th).

(d.) The Government reply that matter now before Joint Select Committee, which will report when Legislature meets. Meantime Government cannot move—(telegram, February 25th).

(3.) Your Committee find, by reference to the Minutes of both Houses, that in May 1891, the following resolution was adopted:—

“Resolved—That this Legislature will adopt such legislation as may be necessary to carry into effect the proposals made to Imperial Government and Parliament by the Delegates.”

(4.) By reference to the correspondence and documents then before the Legislature, the Committee find that the Delegates made the following proposals in reference to legislation of a continuing character:—

(a.) That it should provide for the creation of a Court to adjudicate upon complaints arising in the course of the enforcement of the Treaties and the award of the proposed arbitration upon the lobster question, the Judges of which Court should be appointed by the Government of the Colony, with the approval of Her Majesty in Council, and from whose judgments there should be a right of appeal to the Supreme Court of this Colony, and thence to the Judicial Committee of the Privy Council.

(b.) That compensation should be provided for those persons, if any, whose property might be injured or disturbed in consequence of the enforcement of the award of the arbitration; provided it were found impossible to abandon arbitration altogether—(See letter of Delegates to Secretary of State for Colonies, dated May 1st, 1891).

(5.) That the proposals made by the Delegates were understood by Her Majesty's Government to be as above set forth is proven by the language of Lord Salisbury, in the House of Lords, on Friday, May 29th, 1891, when he said:—

“The information we have received from the Delegates is that if by that time Her Majesty's Government should be agreed upon legislation with respect to the tribunals by which the Treaties are to be enforced, *and compensation due to persons who may suffer under them*, then in that case the Newfoundland Legislature will give permanence to the provision which we understand they have now adopted until the end of 1893.”

(6.) In further proof that the proposals of the Delegates were understood by Her Majesty's Government to be as above set forth, we draw attention to the fact that the first Draft Bill discussed between the Delegates and Her Majesty's Government (hereto annexed and marked B.), contained provisions for the appointment of Judges by the Government of Newfoundland, and for an appeal to the Supreme Court and the Privy Council.

(7.) The Committee find that the Bill introduced into the House of Assembly last Session by the request of Her Majesty's Government, and refused a second reading after a protracted debate, did not contain any provisions for the appointment of Judges by the Government of this Colony, or for the compensation of persons who might suffer damage in consequence of the award of the arbitration; that it was not therefore in accord with the proposals made by the Delegates and ratified by both Houses of the Legislature; and consequently that the Legislature was not in any manner bound to its enactment.

(8.) The provisions of the Bill submitted to the Legislature last Session (hereto annexed, marked C.), were an absolute departure from the basis of the Act which the Legislature understood it would be called upon to enact. The tribunal contemplated by the Delegates and the Legislature was one which would hear and determine any complaint which the aggrieved party might consider necessary to bring before the Court, for the infringement of or interference with the fishery rights of the complainant, whoever he might be. Instead of such a Court the proposed Bill only provided:—

“Where a naval officer, holding the instructions of Her Majesty the Queen, given through the Commissioners of the Admiralty, for fulfilling the French Treaties and arbitration award, thinks it necessary to take any action against any persons or their property for carrying into effect or enforcing the said Treaties or award, or of maintaining peace and good order among the persons engaged in the fisheries on the Treaty Coast and waters, he shall bring the matter before the Judicial Commission Court, and before taking any action obtain a judgment of the Court directing such action.” (Section 2.)

It will be observed that the right of complaint and initial procedure is restricted to the Naval Officer, and then only “when he thinks it necessary to take any action against any persons or their property, &c.” The result of this would be to legalise an authority heretofore usurped by Naval Officers, and practically to abolish any redress to the subject. And when, in connexion with the limited rights of the subject under section 2, the extraordinary and unhard-of powers conferred by sub-section 2 of section 6 on Naval Officers are considered, your Committee are of opinion that Naval Officers are, by this Act, given more absolute control than has hitherto been attempted to be assumed by the most arbitrary of them.

We view with alarm the creation of a dual authority such as is indicated by section 1, by which Commissioners with unknown powers are to be appointed, and then (sub-section 2 of section 1) constituted a Commission Court with powers subject only to the review of the Privy Council. But even this right of appeal is subject to restrictions now unknown, and to be subsequently defined. Your Committee see no valid reason why these appeals should not be governed by the ordinary rules regulating appeals to and from the Superior Tribunals of Her Majesty's Colonies. The refusal of Her Majesty's Government to assure the Delegates that the Commissioners would be lawyers of training and standing, and the want of that assurance in the proposed Bill, indicate that these Commissioners are likely to be the Naval Officers commanding cruisers in the Treaty waters.

(9.) Though the obligations of the Treaties while they continue to exist must be enforced, and though the conditions existing on the coasts to which they apply may make Special Courts seem desirable, the existence of any good and sufficient reason for departing from the principles and procedure which ordinarily govern Courts in the administration of British laws cannot be admitted. The Delegates stipulated, therefore, that the Judges of the Special Courts charged with the enforcement of the Treaties should be appointed in the same manner as the Judges of our Supreme Court, and that the right of appeal should be granted—(see Delegates' letter of May 1st, 1891). Mindful, too, of the fact that the lobster factories upon the coasts over which the French have rights were permitted to be erected, and to be operated, while British Naval Officers were professedly enforcing Treaty rights on that coast, under the instructions of Her Majesty's Government, and of the other fact that the negotiations for arbitration upon the right to catch and pack lobsters were commenced and concluded in opposition to the protests of this Colony, the Delegates conditioned that provisions for the purpose of affording compensation to the owners of factories should be inserted in any measure

legalising the award of the arbitrators—(see Delegates' letter of May 1st, 1891). Your Committee are of opinion that the Legislature should never consent to any legislation which does not accord the right to appoint the Judges of the Special Courts, and provide for compensation for damages consequent upon the award, in the manner proposed by the Delegates.

(10.) It is evident that the Delegates in making their proposals, and the Legislature in pledging itself to support them, were mindful of the duty of protecting the French in the exercise of their Treaty rights in the waters and on the coasts of Newfoundland, so long as those rights continued to exist. But neither Delegates nor Legislature had any thought of abandoning or abating the demand for the abrogation of those Treaties altogether, either by purchase, exchange, or otherwise, at the earliest possible opportunity. Those Treaties have become odious, through the changed conditions of the region to which they apply, and it is, and ever must be, the patriotic aspiration of the people of this Colony to have its soil and its waters free from every foreign claim. Your Committee think, therefore, that the Legislature, when notifying Her Majesty's Government of its readiness to fulfil the proposals of the Delegates, should make it plain that, as the Treaties were made in the interests, not of this Colony, but of the Empire at large, it was for the Empire's honour and advantage that proposals were made by the Delegates, and will be fulfilled by the Legislature, and that the Colony will expect to be rewarded in due time by the entire abrogation of the Treaties, at the expense of that Empire on whose behalf they were made and enforced.

(11.) Your Committee recommend that His Excellency the Governor be requested to transmit by wire the accompanying despatch (hereto annexed and marked D.) to the Secretary of State for the Colonies, in reply to his telegram of February 16th, intimating that the Legislature abides by its promise to carry out the pledges of the Delegates when a Bill is agreed upon which shall contain the provisions as to Courts and compensation as stipulated by the Delegates, a draft of which Bill the Legislature is prepared to forthwith arrange with Her Majesty's Government; and protesting against Imperial legislation before such a Bill is agreed upon for submission to this Legislature as a breach of a well-understood agreement between the Delegates and Her Majesty's Government.

(12.) The permanent legislation asked for is desired not alone for the purpose of enforcing the Treaties relative to that portion of Newfoundland on the coasts of which the French have certain fishery rights, but also for the enforcement of the award of an arbitration relative to the lobster question agreed upon between Her Majesty's Government and the Government of France. From the outset such a piecemeal arbitration has been opposed by, and on behalf of, this Colony, and the agreement between the Governments of France and Great Britain relative to it was made not only without its consent, but in despite of the well-known and frequently expressed opposition of the Legislature and Government of this Colony. The chief ground of objection has been that no arbitration should be consented to that did not include all the questions concerning this Colony at issue between the two nations, more particularly the manner in which the French exercise and exceed their rights in the Islands of St. Pierre and Miquelon. The correspondence proves that the Delegates frequently expressed to Her Majesty's Government the desire of the Colony for "an unconditional arbitration upon all points that either party can raise under the Treaties and declarations," and especially urged that the questions relating to St. Pierre and Miquelon should be included in the subjects to be passed upon by the proposed arbitration in Paris. Your Committee conceive the protest against any piecemeal arbitration to be an expression of the sentiment of the entire Legislature, and recommend that an address to Her Majesty in Council should be adopted, praying that the proposed arbitration should not be allowed to proceed unless and until its scope is so enlarged as to make it obligatory upon the arbitrators to decide upon all questions arising under Treaty and other obligations, or at least to include the manner in which the French exercise and exceed their rights in St. Pierre and Miquelon.

(13.) St. Pierre and Miquelon have long been the centre for smuggling operations, to the detriment of this Colony and the Dominion of Canada, and the manner in which they are at present used is a menace to the good government of the adjacent countries. All requests for the appointment of a British Consul at St. Pierre have been heretofore peremptorily refused, and this colony has therefore not been able to adequately protect itself from the practices carried on with and from the aforesaid Islands.

The Committee understand that a joint application has been made by Canada and this Colony for the appointment of a British Consul and Assistant Consul at St. Pierre, and are of opinion that Her Majesty's Government should treat the concession by the Government of France of the right to make such appointments as a condition precedent to any further progress with the proposed arbitration.

(14.) In view of all the circumstances, your Committee recommend that the Legislature adopt an address to Her Majesty in Council drawing her attention to the fact that the Assembly, on the 14th of May last, resolved that it would, under certain conditions, extend until the end of 1895 the Act now legalising the enforcement of the Treaties and *modus vivendi* with France, and praying that Her Majesty's Ministers will not introduce into Parliament any legislation for the purpose of legalising any arbitration not including all questions at issue under the Treaties, or at least that relative to St. Pierre and Miquelon, and pledging the Legislature, in case such an extended arbitration is agreed upon, to the adoption of permanent legislation, provided it includes provisions for the creation of Courts and compensation as stipulated for by the Delegates.

R. BOND, Chairman.

PHILIP CLEARY.

M. MONROE.

G. T. RENDELL.

GEO. SKELTON.

GEO. H. EMERSON.

M. H. CARTY.

A. B. MORINE.

J. SINCLAIR TAIT.

FRANK MORRIS.

APPENDIX A.

TELEGRAM FROM SECRETARY OF STATE FOR THE COLONIES TO GOVERNOR O'BRIEN,
7th February 1893.

It is necessary that Her Majesty's Government should know as soon as possible intentions of your Ministers and Legislature as to permanent legislation to enable Her Majesty to carry out Treaty obligations. Telegraph reply.

FROM GOVERNOR O'BRIEN TO SECRETARY OF STATE, 14th February 1893.

I AM requested by my Ministers, with reference to your telegram of 7th February, to transmit the following minute of the Committee of the Executive Council: "Treaties Bill introduced by Sir W. Whiteway into House of Assembly in Session of 1892 was defeated by 23 to 8; two members of the Executive only supported the Bill, Mr. Harvey and Sir W. Whiteway. My responsible advisers call the attention of the Secretary of State for the Colonies to the resolution of the 14th May last, transmitted in telegram of 17th May, as indicating proposed action of House of Assembly." Legislature meets 7th March.

TELEGRAM FROM SECRETARY OF STATE TO GOVERNOR O'BRIEN, 16th February 1893.

REFERRING to your telegram of 14th February, permanent legislation absolutely necessary to enable arbitration to proceed. French Government would not enter into negotiations for purpose indicated by resolutions of Legislature till after arbitration. If Houses of Legislature will not fulfil pledges given by Delegates on their behalf, Her Majesty's Government will have no alternative but to introduce Imperial legislation, consequently we hope that your Ministers will be prepared to introduce and press legislation of satisfactory permanent measure during next Session; draft must be arranged with Her Majesty's Government. Telegraph reply.

TELEGRAM FROM GOVERNOR O'BRIEN TO THE PRINCIPAL SECRETARY OF STATE FOR THE
COLONIES, 25th February 1893.

REFERRING to your telegram of 16th February, matter is now before Select Committee referred to in my telegram of 17th May, whose report will be submitted to the Houses of Legislature meeting 7th March. Till then my responsible advisers feel they cannot move.

APPENDIX B.

A BILL.

[Draft.]

ENTITLED, &c.

(Recite the Treaties, Declarations, and Agreement for Arbitration.)

WHEREAS it is necessary that tribunals should be established on the Treaty Coast of Newfoundland as referred to in the said Treaties, declarations, and agreement for the purpose of adjudicating upon all questions arising from time to time as between the persons fishing and curing their fish upon the said coast.

Be it enacted by the Governor, Legislative Council, and House of Assembly, in Legislative Session convened:

1. That it shall and may be lawful for the Government of Newfoundland, by and with the approval of Her Majesty, to appoint Judges, either stationary or itinerant, upon the said Treaty Coast to hold Court as occasion may require, to determine all questions arising between persons fishing and curing or drying their fish upon the said coast.

2. That all such questions as aforesaid shall be heard and determined in a summary manner before the Court without a jury.

3. That the said judges shall have power to make such rules as may be deemed necessary for the forms and procedure of the Court, which rules shall, after having been approved of by Her Majesty in Council and published in the "Royal Gazette," be legal and binding as if embodied herein.

4. That the judgments, orders, and decrees of the said Courts shall be executed by officials to be appointed as occasion may require by the Government of Newfoundland, subject to the approval of Her Majesty.

5. When any party shall consider himself aggrieved by the adjudication, &c.

[Right of appeal to the Supreme Court of Newfoundland and from thence to the Privy Council.]

6. No judgment or decree of the said Court shall be questioned for want of form.

7. This Act shall be cited as, &c., &c.

APPENDIX C.

A BILL to provide for carrying into effect Her Majesty's engagements with France respecting the Fisheries off the Coast of Newfoundland, and for the Judicial determination of Questions arising with reference thereto.

WHEREAS the engagements between Great Britain and France relating to the Newfoundland fisheries rest upon the Treaties, declarations, and agreements herein-after mentioned:

* * * * *

And whereas it is expedient that permanent arrangements should be made, both for the legal enforcement of the provisions of the French Treaties, and of the arbitration award, and also for the decision of questions which may from time to time arise under those provisions upon the Treaty Coast and waters.

Be it therefore enacted by the Governor and Legislative Council and House of Assembly in Legislative Session convened as follows:—

1.—(1.) Her Majesty the Queen may from time to time, by instrument under her Royal Sign Manual and Signet, appoint Judicial Commissioners for the Treaty Coast and waters, and every Commissioner so appointed shall receive from the Governor a commission for the purposes of this Act.

(2.) There shall be a superior court of record, called the Judicial Commission Court, and the said Judicial Commissioners shall be Judges of that Court.

2.—(1.) Where a Naval Officer holding the instructions of Her Majesty the Queen, given through the Commissioners of the Admiralty for fulfilling the French Treaties and arbitration award, thinks it necessary to take any action against any persons or their property for the purpose of carrying into effect or enforcing the said Treaties or award, or of maintaining peace and good order among the persons engaged in the fisheries on the Treaty Coast and waters, he shall bring the matter before the Judicial Commission Court, and, before taking any action, obtain a judgment of the Court directing such action.

(2.) Any person aggrieved by any act of a Naval Officer holding such instructions as aforesaid may bring the matter before the Judicial Commission Court.

(3.) The Judicial Commission Court shall try every case in a summary manner, and decide it in accordance with the French Treaties and arbitration award, and give such judgment as appears necessary for carrying into effect the decision so as to secure the due observance of the said Treaties and award.

3.—(1.) A judgment of the Court may impose a fine, not exceeding five hundred dollars, grant an injunction mandatory or otherwise, award damages or costs, direct a sale, and give any other order or direction which appears to the Court necessary for carrying into full effect the judgment of the Court, or for the execution of the French Treaties or arbitration award.

(2.) A judgment of the Judicial Commission Court shall have full effect and may be executed, whether on land or at sea, by any Naval Officer, or by any Civil Officer who executes the judgment of the Supreme Court, or of a Stipendiary Magistrate.

4.—(1.) Subject to any rules from time to time made by Her Majesty the Queen, and countersigned by one of Her Majesty's Principal Secretaries of State—

(a.) Sittings of the Judicial Commission Court shall be held at such times and places, and either by one or more of the Commissioners as occasion appears to require, and that either simultaneously or at different times, and at certain fixed places, or at different places where a Commissioner may be, and either on board ship or on land; and

(b.) The jurisdiction of the Court may be exercised by one Commissioner; and

(c.) The Court may, where it deems it expedient, summon any persons having local knowledge and experience to sit with the Court as assessors; and

(d.) The Court may from time to time appoint such officers as appear to the Court necessary, and remove such officers.

5.—(1.) There shall not, save as herein-after mentioned, be any appeal from any judgment of the Judicial Commission Court in any case connected with the French Treaties or arbitration award, nor shall the Court be liable in any such case to be restrained or interfered with in the exercise of their jurisdiction under this Act, whether by a prohibition, mandamus, certiorari, or otherwise; and any judgment or other proceeding of the Court shall not be deemed void by reason only of any formal defect.

(2.) Provided that—

(a.) Nothing in this Act shall impair the right of appeal to Her Majesty the Queen in Council in accordance with such regulations as Her Majesty in Council may make; and

(b.) If any party to a case determined by one Judicial Commissioner requires the case to be reheard before a Court composed of more than one Commissioner, the case shall be so reheard.

3. Provided further, that an appeal or rehearing under sub-section (2) of this section shall not operate as a stay of execution.

6.—(1.) The Judicial Commission Court shall, for the purposes of this Act, have the same jurisdiction and power of summoning and enforcing the attendance of parties and witnesses, of administering an oath, of protecting and enforcing respect for the Court, enforcing their judgment or summons, and otherwise, as the Supreme Court, or (as the case requires) any Stipendiary Magistrate.

(2.) A Naval Officer shall have power with a view to any proceeding in the Judicial Commission Court to take and bring before the Court any person or vessel or boat or any tackle, equipment, or nets, and for that purpose, and for the purpose of the execution of any judgment of the Court, shall have the authority and be entitled to the immunities given by law to any sheriff, bailiff, tipstaff, constable, or officer executing a warrant or judgment of the Supreme Court, or (as the case requires) any Stipendiary Magistrate.

7.—(1.) The Judicial Commission Court may from time to time, with the approval of Her Majesty the Queen signified under the hand of one of Her Majesty's Principal Secretaries of State, make, revoke, and vary rules regulating the procedure, payment of assessors, practice, fees, and costs, in matters under this Act, and providing for the reception of depositions in evidence, and such rules shall be published in the "Royal Gazette," and while in force shall be binding as if enacted in this Act.

(2.) All such fees, and also all fines imposed by the Court, shall be paid, accounted for, and applied as directed by the rules, and subject to any such direction shall be applied in aid of the expenses of the Court and the officers thereof, and so far as not required for that purpose shall be applied as part of the revenue of Newfoundland.

8.—(1.) Nothing in this Act shall apply to any matter arising otherwise than in relation to the French Treaties and arbitration award.

(2.) The jurisdiction and powers conferred by this Act shall be in addition to and not in derogation of any jurisdiction and powers of Her Majesty the Queen, or officers acting under Her orders, or of the Governor or any court, magistrate, or officer of Newfoundland.

9. In this Act, unless the context otherwise requires—

The expression "Naval Officer" means any officer, commissioned and in full pay, of one of Her Majesty's ships.

The expression "judgment" includes a decree or order.

The expression "French Treaties" means the engagements between Great Britain and France recited in this Act, and includes any future agreement for a continuation (pending the arbitration) of the *modus vivendi* of 1890.

The expression "arbitration award" means any award made in pursuance of the arbitration agreement recited in this Act.

The expression "treaty coast and waters" means such portion of the coast of Newfoundland as is mentioned in the above-recited Treaty of Versailles of the third day of September, one thousand seven hundred and eighty-three, and such of the waters adjoining that portion of the coast as are within Her Majesty's jurisdiction.

Words importing the masculine gender shall include females, and words in the singular shall include the plural, and words in the plural shall include the singular.

10. The Newfoundland French Treaties' Act of 1891 is hereby repealed.

11. This Act shall come into operation on such day as may be notified by the Governor by proclamation, and may be cited as the "Fishery Treaties' Act, 1892."

APPENDIX D.

DESPATCH proposed to be telegraphed.

Houses of Legislature unwilling it should be considered there was ever any intention on their part to repudiate proposals made by Delegates. Bill rejected last year was not in accord with those proposals, and did not contain principles agreed upon by Delegates and Her Majesty's Government. In reply to your despatch, February 16th, both Houses beg to intimate their readiness, in interests of Empire, to enact legislation fulfilling proposals by Delegates, and to agree with Her Majesty's Government upon draft of measure for that purpose. They regard it as essential that such legislation should provide for courts and compensation as proposed in Delegates' letter, May 1, 1891, and referred to by Lord Salisbury in Lords May 29th, 1891. Legislature most earnestly protests against Imperial legislation for enforcement Treaties and award of arbitration which does not contain provision for compensation, and for courts constituted as agreed upon by Her Majesty's Government and Delegates from this Colony. Partial arbitration now pending was agreed upon in opposition Colony's repeated protests. Legislature earnestly desires that arbitration should not proceed unless scope extended so as to include all questions arising under treaties, or at least French use of St. Pierre and Miquelon. Legislature earnestly requests that, while negotiations for extension arbitration, and joint application Canada and this Colony for British Consul, are pending, the arbitration regarding lobster question shall not be proceeded with. A measure extending till end 1895 present Act for enforcing Treaties and *modus vivendi* will be enacted if Her Majesty's Government desire it, pending result negotiations. Report Joint Select Committee and Address by both Houses will be forthwith sent by mail.

PROTEST BY MR. A. W. HARVEY.

I, A. W. Harvey, member of the Legislative Council of Newfoundland, while agreeing most heartily with the objects sought to be accomplished by the joint address from both Houses of the Newfoundland Legislature on the French Shore Question, which passed the Council on the 11th day of March 1893, must note my disagreement from several statements contained in said address as incorrect and likely to weaken, and possibly frustrate, the wishes of the Legislature and thus injure the interests of the colony.

The portions against which I record this protest are contained (1) in the 8th section of the address, as follows:—"The result of this would be to legalise an authority heretofore usurped by naval officers and practically to abolish any redress to the subject." Sub-section 2 of section 2 of the Bill under discussion is as follows:—" (2) Any person aggrieved by any act of a naval officer holding such instructions, may bring the matter before the Judicial Court," showing that any person whatsoever may bring his complaint before the Court. Section 8 of the report continues: "And when in connexion with the limited rights of the subject under section 2, the extraordinary and unheard of powers conferred by sub-section 2 of section 6, on naval officers, are considered, your committee are of opinion that naval officers are by this act given more absolute control than has hitherto been attempted to be assumed by the most arbitrary of them." As a matter of fact, by the law at present on the Newfoundland Statute Book, a naval officer holding Her Majesty's commission combines the duties usually assigned to the police, to the judge, and to the sheriff. While the proposed Bill strictly limits the power of the naval officer to those usually accorded to the police, the verbiage of a great part of clause 8 is open to the gravest objection in a most important document proceeding from Legislative bodies.

Section 8 terminates as follows:—"The refusal of Her Majesty's Government to assure the delegates that the Commissioners would be lawyers of training and standing, and the want of that assurance in the proposed Bill indicate that these Commissioners are likely to be naval officers commanding cruisers in treaty waters." I protest against any such conclusion from any information which is before the Legislature, or, so far as I am aware, within the knowledge of the delegates.

In section 9 "The Delegates conditioned that provisions for the purpose of affording compensation to the owners of factories should be inserted in any measure legalising the award of the arbitration (*see* delegates' letter of May 1st, 1891)." In the letter referred to, after setting forth the details of the measure "we have outlined" in the earlier part of that letter, the delegates proceed—"We ask an assurance

"(1.) That no further questions shall be submitted to the Arbitration Commission without prior consultation with the Government of the Colony.

"(2.) That the opinion of the Colonial Government will not be disregarded in the absence of some paramount consideration involving the welfare of the Empire, and

"(3.) That compensation will be given to those persons, if any, whose property may be destroyed by the award of arbitration."

This verbiage shows that the delegates did not ask or expect any compensation clause to be inserted in the Bill.

A telegram was subsequently sent by the delegates to the Newfoundland Legislature that Lord Salisbury had given the assurance asked for with regard to compensation.

In Appendix D. in "Despatch to be telegraphed," the 3rd and 4th lines read:—"And did not contain principles agreed upon by delegates and Her Majesty's Government."

As the whole of this Bill was agreed upon by the delegates who remained in London for that purpose, and Her Majesty's Government, this assertion must be incorrect and out of place. The preceding words "Bill rejected last year was not in accord with those proposals" are entirely correct.

A. W. HARVEY.

March 13, 1893.

No. 18.

FOREIGN OFFICE to COLONIAL OFFICE.

[Answered by No. 19.]

SIR, Foreign Office, April 6, 1893.
 WITH reference to your letter of the 2nd ultimo,* I am directed by the Earl of Rosebery to transmit herewith a copy of a note from the French Ambassador agreeing on behalf of his Government to the renewal, during the ensuing fishing season, of the *modus vivendi* of 1890 relative to the catching and preparation of lobsters on the Treaty Coast of Newfoundland.

I am to request that you will move the Marquess of Ripon to take all necessary steps for carrying the terms of this arrangement into execution.

Lord Rosebery would be glad also to be favoured with Lord Ripon's observations on the latter part of Monsieur Waddington's note, in which he urges Her Majesty's Government to obtain the necessary powers from Parliament to enable them to carry into execution any award which may be given in the arbitration agreed upon between the two Governments.

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

The Under Secretary of State,
 Colonial Office.

 Enclosure in No. 18.

M. LE COMTE, Ambassade de France, Londres le 4 avril 1893.
 EN réponse à votre lettre du 4 Mars j'ai l'honneur de vous déclarer que le Gouvernement de la République consent au renouvellement pour l'année 1893, du "*modus vivendi*" de 1890, relatif à la pêche et à la préparation des homards sur le "French Shore" à Terre-Neuve.

A cette occasion, je suis chargé par mon Gouvernement d'insister auprès de votre Seigneurie pour qu'elle obtienne du Parlement les pouvoirs nécessaires pour donner suite à l'arbitrage convenu, et assurer d'avance l'exécution de la décision des arbitres. La Chambre des Communes avait voté une résolution par laquelle elle s'engageait à donner au Gouvernement de Sa Majesté les moyens d'exécuter ces décisions, dans le cas où la législature de Terre-Neuve se refuserait à voter elle-même un bill analogue au bill présenté par Lord Knutsford et voté par la Chambre des Lords. Les derniers incidents qui se sont produits à la législature de Terre-Neuve démontrent jusqu'à l'évidence qu'il n'y a rien à attendre de ce côté, et que jamais elle ne consentira à passer un bill garantissant au Gouvernement de Sa Majesté les pouvoirs que lui assurait le bill de Lord Knutsford. Je dois rappeler encore une fois à votre Seigneurie que dans une question essentiellement internationale, puisqu'il s'agit de l'interprétation et de l'exécution de traités solennels, le Gouvernement de la République ne peut avoir à faire qu'au Gouvernement de Sa Majesté, et ne pourrait en aucun cas reconnaître ni des fonctions exécutives ni des pouvoirs judiciaires institués par la colonie. Aussi en consentant au renouvellement du "*modus vivendi*" pour 1893, le Gouvernement de la République a la ferme espérance que le Gouvernement de Sa Majesté pourra bientôt mettre fin d'une façon satisfaisante à la situation provisoire qui existe depuis trop longtemps.

Veillez, etc.
 (Signé) WADDINGTON.

Sa Seigneurie Le Comte de Rosebery,
 &c. &c. &c.

 * No. 13.

TRANSLATION.

M. LE COMTE,

French Embassy, London, April 4, 1893.

IN reply to your letter of the 4th of March, I have the honour to state to you that the Government of the Republic consents to the renewal for the year 1893 of the "*modus vivendi*" of 1890, relative to the catching and preparation of lobsters on the "French Shore" in Newfoundland.

On this occasion I am directed by my Government to urge that your Lordship will obtain from Parliament the powers necessary for giving effect to the arbitration that has been agreed upon, and for ensuring beforehand that the decision of the arbitrators shall be carried out. The House of Commons had passed a resolution by which they undertook to furnish Her Majesty's Government with the means of carrying out these decisions, in the event of the Legislature of Newfoundland refusing themselves to pass a Bill similar to the one introduced by Lord Knutsford and passed by the House of Lords.

The latest incidents that have occurred in the Newfoundland Legislature show conclusively that nothing is to be expected from that side, and that they will never consent to pass a Bill granting to Her Majesty's Government the powers secured to them by the Bill of Lord Knutsford. I must once more remind your Lordship that in a question essentially international, since it concerns the interpretation and execution of solemn treaties, the Government of the Republic can only deal with the Government of Her Majesty, and could in no case recognise either the executive functions or the judicial powers instituted by the Colony. Consequently in giving their consent to the renewal of the "*modus vivendi*" for 1893, the Government of the Republic entertain the firm hope that the Government of Her Majesty will soon be able to terminate satisfactorily the provisional situation which has already existed too long.

I have, &c.
(Signed) WADDINGTON.

The Earl of Rosebery, K.G.
&c. &c. &c.

No. 19.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 21.]

SIR,

Downing Street, April 15, 1893.

WITH reference to your letter of the 6th instant,* I am directed by the Marquess of Ripon to transmit to you, to be laid before the Earl of Rosebery, copies of two telegrams and of a despatch† from the Governor of Newfoundland respecting the Report of the Joint Committee of the Colonial Legislature on the subject of the French Treaties Bill.

It is obvious from these papers that the wish of the Colonial Legislature is to postpone any action in this matter until after the general election, and, in view of the probable opposition to an Imperial Bill in the House of Commons, Lord Ripon would propose, if Lord Rosebery concurs, to invite the Colonial Legislature to renew the temporary Act for two years; and as soon as the result of the election is known to invite the Colonial Government to settle with Her Majesty's Government the terms of permanent legislation.

I am at the same time to enclose the draft of a telegram‡ which, if Lord Rosebery concurs, it is desirable to send off as soon as possible as the Session of the Legislature will close at an early date.

With regard to M. Waddington's note, Lord Ripon can only suggest that he should be informed that Her Majesty's Government are equally anxious with the French Government to put an end to the present unsatisfactory position of affairs, and that they are in communication with the Colonial Government with that object.

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

The Under Secretary of State,
Foreign Office.

* No. 18.

† Nos. 15, 16, and 17.

‡ See No. 20.

No. 20.

THE MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

[Answered by No. 27.]

19th April 1893. Her Majesty's Government has received and considered the Report of the Joint Committee of the Legislature enclosed in your Despatch of 13th March.*

Arbitration confined to lobster question was accepted by the Delegates, and your Ministers appointed a member of the Court. It cannot be abandoned; and negotiations for general settlement are impossible until that arbitration has been concluded.

Her Majesty's Government cannot admit the interpretation placed by the Committee on the arrangements with the Delegates as to permanent legislation, nor can they commit themselves without further discussion to the alterations desired; but they are willing to renew discussion with Colonial Government as to appointment of Judges, provided the selection remains with Her Majesty's Government, and to leave the question of an appeal to Supreme Court for further consideration. It is impossible to settle details on these and other points on which your Ministers lay stress in time for legislation in Newfoundland this Session, and your Ministers should therefore procure the extension of the temporary Act as proposed.

If this is agreed to Her Majesty's Government will postpone question of Imperial legislation.

No. 21.

FOREIGN OFFICE to COLONIAL OFFICE.

SIR,

Foreign Office, April 19, 1893.

IN reply to your letter of the 15th instant,† relative to the legislation necessary to give effect to the Treaty engagements between this country and France respecting the fishery question on the Treaty Shore of Newfoundland, I am directed by the Earl of Rosebery to state that he concurs in the course recommended by the Marquess of Ripon, and in the terms of the telegram which he proposes to address to the Governor of Newfoundland on this subject.

I am at the same time to enclose copy of a note which has been addressed to the French Ambassador in reply to his communication of the 4th instant.

It is presumed that Lord Ripon has communicated with the Lords Commissioners of the Admiralty respecting the renewal of the "*modus vivendi*" of 1890 during the approaching fishing season.

The Under Secretary of State,
Colonial Office.

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

Enclosure in No. 21.

M. L'AMBASSADEUR,

Foreign Office, April 19, 1893.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 4th instant, stating that your Government agree to the renewal during the ensuing fishing season of the "*modus vivendi*" of 1890 relative to the catching and preparation of lobsters on the Treaty Coast of Newfoundland.

I have lost no time in requesting the proper Department of Her Majesty's Government to take steps for carrying the arrangement into effect.

With reference to the latter part of your Excellency's note, in which you urge that the necessary legislative powers should be obtained for the purpose of proceeding with the arbitration already agreed upon between the two Governments, I have to state that Her

* No. 17.

† No. 19.

Majesty's Government are equally anxious with that of France to put an end to the present unsatisfactory position of affairs, and that they are in communication with the Government of Newfoundland with that object, but that circumstances do not admit of any immediate progress being made.

His Excellency Monsieur Waddington.

I have, &c.
(Signed) ROSEBERY.

No. 22.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.
(Received April 26, 1893.)

[*Answered by Nos. 23 and 29.*]

TELEGRAPHIC.

26th April 1893. I am desired by my Government to state that they are prepared to comply with the request of Her Majesty's Government that they should re-enact the temporary Bill for one year, but that they do so without in any way departing from or prejudicing the position as set forth by the Legislature and the Government in relation to the question of the Treaty Shore. The Bill will be introduced at once.

No. 23.

THE MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

(Extract.)

27th April 1893. In reply to telegram of the 25th April,* Her Majesty's Government cannot accept as satisfactory an extension of the Act for one year; and in view of the concessions proposed in my telegram of the 19th instant,† they must insist that, as proposed in your telegram of the 9th ultimo,‡ and in the enclosure of your Despatch of the 13th ultimo,§ the temporary Act be continued to the end of the year 1895.

No. 24.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.
(Received May 2, 1893.)

[*Answered by No. 26.*]

TELEGRAPHIC.

Consulted with Bond, who is introducing prolongation of temporary Act. Some difficulties expected, as some of the delegates state that when engagement to submit to arbitration was given, promise of compensation to those affected was made by Her Majesty's Government. It is expected that close of Legislative Assembly takes place next week.

* No. 22.

† No. 20.

‡ No. 15.

§ No. 17.

No. 25.

FOREIGN OFFICE to COLONIAL OFFICE.

SIR,

Foreign Office, May 2, 1893.

I AM directed by the Earl of Rosebery to return to you herewith the reports of the debates in the Newfoundland Legislature on the question of legislation for enforcing British Treaty obligations towards France, which were forwarded for his Lordship's consideration in your letter of the 26th ultimo.*

I am to observe that, as Lord Ripon is no doubt aware, the statements made by Mr. Monroe in the Legislative Council on the 10th of March as to what passed in the Conferences of the Delegates with Mr. Bramston and Sir T. Sanderson respecting the appointment and payment of the Judicial Commissioners are altogether incorrect.

The idea of those Commissioners being appointed by the Colonial Government was never for one moment entertained by Her Majesty's Government or by any one speaking on their behalf, and the most that was ever admitted for consideration was that after appointment by Her Majesty's Government, a commission should be issued to them by the Governor of the Colony.

I am, &c.

(Signed) P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

No. 26.

THE MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

6th May 1893. Referring to your telegram of 2nd May,† undertakings of Her Majesty's Government contained in my telegram of the 19th April‡ are dependent on the extension of temporary Act for two years by Newfoundland Legislature during their present Session. If this is not done those undertakings fall to the ground.

No. 27.

SIR TERENCE O'BRIEN to the MARQUESS OF RIPON.
(Received May 16, 1893.)

TELEGRAPHIC.

I HAVE communicated to the Legislature your Lordship's telegram of the 19th April,‡ and am now requested to forward to you *verbatim* the following resolution:—"The Joint Select Committee on the French Treaties question, referring to resolutions adopted by the Assembly in 1892, and to the report of the Committee which was adopted this year, desire that you should be informed that they will recommend the Legislature to pass a Bill extending the Act for two years, provided that compensation be definitely assured to those who will be affected by the award (of the) pending Arbitration on the Lobster question. The Legislature will be prorogued this week, and a prompt reply is necessary if the Bill is to be passed during the present Session."

No. 28.

THE MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

TELEGRAPHIC.

19th May 1893. To prevent any misunderstanding on the question of compensation, you should inform your Ministers that Her Majesty's Government are prepared to repeat the assurance made in the letter of 4th May 1891§ from the Colonial Office to

* Not printed.

† No. 24.

‡ No. 20.

§ No. 9 in [C. 6365], May 1891.

the Delegates in the following words :—“ They will also carefully consider the question “ whether compensation should properly be given to those persons whose property may “ be disturbed by the award of the arbitrators, although they see no grounds for “ admitting any liability on the part of the Imperial Government to pay such com- “ pensation.”

Despatch follows giving further explanations.

No. 29.

THE MARQUESS OF RIPON to SIR TERENCE O'BRIEN.

SIR,

Downing Street, May 19, 1893.

I HAVE the honour to acknowledge the receipt of your telegram of the 26th of April, and your Despatch of the 13th of March,* forwarding the Report of the Joint Committee of the Houses of the Legislature on the permanent Bill for carrying out the Treaty engagements with France which was agreed upon by Her Majesty's late advisers with the Delegates of the Colonial Legislature.

Her Majesty's Government observe with satisfaction the intimation in the Report that “ the Legislature abides by its promise to carry out the pledges of the Delegates.” This is the more satisfactory, inasmuch as the statement in the speech of Mr. Morine, one of the Delegates, on the motion for the second reading, that “ the majority of the Delegates “ never contemplated that a permanent measure should be accepted,” and the further statement of the Colonial Secretary that “ the Legislature having been deceived into a “ promise to pass legislation, the promise given by the Delegates to Her Majesty's “ Government and endorsed by the Legislature could not be considered as binding,” appeared to throw some doubt on the point.

As, however, both these gentlemen have signed this Report, Her Majesty's Govern- ment are willing to believe that the words quoted were used inadvertently in the heat of debate, and that they had no intention of advising the Legislature to repudiate the undertaking given on its behalf by its duly authorised Delegates.

With regard to the nature and extent of these pledges, Her Majesty's Government regret that the Joint Committee appear to be disposed to place upon them an interpreta- tion which the facts, as set forth in the correspondence, do not warrant.

To remove any possible misapprehension on this point, it may be convenient that I should here summarise as briefly as possible the main points in the communications which passed between the Delegates and Her Majesty's Government.

In the letter addressed by the Delegates to Lord Knutsford on 21st April 1891,† and in the address‡ delivered on the same date on behalf of the Delegates, at the Bar of the House of Lords, on the motion for the second reading of the Imperial Bill, the proposals of the Delegates were stated as follows :—

“ First :—

- “ (a.) The Newfoundland Legislature to pass immediately an Act authorising the execution for this year of the *modus vivendi*, the award of the Arbitration Commission regarding the lobster question, and the Treaties and Declarations under instructions from Her Majesty in Council.
- “ (b.) The further progress of the Bill now before Parliament to be deferred until the passing of the above Act and the Bill then to be withdrawn.
- “ (c.) *The terms of an Act to empower courts and provide for regulations to enforce the Treaties and Declarations to be discussed and arranged with the Delegates now in this city as rapidly as possible, and to be enacted by the Legislature of the Colony as soon as agreed upon.*”

“ Second :—

- “ (a.) The present arbitration agreement not to be allowed to operate further than the lobster question, without prior consent of the Colony, and in this case the Colony to be represented on the Commission.
- “ (b.) The Colony desires an agreement for an unconditional arbitration on all points that either party can raise under the Treaties and Declarations; and if this be arranged between Great Britain and France, Newfoundland will ask to be represented upon such arbitration, and will pass an Act to carry out the award.”

* Nos. 22 and 17.

† No. 2 in [C. 6365], May 1891.

‡ No. 5 in [C. 6365], May 1891.

In the debate which followed, these proposals were not discussed by Her Majesty's then Ministers, but the Earl of Kimberley, the leader of the then Opposition in the House of Lords, speaking on behalf of those with whom he acted, said:—"I should suppose that by special courts the Delegates mean special Imperial Courts which would act independently of the ordinary courts of the Colony." The views of Her Majesty's present advisers on this important point are in accordance with this statement.

Again, in the letter of the 1st of May,* which the Delegates subsequently addressed to this Department, they said, "(a.) If the Bill now before the Lords be not further proceeded with and, if *Her Majesty's Government admit the principle of a measure for the creation of courts to adjudicate upon complaints arising in the course of the enforcement of the Treaties and Declarations relative to French Treaty rights, and engage to discuss and arrange with us, as rapidly as possible, the terms of a Bill embodying that principle*, we will with all possible speed procure the enactment by the Colonial Legislature of a measure giving power to Her Majesty in Council during the current year to enforce, in the same manner as heretofore, Her rules and regulations for the observance of the *modus vivendi*, the award of the arbitration, and the Treaties and Declarations with France, which temporary Act the Colonial Legislature will replace by a permanent measure for securing the enforcement of the Treaties under the Orders of the special courts referred to above, provided that if, as the result of the enforcement of the awards of the arbitration, the property of Her Majesty's subjects is disturbed, they shall be entitled to compensation."

The Delegates went on to outline the details of the permanent measure which they proposed, including the method of appointing the judges, the procedure, the right of appeal, and other details.

In the same letter they also stated more fully their proposals with regard to the arbitration in the following passage:—

"If it be possible to abandon arbitration upon the lobster question, we strongly urge that it be done, for we fear grave complications as its result. But if it be not possible now to withhold that question, we ask an assurance:—

- (1.) "That no further questions shall be submitted to the Arbitration Commission without prior consultation with the Government of the Colony.
- (2.) "That the opinion of the Colonial Government will not be disregarded in the absence of some paramount consideration involving the welfare of the Empire; and
- (3.) "That compensation will be given to those persons, if any, whose property may be disturbed by the award of the arbitration."

* * * * *

"If the arbitration upon the lobster question is unavoidable, and Her Majesty's Government convey to us the assurance we have requested, it will be advisable for the Colony to be represented upon the arbitration, and we would advise the acceptance of the invitation already made to the Colonial Government to appoint a Delegate arbitrator from the Colony."

The reply to this letter, dated the 4th May,† did not touch upon the question of the principle of the proposed legislation, but, after pointing out that the proposals were insufficient to warrant the withdrawal of the Imperial Bill, it replied to the other conditions of the Delegates as follows:—

"As regards the further proposals made in your letter, Her Majesty's Government desire me to state that the arbitration upon the sole question now to be submitted to the Commission cannot be abandoned, but they are willing to give an assurance that no further questions shall be submitted to the arbitrators without full consultation with the Colonial Government, and that the opinion of the Colonial Government will not be disregarded in the absence of pressing considerations affecting the interests of the Empire."

"They will also carefully consider the question whether compensation should properly be given to those persons whose property may be disturbed by the award of the arbitrators, although they see no grounds for admitting any liability on the part of the Imperial Government to pay such compensation."

"Her Majesty's Government still entertain the hope that the Colonial Government will assent to the proposal that the Colony should be represented by a Delegate at the approaching arbitration, and they heartily join in the hope expressed by you, that the relations between France and Newfoundland may speedily be placed upon a more satisfactory basis."

* No. 8 in [C. 6365].

† No. 9 in [C. 6365].

Further correspondence and discussion took place with regard to the withdrawal of the Imperial Bill and the duration of the temporary Act to be passed by the Newfoundland Legislature; and finally on the 27th of May the Delegates wrote that they were prepared to recommend the Legislature, that a temporary Act should extend to the end of 1893 on condition that Her Majesty's Government would:—

- (1.) "Withdraw the Bill now before the House of Commons after its second reading."
- (2.) "Will also give an assurance that the *terms of a permanent Bill to be passed by the Colonial Legislature, based upon the principle of the establishment of Courts Judges or Magistrates instead of under Naval Officers*, for the adjudication of questions arising under the Treaties, *modus vivendi*, and award of the present arbitration, be forthwith discussed with the Delegates, and arranged. Such permanent Act when passed by the Colonial Legislature might at once supersede the present proposed Colonial temporary Act."

They further went on to say, "In case no such permanent Act can be arranged and passed, which we cannot conceive as probable, of course it will be competent for Parliament to pass such an Act before the end of the year 1893 as it may deem necessary for the carrying out of the Treaties, &c.

"Replying upon the assurances contained in your previous correspondence with us, especially with reference to the limitation of the present arbitration to the lobster question, and compensation to be made under the modus vivendi, we are of opinion that the Newfoundland Legislature will accede to our proposition made herein."

On the following day the Delegates were able to report that the temporary Act had been passed by the Legislature, and added, "we presume that nothing now remains to be done by us or by the Newfoundland Legislature in order to obtain from your Lordship the withdrawal of the Bill now before the House of Commons after its second reading, and that your Lordship will give such directions for the immediate arrangement with the Delegates of the terms of a permanent Act, based on the principle as mentioned in our letter of yesterday." On the same day a reply was sent, announcing that the Imperial Bill would be withdrawn, and that "*Her Majesty's Government are prepared forthwith to discuss and arrange with you the terms of a permanent Bill to be passed by the Colonial Legislature upon the general principle referred to in the second paragraph of your letter of the 27th instant, and I am to add that the views of Her Majesty's Government in respect to the other points mentioned in that letter have been stated in the previous correspondence.*"

From these communications it is clear that, so far as the permanent legislation with regard to the Treaties was concerned, all that the Delegates remaining in England (one of them, Mr. Morine, having left for the Colony on the 11th of May) then asked for, and all that was accepted by Her Majesty's Government, was (in the words of their letter of the 27th of May) "that the terms of a permanent Bill to be passed by the Colonial Legislature based upon the principle of the establishment of Courts under Judges or Magistrates, instead of under Naval Officers," should be discussed and arranged with them.

In connexion with this it is important to observe, that when the Legislature passed the resolution of the 9th of May, "that this Legislature will adopt such legislation as may be necessary to carry into effect the proposals made to the Imperial Government and Parliament by the Delegates," the only information it had respecting these proposals was the summary contained in the telegram sent by the Delegates on the 6th of May as follows:—

"We propose Legislature pass temporary Bill enforcing modus arbitration award in present manner for this season, provided Imperial Bill dropped; compensation secured to possible sufferers under award, and principle admitted creating courts to discharge judicial functions now performed by Naval Officers; details to be arranged and made into permanent Bill to replace temporary Act."

As soon as the provisions of the measure came to be discussed, the Delegates were informed that the selection of the judges must rest with Her Majesty's Government. Sir William Whiteway stated to the Assembly in his speech on the second reading of the Bill that the four Delegates then in this country were informed by my predecessor at his interview with them on the 6th of June, that this was a position from which Her Majesty's Government could not recede. On this point I think it well to enclose a copy of a letter* received from the Foreign Office.

If the Delegates had been of opinion that they had no power to discuss the terms of the Bill, which did not provide for the appointment of the judges by the Colony, they could of course have stated so at once, and have terminated a discussion which they would, in those circumstances, have had no authority to continue. As, however, after this frank avowal on the part of Her Majesty's Government, the negotiations were continued with the full knowledge on the part of the Delegates of the views of Her Majesty's Government on this point, and without protest from any of them that it was beyond their powers to accept this provision, the conclusion is irresistible that they recognised that the provision, however much they may have disliked it, was not inconsistent with the pledges given by them to Her Majesty's Government, and was also within their competence to accede to.

The Delegates, as a whole, had, it must be remembered, pledged themselves to arrange with Her Majesty's Government the terms of a permanent Bill, and though it is true that one Delegate had left England before the discussions began, and that two other Delegates left for the Colony before the negotiations were concluded, they did not leave before Her Majesty's Government had informed them of the finality of their decision on the question of the selection of the judges, and in any case, as they allowed their two remaining colleagues to continue the discussion, they bore an equal responsibility for the subsequent action of these latter; a proof that, this important question having been settled, they were prepared to accept whatever their colleagues who remained agreed upon with Her Majesty's Government as to the other provisions of the draft measure. Your Ministers, too, though they were in constant communication with the Delegates, never questioned their power to continue and to conclude the discussion, nor, in the objections to the draft measure which were communicated on their behalf to my predecessor, did they give any hint that they regarded any of the provisions to which exception is now taken, as so vital as to render it necessary for them to refuse their support to a measure in which those provisions were embodied.

I need not add that if Her Majesty's Government had entertained the least doubt as to the authority and competence of Sir William Whiteway and Mr. Harvey to continue the discussion on behalf of their colleagues, they would at once have declined to proceed.

The reasons for which Her Majesty's Government felt compelled to insist on this special provision in regard to the appointment of the judges were explained in the letter from this Department to Sir W. Whiteway of the 3rd of August 1891,* which was transmitted to you in my Despatch of the following day. As I have already pointed out, Her Majesty's Government's present advisers, when in opposition, expressed their concurrence in the views of their predecessors on this point; and, though they are not unwilling to meet the wishes of the Legislature so far as may be possible, and perhaps even to agree that the formal appointment of the judges should be vested in the Colonial Government, they must retain in their own hands the selection of those judges who will be paid by the Imperial Government.

The other main objection urged to this Bill is, that no intermediate appeal to the Supreme Court from the decision of the Judicial Commissioners is provided for. The reasons for this were stated in the letter of 3rd August to Sir W. Whiteway, already referred to, but the point is one upon which I have no doubt an arrangement could be arrived at by further discussion.

The exception taken in the eighth paragraph of the Report to the second section of the Bill, which empowers the Naval Officers to bring matters before the Court, appears to overlook the terms of the Declaration of 1783, under which His Majesty undertook to take the most positive measures to secure the French from molestation in the exercise of their rights.

It cannot be fairly argued that it is sufficient compliance with the terms of that promise to merely provide the courts, and to leave the French fishermen to seek their protection when their rights are infringed, and I have no doubt that on further consideration the Legislature will recognise that the provision is absolutely necessary for the fulfilment of the international obligations of Her Majesty.

I need scarcely add that, for any interference with the fishery or other rights of British subjects, a remedy exists in the local courts already established.

The further statement in this paragraph that "the refusal of Her Majesty's Government to assure the Delegates that the Commissioners would be lawyers of training and standing, and the want of that assurance in the proposed Bill, indicates that these

* No. 1.

Commissioners are likely to be the Naval Officers commanding cruisers in the Treaty "waters," is absolutely unwarranted. Her Majesty's Government can only express their surprise that the Legislature should, without any grounds whatever, have made such an extraordinary charge against Her Majesty's Government, more especially after the explanations given in my predecessor's letter of the 3rd of August.

With regard to the question of compensation, the Delegates, as will be seen from the passage in their letter of the 27th of May already quoted, accepted the assurances given by Her Majesty's Government in the letter from this Department of the 4th of May as satisfactory.

There never was any suggestion that a provision on this subject should be inserted in the permanent Bill, and indeed such a provision would obviously have been altogether futile, as an Act of the Newfoundland Legislature cannot impose a charge upon Imperial funds, which I understand to be the wish of the Committee.

On this point I may observe that the statement in paragraph 9 of the Report, "that the lobster factories upon the coasts over which the French have rights were permitted to be erected and to be operative, while British Naval Officers were professedly enforcing Treaty rights on that coast under the instructions of Her Majesty's Government," would seem to imply that such factories were erected with the knowledge and consent of Her Majesty's Government.

In answer to this it is only necessary for me to refer to my predecessor's despatch of the 23rd of December 1887,* in which it was pointed out that under certain circumstances these establishments might infringe the Treaty rights of the French, and the Colonial Government were requested to obtain legislation to empower Her Majesty's Government to deal with such cases.

Her Majesty's present advisers adhere unreservedly to the declaration made by their predecessors in the Colonial Office letter of the 4th of May 1891, and accepted by the Delegates, as follows:—

"They will also carefully consider the question whether compensation should properly be given to those persons whose property may be disturbed by the award of the arbitrators, although they see no grounds for admitting any liability on the part of the Imperial Government to pay such compensation."

I must, however, point out that, as the assurance was given on the understanding that the Colonial Legislature would pass satisfactory permanent legislation, it can be no longer considered as binding if, owing to the failure of the Colony to fulfil its part of the contract, it should become necessary to resort to Imperial legislation.

It may be desirable, moreover, in order to avoid all future misunderstanding, that Her Majesty's Government should state at once that they could not entertain any proposals for granting compensation from Imperial funds without reserving to themselves the right of appointing an Imperial officer to assess the amount of compensation in each individual case, whose decision, as far as they are concerned, will be final.

With regard to the arbitration, the proposals of the Delegates on the subject are stated in the quotations already cited. They were informed by Her Majesty's late advisers that the arbitration on the lobster question could not be abandoned, but that it would be restricted to that question as desired in the alternative proposal of the Delegates. That assurance was accepted by the Delegates in their letter of the 27th May as satisfactory, and also by your Ministers, who, as announced in your telegram of the 19th of June, expressed their wish to be represented on the Commission, and appointed Sir William Whiteway as their representative.

The Committee do not, I understand, repudiate the obligation to proceed with the arbitration, but their desire is that Her Majesty's Government should not now proceed with it, and should rather negotiate for an arbitration embracing all the points at issue with regard to the French Treaties.

Her Majesty's Government are bound, however, by the engagements of their predecessors, and until those engagements have been fulfilled by the completion of the arbitration already agreed to, they would not be in a position to propose either the complete arbitration desired by the Colony or a negotiation for a general settlement of the fishery question, even if they were not assured (as you have already been informed in my telegram of 16th February) that the French Government would decline to entertain any such proposals.

* No. 81 in [C. 6044], June 1890.

So, with regard to the question of appointing a Consul at St. Pierre, the Government of France have, as you are already aware, declined to consider this question until the arbitration has been disposed of.

The present position then is, that the arbitration agreed upon by the Governments of England and France, and accepted by the Government of Newfoundland, cannot at present proceed, as no permanent provision has been made for the execution of the arbitration award and the enforcement of French Treaty rights, and that, until that arbitration is concluded, Her Majesty's Government cannot make any attempt to meet the wishes of the Colony by negotiating, either for a complete arbitration, or a general settlement, or press further for permission for a British Consular Officer to reside at St. Pierre.

While Her Majesty's Government are anxious to forward the wishes of the Colony in regard to these matters, they must guard themselves against admitting the statement of the Committee that "as the Treaties were made in the interests, not of this Colony, but of the Empire at large, it was for the Empire's honour and advantage that proposals were made by the Delegates, and will be fulfilled by the Legislature, and that the Colony will expect to be rewarded in due time by the entire abrogation of the Treaties at the expense of that Empire on whose behalf they were made and enforced."

The true position of the Colony in regard to the Treaties was clearly stated by the present Lord Chancellor in his speech on the second reading of the Imperial Bill, when he pointed out that "the rights under the Treaties which we are considering, whatever those rights may be, are ancient, and came into existence at a time when there was no inhabitant population on the coasts in question. These Treaty obligations were not imposed on an existing community, but the community which has since grown up has come into being subject to the existence of these Treaty rights. I think that is beyond the possibility of question. The liability of the inhabitants of Newfoundland to the burden of these Treaty obligations does not depend upon any connexion of the Colony with the British Crown. If that link were severed, the inhabitants of Newfoundland would be not one whit less under the Treaty obligations; those obligations would be in no degree less binding upon them. I think it is essential this should be borne in mind: that they would then find themselves still subject to the Treaties, face to face with the French nation insisting upon their performance, and they would be subject to the entire pressure of the force existing in the French people. I am quite sure, under those circumstances, the inhabitants of Newfoundland will feel that these ancient Treaty obligations, resting as they do upon us, bring a serious burden, attendant with manifold risks and responsibilities, and that the Government of this country is deserving of consideration at their hands in the difficult position in which they must often find themselves placed when called upon to enforce these Treaties."

It would be impossible for me to express more lucidly the nature and origin of the Treaty obligations and their bearing on the relations of Newfoundland to the Empire at large.

But Her Majesty's Government, while they think it necessary to place on record their dissent from the views expressed by the Committee on this point, fully recognise that in the interests of the Empire as a whole no less than of Newfoundland in particular, and indeed, of peace, as removing a constant risk of friction with a friendly Power, a final settlement of the fishery question is much to be desired. They would gladly avail themselves of any favourable opening to conclude such an arrangement. But whether such a settlement be at any future time practicable or not, it certainly would not be entertained by any French Government until the present Agreement has been carried into effect.

The necessary preliminary to any such happy conclusion is that the Colonial Legislature of Newfoundland should show that it is prepared to fulfil the Treaty conditions which were in existence before it was itself created, and by which it is necessarily bound,—Treaty conditions which through its Delegates in 1891, and now again, by the report under consideration, it has declared itself willing to carry out by furnishing Her Majesty with the powers which are absolutely necessary for the due execution of Her International obligations.

As the session of the Legislature is so near its close and a general election is impending in the Colony, your Ministers may prefer not to resume the discussion of the permanent Bill at present; and, as I informed you in my telegram of the 19th ultimo,* Her Majesty's Government, relying on the promise of the Legislature to extend the temporary Act for a further period of two years, will be prepared to postpone further action till the new Legislature has assembled, and in the meantime to refrain from

introducing a measure in the Imperial Parliament conferring on Her Majesty the necessary powers.

Upon the assembly of the new Legislature it will be the duty of your Government as soon as possible to take the matter up and carry it to an issue, as required alike by honour and good faith and the best interests of the Colony.

I have, &c.
(Signed) RIPON.

Governor Sir T. O'Brien, K.C.M.G.,
&c. &c. &c.

No. 30.

SIR TERENCE O'BBIEN to the MARQUESS OF RIPON.
(Received May 23, 1893.)

TELEGRAPHIC.

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