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CONFIDENTIAL.

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CORRESPONDENCE

RESPECTING THE

CLAIMS OF UNITED STATES' FISHERMEN

FOR

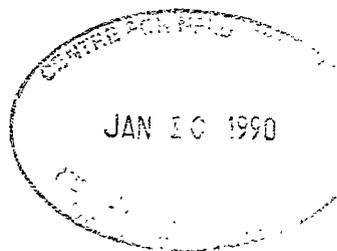
INTERRUPTION OF THEIR FISHING

AT

F O R T U N E B A Y

AND ELSEWHERE ON THE

COAST OF NEWFOUNDLAND.



[In continuation of Confidential Paper No. 4234.]

May 1880 to July 1881.

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CONFIDENTIAL.

Correspondence respecting the Claims of United States' Fishermen for Interruption of their Fishing at Fortune Bay and elsewhere on the Coast of Newfoundland: 1880-81.

[In continuation of Confidential Paper No. 4234.]

No. 1.

Sir E. Thornton to Earl Granville.—(Received May 22.)

(No. 142.)

My Lord,

Washington, May 10, 1880.

WHEN I was at the State Department on the 6th instant, Mr. Evarts asked me whether I had received a copy of the Marquis of Salisbury's note of the 3rd ultimo with regard to the Fortune Bay affair. I replied in the affirmative. He then said that there was an evident error in the copy of the note which he had received, which consisted in Mr. Marcy's being called the Collector of Customs at Boston with regard to a Circular cited in Lord Salisbury's note, instead of the Secretary of State of the United States, as he really was at the time. He added that the President had been requested to transmit a copy of the correspondence to Congress, and he (Mr. Evarts) was a little puzzled what to do about this mistake. He did not like to let it be supposed that he was ignorant of Mr. Marcy's position at the time, nor did he wish that Members of Congress should suspect that the note was drawn up by an inferior employé of the Foreign Office, or that very little attention had been paid to a matter which both he and they considered of great importance.

I replied that I had also observed the mistake, and had drawn attention to it, and that I had received a telegram from your Lordship the day before, authorizing me to correct my copy, and informing me that the error had been rectified in the signed copy.

He then produced the copy he had received, which contained the mistake referred to, and he asked me whether I would write him a letter, stating that I had observed the error in my copy, and authorizing him to correct it in his. I agreed to do so, and he begged me to send it at once, as the President wished to forward the correspondence to Congress as soon as possible. I therefore wrote to him the letter of which I have the honour to inclose a copy.

It does not appear that the correspondence has yet reached Congress, but I presume that it may be presented to-day.

I have the honour to inclose an article from the "Evening Post" of New York, which is moderate enough in its tone with regard to the Fortune Bay affair. It states, though not quite correctly, the points of difference between the two Governments. It suggests, however, that when the papers are published the people of both countries may see reason to modify any positiveness of opinion which they may have entertained, and that a Commission, or some other mode of arbitration, might afford, under the circumstances, the most judicious plan of settlement.

An article in the "New York Herald" of the 8th instant, which is also inclosed, is not so reasonable, and thinks that Mr. Evarts has found an opportunity to repeat the lesson "which he so effectually taught the British Government at Geneva."

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

Inclosure in No. 1.

Sir E. Thornton to Mr. Evarts.

My dear Mr. Evarts,

Washington, May 6, 1880.

I OBSERVE that, in the copy which has been sent to me of Lord Salisbury's note to Mr. Hoppin of the 3rd ultimo, there is an error which must have crept into it by some inadvertence. In citing Mr. Marcy's note of the 28th March, 1856, it is said to have been written "by the Collector of Customs at Boston;" it should be "to the Collector, &c."

If the same error should be found in the copy which you have received, I am justified in saying that it is a mistake, and, if you think proper, I should be glad if you would cause it to be corrected. In that case, the words "Collector of the Customs, Boston," now found under Mr. Marcy's name, should be transferred to the left hand corner.

Believe me, &c.
(Signed) EDWD. THORNTON.

No. 2.

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

My Lord,

Downing Street, May 31, 1880.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 22nd instant, inclosing copies of telegrams from Her Majesty's Minister at Washington, relating to the Fortune Bay affair, and to the question which has been raised in the United States as to the reimposition of the duties on fish and fish oil, the produce of the Canadian fisheries.

I am desired to inclose, to be laid before Earl Granville, a copy of a memorandum upon this subject received from the High Commissioner for Canada resident in London, in which Sir A. Galt brings to the notice of Her Majesty's Government the position occupied by the Government of Canada in reference to this matter. The Earl of Kimberley requests that Lord Granville's attention should be specially directed to the question raised in the concluding paragraph of the memorandum as to the extent to which the other portions of the Treaty of Washington would remain in force in the event of one Article being set aside by the Government of the United States.

Upon this point, as well as upon others discussed by Sir A. Galt, Lord Granville may, perhaps, think it desirable to take the opinion of the Law Officers of the Crown.

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

Inclosure in No. 2.

Memorandum.

(Confidential.)

THE Undersigned has the honour to submit, for the consideration of Her Majesty's Government, certain points connected with the position in which the Fortune Bay case now stands.

According to the telegraphic news received from Washington, the President of the United States is said to have transmitted to Congress a Report by Mr. Evarts, Secretary of State, recommending that customs duties be imposed upon Canadian fish and fish oil pending the admission of certain claims by American fishermen for alleged damage sustained at the hands of the local fishermen in Fortune Bay, Newfoundland, and a Bill is stated to have been introduced into Congress for this purpose.

The dispute respecting the Fortune Bay case having arisen in Newfoundland, and, therefore, outside the jurisdiction of Canada, it does not form part of the duty of the Undersigned to remark upon it. But, as the announced intention of the United States, if correctly reported, most materially affects the rights of the Dominion of Canada under the Washington Treaty, he feels it incumbent upon him to draw the attention of Her Majesty's Government to the subject.

It is to be observed, in the first place, that Newfoundland did not at the date of the Treaty, and does not now, form part of the Dominion of Canada. That the actual fishery Articles of the Treaty, XVIII to XXV, do not include Newfoundland, nor is the XXXIIIrd Article, determining the duration of the Treaty, in any way affected by the participation of Newfoundland. The XXXIIInd Article permits Newfoundland to participate, but expressly declares that its refusal or omission shall not in any way impair any other Articles of the Treaty.

The Treaty, independent of Newfoundland, was ratified and came into force by the President's Proclamation on the 1st July, 1873, and then became binding upon the United States, Great Britain, and Canada. It was only on the 1st June, 1874, that the Treaty was extended to Newfoundland by the President's Proclamation, dated the 29th May, 1874.

No dispute or question has ever arisen as between the United States and Canada in respect to the satisfactory fulfilment of the Treaty. But the United States now desire to take action hostile to Canada, because a question has arisen out of the local laws of Newfoundland. They might with equal justice propose to lay an embargo upon British ships.

It is difficult for the Undersigned to believe that the United States can seriously propose to set aside the provisions of a solemn Treaty; and he feels every confidence that Her Majesty's Government will thoroughly maintain their rights. But it may not be amiss to draw attention to the very serious questions that would certainly arise in the event of such untoward action by the United States, involving grievous and unprovoked injury to Canada.

It must be remembered that the concession of free fish, in the XXIst clause, by the United States, formed, in part, an equivalent for free fishing; and that, under the XXIIInd Article, the Halifax Commission were directed to value the same in assessing the amount to be paid by the United States. This was done, and whatever be the value of the free market, it has formed part of the judgment, has been thus paid for by Canada, and is as much her right as the sum of money awarded. If such right be now in any respect invaded or modified, there will arise an indisputable claim by Canada for a large indemnity; in fact, for the whole amount of duty levied upon their fish until the expiry of the Treaty. Whether the United States see fit to fish or not the right is theirs, has been acquired under the Treaty, and the compensation actually settled. No action by Canada can deprive them of this right, whenever it may please their individual fishermen to exercise it; nor does it seem competent for the United States' Government to prevent their own citizens from enjoying their rights acquired under the Treaty. To infringe the XXIst Article by imposing duties on fish is, therefore, simply a direct violation of the Treaty, while Great Britain remains bound.

The question would also suggest itself as to how far the other portions of the Treaty of Washington remain in force in the event of one Article being deliberately set aside by the Government of the United States.

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

London, May 24, 1880.

No. 2*.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, May 31, 1880.*
 I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of two despatches from Her Majesty's Minister at Washington in regard to the Fortune Bay affair.*

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

No. 3.

Memorandum by Mr. Ford on Fishery Disturbance at Fortune Bay, Newfoundland.

THE disturbances which took place at Fortune Bay on Sunday, the 6th January, 1878, and which resulted in the destruction of at least one seine net, the property of an American fisherman, and subsequently led to a lengthened correspondence with the Government of the United States, and to a claim being presented on the part of that Government for a sum of 105,305 dollars for loss and damage to the sufferers, were traced by the colonial authorities to three distinct breaches, on the part of the American fishermen, of the local laws of Newfoundland. Whether the American fishermen were or were not under the Proclamation issued by the Governor of the island on the 28th March, 1874, and under the fishery Articles of the Treaty of Washington, bound to conform to the local laws of Newfoundland, which were framed for the carrying out of the fisheries on the island, would appear to be an open question.

I wish at present, in the few remarks I shall make on the case, to separate the legal parts of the question from the matter of fact of actual violence committed on the occasion on the persons and property of American fishermen.

On reading the correspondence, together with the affidavits of fishermen which accompany it, it appears to me that the hard usage applied to the American by certain Newfoundland fishermen can hardly be excused, and I cannot help thinking that the sudden rupture of the "great harmony" which Alfred Noel, one of Newfoundland deponents, notifies as having existed between the native and foreign fishermen up to the time of the disturbance, must have been caused by some more potent agent than outraged feelings at seeing the Americans fishing on a Sunday. Indeed, I was informed by Sir John Glover, during his recent visit to England, that on the Sunday afternoon, the 6th January, 1878, an itinerant seller of spirits was plying the men with drink at Tickle Beach, and Sir John ascribed all, or nearly all, the mischief which ensued on that day to the free use made of the rum bottle.

I observe from the evidence of John Rumsey, master mariner of St. John's, that it was *after dinner* that the disturbance took place, when a large number of people belonging to the crews of the Fortune Bay schooners, then lying in Long Harbour, went over to the beach, where he was informed there were from 600 to 700 Newfoundland fishermen. It is to be regretted there should have been no one vested with authority on the spot whose duty it would have been to keep order amongst such a numerous and motley assemblage of people; and that the appointment was not earlier thought of of a magistrate to reside in the vicinity of a locality of such importance as Tickle Beach, which is a favourite fishing ground, and where, on the 6th January, 1878, so large a fishing fleet as 200 vessels was congregated.

During the fishing season of 1879 the presence of police prevented the traffic of itinerant rum sellers, and to this fact Sir John Glover informed me he attributed, in a great measure, the absence of any breaches of the peace.

The disturbance on the 6th January appears to have originated on the part of the Newfoundland fishermen, who took the law into their own hands in order to redress what they considered a violation on the part of the American fishermen of a local law.

A perusal of the evidence would lead one to suppose that the native fishermen

* See Confidential Paper 4234, No. 40; and *ante*, No. 1.

themselves did not possess a very accurate knowledge of their own fishery laws, and although they appear to have abstained for the most part from fishing on a Sunday, they were either ignorant of, or wilfully disregarded, the laws in vigour. Their conduct, however, in this respect, could not be pleaded as an excuse for the American fishermen, should it, indeed, be decided that they were bound to respect the laws in question.

According to the depositions of Alfred Noel, it appears one of the American schooners had a seine barred with herring at Long Harbour for a period of seven days, and it was not at any time meddled with by the Fortune Bay men.

John Rumsey, master mariner, of St. John's, swears he obtained most of his herring between Christmas and the 6th January, but he does not mention whether he caught his fish in the manner prescribed by the Newfoundland law. He goes on to say he had known in the year 1877 Americans to have herrings barred in for a fortnight, and yet he says no notice appears to have been taken of the proceeding.

John Saunders stated that on Sunday, the 6th January, 1878, the Americans who laid out their nets were assisted by the English, and Thomas Farrel, a Newfoundland fisherman, had been employed barring herring for several days—perhaps a fortnight—by the Americans.

Mark Bolt, of Tickle Beach, swore that on Sunday, the 6th January, 1878, a Newfoundland fisherman, called John Hickey, was *the first* to come and heave his seine out; so it appears that one Newfoundlander, at least, entertained no scruple in fishing on a Sunday; and Mark Bolt further stated that the English did not prevent the Americans from hauling their seines; and that the Americans usually employed the English to haul, as the American crews were deficient in number and unacquainted with the work, the American crews being employed in salting and freezing the fish, while the English employed by them with the American seines were catching the fish.

James Tharnell, of Anderson's Cove, Long Harbour, who was, moreover, a special constable, swore that nothing would have been said to the Americans for fishing with seines during the prohibited season had they not done so on the Sabbath; and he stated that "the people were not aware it was illegal to set seines at that time of the year."

George Snellgrove, of St. Jacques, Fortune Bay, and sub-collector of Customs for the district, deposed that the Act prohibiting the shooting of seines in the month of January had never been carried out, and that the natives were not aware of the Act.

Silas Fudge, of Bellaram, Fortune Bay, swore he was ignorant of the fact that it was illegal to catch herrings in the month of January; and John Cluett, of the same locality, made a similar statement, but modified his words by saying he had heard of the law, but had never seen it carried out.

The American fishermen, as I have already stated, are accused of having committed on the 6th January, 1878, *three* breaches of the Fishery Laws of Newfoundland:—

1. Seining at a prohibited season of the year;
2. Barring fish;
3. Fishing on a Sunday.

The laws relating to the first two subjects were passed *before* the date on which the fishery clauses of the Treaty of Washington came into operation; and the third was passed *after* the fishery Articles with respect to Newfoundland came into effect.

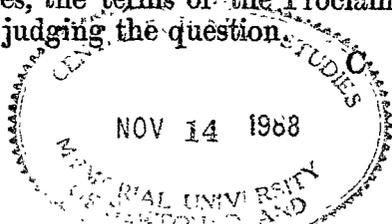
Now, the question arises as to whether American fishermen were bound to regard the law prohibiting fishing on a Sunday.

The words of Lord Salisbury, addressed on the 3rd April of the present year in a despatch to Mr. Hoppin, the United States' Chargé d'Affaires in London, may be here recalled. They were to the following effect:—

"Her Majesty's Government has always admitted the incompetence of the Colonial or the Imperial Legislature to limit by *subsequent* legislation the advantages secured by Treaty to the subjects of another Power."

The point, then, is conceded by Her Majesty's Government, and it would appear that American fishermen are not prohibited from fishing in Newfoundland on a Sunday.

With regard to the obligation on the part of American fishermen to observe the other local laws of the Colony concerning the fisheries, the terms of the Proclamation of the 28th March, 1874, are of great importance in judging the question.



It will be remembered that the Legislature of Newfoundland passed an Act on the 5th May, 1873, enacting that all laws which might prevent the fishery Articles of the Treaty of Washington from taking full effect should be suspended, "provided such laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coast of the island shall not be in any way affected by such suspension."

Mr. Fish, at that time the Secretary of State at Washington, objected to the above proviso, and the Legislature of Newfoundland *consequently* repealed the Act of 1873, and passed another Act on the same subject, dated the 28th March, 1874, by which the Governor of Newfoundland was empowered to proclaim that the fishery Articles of the Treaty of Washington should come into force, operation, and effect, and should continue so during the term mentioned in the Treaty, "*any law* of the Colony to the contrary notwithstanding."

The Governor subsequently issued his Proclamation in exact conformity with the wording of the new Act.

One point admits of no doubt, and that is, that American fishermen are not permitted to interfere with the rights of private property or of occupancy of the coast by British fishermen; for by doing so they would violate the stipulations of the XVIIIth Article of the Treaty of Washington.

I observe a charge is made against the American fishermen of having infringed this latter stipulation, inasmuch as they are alleged to have trespassed on ground in the actual occupancy of a native of Newfoundland named Mark Bolt; but I find that in reply to the accusation *three* American affidavits refuting the truth of the allegation have been made. The affidavits are annexed to Mr. Welch's despatch to Lord Salisbury of the 13th August, 1879.

The amount of the present claim of 105,305 dollars, advanced by the American Government for losses inflicted on their fishermen owing to the disturbance at Fortune Bay, appears to be excessive; but I am inclined to think some reasonable compensation, based on an accurate knowledge of the subject, may be found due to the sufferers.

It can hardly be contested that the Newfoundland fishermen were wrong in assuming to take into their own hands the execution of what they conceived to be the law, and I think the Government of the United States might properly be asked, should there be no other immediate prospects of settling the question, to submit the matter to arbitration, or to a Commission specially appointed for the purpose: an accord might be arrived at by the same Tribunal as to the true measure of the inshore fishing privilege secured to American fishermen under the Treaty of Washington.

(Signed) F. C. FORD.

Foreign Office, June 4, 1880.

No. 4.

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

(No. 162.)

My Lord,

Washington, May 24, 1880.

DURING a conversation which I had with Mr. Evarts at the State Department on the 20th instant I spoke to him about the Fortune Bay affair, and expressed some surprise at the step which the President and he had recommended to Congress, to the effect that the import duties upon fish and fish-oil, the produce of the British provinces, should be re-imposed as they existed before the Treaty of Washington. I stated that it appeared to me that this was an unfriendly step, and, if carried out by Congress, would render an agreement upon the question at issue much more difficult than it would otherwise have been. Previously to the transmission of the President's message, I should have had great hopes that an arrangement might have been arrived at; but, when it was attempted to put upon Her Majesty's Government a pressure to which, under similar circumstances, the United States' Government would have certainly objected, it did not seem as if the latter was desirous of finding a solution of the question.

I also pointed out to him that the Colonies of Newfoundland and Prince Edward Island had allowed American fishermen the privilege of fishing in their waters very shortly after the conclusion of the Treaty of Washington, although the Act of Congress

relieving fish and fish-oil, the produce of Prince Edward Island, from import duties in the United States, was not passed till the 1st March, 1873, and Newfoundland was not admitted to the same immunity till May 1874, and although United States' citizens had enjoyed the right of fishing in the waters of Prince Edward Island and Newfoundland, their Government had never consented to reimburse the duties which had been paid on the fish and fish-oil imported from those Colonies into the United States during that time.

Mr. Evarts denied emphatically that he had wished to recommend a measure which could be thought to be unfriendly towards Her Majesty's Government; nor did he consider that it was so, or that it could be viewed in that light. He said that he had in September 1878 pointed out to Her Majesty's Government that the question was a serious one, and that it was the opinion of the United States' Government that a false construction had been given to the Treaty, to the prejudice of the United States' fishermen. He had maintained from the beginning of the discussion that the right of fishing given by the Treaty was free from all restrictions which might have been imposed upon native fishermen by local laws either anterior or subsequent to the date of the Treaty. He thought that Her Majesty's Government had not sufficiently considered the gravity of the case, had paid but little attention to it, and had unnecessarily delayed replying to the representations of the United States' Government. He asserted that until the season of 1878 no American fishermen had visited the coasts of Newfoundland for the purpose of fishing, and that when they did so, they had met with such a reception that until an answer should be received from Her Majesty's Government they had not ventured to repeat the visit. This answer had now arrived, just as the fishermen were preparing their equipments for this season, and were anxious to know whether they would be allowed to fish on the coasts of Newfoundland. But Lord Salisbury in his note of the 3rd ultimo had maintained that in the affair at Fortune Bay the Americans had violated both the local laws and the provisions of the Treaty, and that the native fishermen were therefore justified in attacking them, and preventing them from pursuing their ordinary mode of fishing. It was therefore impossible that, as the natives were thus encouraged to resist the rights of the Americans, the latter could again expose themselves to such losses as they had suffered in Fortune Bay.

It would have been very different, Mr. Evarts argued, if the authorities had taken the matter in hand, and if the question had been settled by a Court of Justice, but that it could not be that American fishermen should be exposed to the violence of a mob, and he expressed his surprise that Her Majesty's Government should have justified the means which were used for preventing Americans from enjoying their rights under the Treaty.

Under these circumstances, as it appeared that Her Majesty's Government had finally determined to interpret the Treaty in a manner entirely at variance with the expressed opinion of the United States' Government, and to justify the Newfoundland fishermen in taking the law into their own hands and forcibly preventing American fishermen from exercising the rights to which their own Government considered them entitled, Mr. Evarts declared that there was no ground for the charge which I had made, that he was now the first to recommend to Congress a violation of the Treaty. On the contrary, he maintained that it was we who had allowed and sustained an infraction of the Treaty by the Newfoundland fishermen, looking at the interpretation given to it by the United States. There was then nothing left but one of two things: either to protect the American fishermen by the presence of men-of-war, which might have led to a conflict, or to re-impose the duty on fish, the taking off of which had been part of the price paid by the United States for the free enjoyment of the right of fishing.

I asked Mr. Evarts whether he could conscientiously assert that, if British subjects had availed themselves of the privilege of fishing on the United States' coasts, they would have been allowed advantages, either as to the mode or time of fishing, over the native fishermen? He replied that if the former had attempted to take any such advantages, the United States' Government would immediately have recommended that the same rights should be allowed to the natives. "But," I said, "such a step would have led to the entire destruction of the fisheries." This idea Mr. Evarts ridiculed; indeed, it seems to be the firm conviction of those in this country who have most studied the matter, that no amount of catching will lead to any perceptible diminution in the quantity of fish; but that there are other causes, not yet well understood, arising from local circumstances, storms, &c., which occasionally drive the fish away from the points which they have been in the habit of visiting.

Mr. Evarts shows great susceptibility; firstly, because he thinks that there has been unnecessary delay in replying to his representations, and that sufficient attention has not been paid to his arguments; and, secondly, because Lord Salisbury's note of the 3rd ultimo seemed to imply that the Newfoundland fishermen were justified in their attack upon the Americans, and would be encouraged to a repetition of similar conduct on future occasions.

There is also a strong desire on the part of the United States' Government, in view of the approaching end of the term for which fishing rights were granted by the Treaty, that it should not be supposed that the value which has been assigned to the fisheries by the Treaty and the Halifax Award is one which can ever be admitted or acknowledged by the United States as a precedent for any future arrangement.

I have the honour to transmit herewith copies of the President's Message to Congress, accompanied by Mr. Evarts' Report upon the subject, in a more convenient form than that which I forwarded in my despatch No. 150 of the 18th instant. The papers which were transmitted with Mr. Evarts' Report have not yet been printed.

I also inclose copies of a Bill which was submitted to the House of Representatives on the 18th instant by Mr. Loring, a member from Massachusetts, which proposes that Collectors of Customs should be instructed to collect on fish and fish-oil the duties imposed before the Act of the 1st March, 1873; and that from the duties so collected the sum of 125,000 dollars should be set apart for the compensation of the United States' fishermen "who were driven from Fortune Bay on the 6th January, 1878." The Bill was referred to the Committee on Foreign Affairs, by which I understand that it has not yet been taken into consideration.

The press has said little with respect to the President's Message to Congress, and the few articles that have appeared have been more moderate in their language than they sometimes are. I have the honour to inclose five articles from different newspapers.

The "New York Herald" of the 18th instant observes that Lord Salisbury might have insisted that the American fishermen were in the wrong, but have admitted that the Newfoundland fishermen had no right to use violence against them, and have offered to make good the damage done, reserving the right to proceed legally against the American fishermen if they should hereafter transgress our interpretation of the Treaty, in which case there would have been room for argument and discussion.

This language is so similar to that which has been used by Mr. Evarts to myself and to some other persons, that I strongly suspect that both must have been derived from the same inspiration.

The "Evening Post," of the 18th instant, objects to the step taken by Mr. Evarts, because it shuts the door upon further amicable negotiation on the basis of the Treaty of Washington.

The "New York Tribune," of the 19th instant, is perhaps less moderate in its language than any of the others which I have quoted. It supports Mr. Blaine as candidate for the next Presidency, and it is well known that he is bitterly opposed to the fishery Articles of the Treaty of Washington.

The "New York Times" supposes it probable that Her Majesty's Government may recede from "its present untenable position."

The "Evening Post," of the 20th instant, suggests a revision of the fishery Articles of the Treaty, and such an arrangement of the Fortune Bay affair as may be honourable to both nations.

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

Inclosure 1 in No. 4.

Message from the President of the United States, dated May 17, 1880.

[See Confidential Paper No. 4234, p. 53.]

Inclosure 2 in No. 4.

46TH CONGRESS, 2ND SESSION.—H. R. 6242.

A Bill relating to certain Provisions of the Treaty of Washington.

MR. LOBING introduced the following Bill:—

“A Bill relating to certain provisions of the Treaty of Washington.

“Whereas, by the provisions of the Treaty of Washington of 1871, the right of inshore fishing along the coasts and shores, and in the bays, harbours, and creeks of all Her Britannic Majesty’s dominions in Canada, and of the Island of Newfoundland, were secured to the inhabitants of the United States; and

“Whereas, by the provisions of said Treaty a Commission was appointed to meet at Halifax and award the compensation to be paid by the United States for this grant in addition to the freedom of the fishery in United States’ waters, and the remission of all duties upon fish and fish-oil imported into the United States from the said dominions of Her Britannic Majesty; and

“Whereas the said Commission awarded to Her Britannic Majesty the sum of 5,500,000 dollars as such compensation, which has been duly and fully paid; and

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

“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 1 of an Act entitled ‘An Act to carry into effect the provisions of the Treaty between the United States and Great Britain, signed in the city of Washington the 8th May, 1871, relating to the Fisheries,’ and approved the 1st March, 1873, be, and the same is hereby, repealed.

“Sec. 2. That the Secretary of the Treasury be, and is hereby, authorized and directed to instruct the Collectors of Customs in the various Collection-districts of the United States to collect on all fish and fish-oil imported into the United States from the said dominions of Her Britannic Majesty the duties heretofore imposed thereon by the provisions of section 2504, schedule F, of the Revised Statutes of the United States.

“Sec. 3. That from the amount of duties so collected the sum of 125,000 dollars be, and the same is hereby, set apart for the compensation of the fishermen of the United States who were driven from Fortune Bay, in Newfoundland, on the 6th January, 1878, and that the same be paid into the hands of the Secretary of State, to be by him distributed among said claimants according to the proofs of damages submitted to him in their behalf.”

Inclosure 3 in No. 4.

Extract from the "New York Herald" of May 18, 1880.

THE FISHERY CORRESPONDENCE.—The President has sent in, at the request of Congress, the correspondence between the United States and Great Britain on the Fortune Bay troubles, and with the papers Mr. Evarts sends in a Report making important recommendations, in which the President concurs, and which we have no doubt Congress will ratify. On the 6th January, 1878, certain American fishermen were engaged in catching herring in Fortune Bay, Newfoundland, as they had a right to do under the Treaty of Washington. They were set upon by a mob, their seines destroyed, and their vessels driven off by violence. The pretext of the mob was that our people were breaking the local laws of Newfoundland by the manner in which they proposed to catch herring. There is no pretence that the Newfoundlanders were acting under the instructions or with the countenance even of their local authorities; their lawless violence was not in defence of their laws; they drove off our fishermen because they proposed, under the Treaty, to catch herring in a place where formerly, before the Treaty was made, they had been compelled to buy them of the Newfoundland fishermen.

That is an accurate statement of the case. The Treaty gave our people the right to do that which undoubtedly, as the Newfoundland men complained, took the bread out of their mouths. We were their customers before, but under the Treaty we gained the right to help ourselves, and seeing this the Newfoundlanders drove us off. The Law Officers of Newfoundland did not do this; they could not do it, for they knew that the Treaty had given us the right to catch herring instead of buying them, and they knew that for this right Newfoundland had received 1,000,000 dollars from us, part of the 5,500,000 dollars which we were condemned to pay at Halifax. The Law Officers of Newfoundland, therefore, attempted no interference with our people. They were attacked and driven off by a mob of Newfoundland fishermen, and it is this violence which Lord Salisbury, in a despatch written but a few weeks before the Beaconsfield Government went out of power, defends and justifies.

We cannot imagine that Lord Salisbury's successor will do so, or that public opinion in Great Britain will ask him to do it when the facts of the case become known there. If Lord Salisbury had said, "We insist that your fishermen were in the wrong, but we admit also that our people had no right to use violence to them, hence we will make good the damage done by the Newfoundland mob, but we reserve to ourselves the right to proceed legally against your fishermen if hereafter they transgress our interpretation of the Treaty," then, in that case, there would have been room for argument and diplomatic discussion; and had the British Minister taken this ground we should hold the recommendation which Mr. Evarts makes uncalled for at present. But the ground which the British Government has taken makes argument impossible. Lord Salisbury says in effect that if our people transgress the British, or rather, to be more accurate, the local Newfoundland view of the Treaty, in that case they must expect to be mobbed. To that the United States can reply only in one of two ways, either by meeting force with force and sending our fishermen to places like Fortune Bay under safe convoy with instructions to our men-of-war to fire on the Newfoundlanders if they offer to interfere, which would be rash and foolish, or to do what the Secretary of State proposes—repeal the Act of Congress which admits Canadian fish and fish-oils free of duty. Lord Salisbury's decision broke the Treaty of Washington; Mr. Evarts proposes only to accept that decision.

Mr. Evarts does not confine himself to this point, of course, but meets the general question of our rights under the Treaty. He shows conclusively that what the British Government granted was what it had—the full right of free fishing without encumbrance from any Colonial legislation. He demonstrates that the rights of the British Government were the rights of sovereignty, and where they were transferred or shared it was, so far as the fishing was concerned, a transfer and share of the authority which had the right to control it, and that no legislation could be valid in reference thereto except such legislation as was by the joint authority of the parties who shared the right. In this connection he points out clearly the impossibility of separating "subsequent" legislation and "previous" legislation, which are conclusive in their prohibitory effect. But the matter really needs no elaborate argument. Our Treaty rights are, of course, stated in the Treaty itself, which gives us "the liberty, for a term of years specified, to take fish of every kind, except shellfish, on the sea-coasts and shores and in the bays, harbours, and creeks" of the British provinces, "without

being restricted to any distance from the shores." And what was meant by this is, fortunately for us, conclusively and elaborately stated in the "case" presented by the British and Colonial Governments to the Halifax Commissioners. This "case" contains the British statement of their claims against us, and, of course, their statement also of what we were to receive and pay for. These are the plain words in which Great Britain and the provinces declared before the Commission what our rights would be and why we should pay for them :—

"It may possibly be contended on the part of the United States that their fishermen have not in the past availed themselves of the Newfoundland inshore fisheries, with few exceptions, and that they would and do resort to the coasts of that island only for the purpose of procuring bait for the Bank fishery. This may, up to the present time, to some extent be true as regards codfish, but not as regards herring, turbot, and halibut. It is not at all probable that possessing, as they now do, the right to take herring and capelin for themselves on all parts of the Newfoundland coasts, they will continue to purchase as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment, which formerly occupied them during a portion of the winter season for the supply of the United States' market. It is asserted on the part of Her Majesty's Government that the actual use which may be made of this privilege at the present moment is not so much in question as the actual value of it to those who may, if they will, use it. It is possible and even probable that United States' fishermen may at any moment avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present, but even if they should not do so it would not relieve them from the obligation of making the just payment for a right which they have acquired, subject to the condition of making that payment. The case may be not inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges. It is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent. A participation by the fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and while affording the United States a profitable employment must seriously interfere with local success."

That is to say, we were asked to pay because the privileges granted us were held to be not only profitable to us, but injurious to the provincial fishermen. They gave us the right to catch sea-fish, to catch them to their injury, and to catch them, of course, as we chose to catch them, and not as they would want us to catch them, and because they foresaw that this would injure them they claimed and received a very large sum of money in hand from us, and a further sum equal to 350,000 dollars per annum in duties remitted during the term of the Treaty.

But when we attempt to catch fish they drive us off by mob, and the British Government disputes our right. Thereupon Mr. Evarts replies:—"Very well, gentlemen, we paid you 5,500,000 dollars in hand; that is gone, but until you allow us our plain rights I must advise Congress to stop the unpaid remainder." Here we are certainly within our rights. This course leaves room for further regulation if Great Britain shall see fit to lead the way, and meantime we simply accept the situation created by the British Government. Mr. Evarts has maintained his ground ably and conclusively, and with dignity and good temper, and we believe that when the correspondence is read in England public opinion there will repudiate the untenable position taken by Lord Salisbury.

Inclosure 4 in No. 4.

Extract from the "New York Evening Post" of May 18, 1880.

THE TREATY OF WASHINGTON.—The failure in practice of the instrument known as the Treaty of Washington supplies a fresh proof of the wisdom in all agreements, whether individual or national, of guarding against miscarriage by thorough provision of detail.

In this case the omission of a suitable clause referring to local jurisdiction has led to an embarrassing controversy. No mind that is at once fair and clear can fail to see that both the English and the American Governments have a strong-looking case in relation to the Fortune Bay affair, or that the trouble has arisen from not foreseeing what ought to have been foreseen. In other words, the diplomatists who made the draught of the Treaty of Washington are in fault for not providing against a calculable embarrassment, which, in the nature of things, was almost certain to arise.

The British Government, as represented by Lord Salisbury, having declined to accept the views of Mr. Evarts, or to own responsibility for loss incurred by citizens of the United States while infringing the local Statutes of Newfoundland—the contention of the American Secretary being that the Gloucester fishermen at Fortune Bay were not amenable to such Statutes—either a revision and cure, or a total abrogation of the defective Treaty seem to constitute the only escape from an otherwise untenable position. It is true that Mr. Evarts and Lord Salisbury alike maintain that their positions under the Treaty are just and appropriate ones; yet, as those positions are incompatible with each other, some extrication from the dilemma was naturally to be looked for, and it is this that we are now called upon to consider.

As the case stands, then, the English Government refuses to pay the damages inflicted upon the American fishermen at Fortune Bay. Mr. Evarts thereupon recommends a re-enforcement of the duties upon fish and fish-oil, the products of the provincial fisheries, as they existed before the Treaty of Washington came into operation; and that this imposition of duties shall be continued until the two Governments shall be in accord as to the interpretation and execution of the fishery Articles of that Treaty. Mr. Evarts further advises that the claims of the aggrieved fishermen shall be examined with a view to ultimate indemnity to be obtained by Convention with Great Britain, or to be adjusted by our own Government.

President Hayes, in communicating the correspondence on this subject to Congress, in response to a request made by that body, approves of the recommendation made by Secretary Evarts; and we understand that Representative Loring, of Massachusetts, has to-day brought a Bill into the House, which provides:—

1. That the first section of the Act to enforce the Treaty of Washington be repealed. This is the section which admits Canadian fish and fish-oils free of duty.

2. That the Secretary of the Treasury be directed to notify Collectors of Customs to reinforce on fish and fish-oils of the British Colonies the duties on the schedule in force before the Treaty.

3. That out of the amount so collected a sufficient sum, not to exceed 125,000 dollars, be paid over by the Treasury to the Secretary of State, and by him used to compensate the losses of the Fortune Bay fishermen, which are to be proved before him.

This certainly looks like a direct abrogation of the Treaty of Washington, and scarcely comports with what seems to us to be deducible from Mr. Evarts' Report, namely, that he thinks it judicious to leave the door open for further amicable negotiation on the basis of the Treaty of Washington if the new British Administration think it proper to enter upon it. We do not hear that American fishermen have been warned as yet not to fish within the three-mile limit, outside which their pursuits must hereafter be confined should Mr. Loring's Bill become a law. It will be well to give this and cognate matters full and temperate consideration before steps are resolved upon that it may be easier to take than to recall. In any case, no harm can arise, we should say, from giving Mr. Gladstone's Administration a chance to modify the attitude of Lord Beaconsfield's.

Inclosure 5 in No. 4.

Extract from the "New York Tribune" of May 19, 1880.

THE BREACH OF THE TREATY OF WASHINGTON.—By the message of the President of the 17th May, and the accompanying Report of the Secretary of State, Congress has been placed in charge of one of the most important matters of business ever submitted to its care. The question thus laid before both Houses involves nothing less than the continued existence of the Treaty of Washington. It is impossible to read the clear and admirable Report of Mr. Evarts without coming to the conclusion that the Government of the United States, having failed to obtain either redress or even a proper consideration of the grievances under which our fishermen are suffering in British American waters, is forced to take into its own hands the righting of these evident wrongs.

It is now two years and more since the New England fishermen, relying on the privilege guaranteed to them by solemn Treaty stipulation, and attempting to ply their vocation on the shores of Fortune Bay, were violently driven away with great loss and hardship. Our Government lost no time in protesting against this outrage, and demanding redress. Again and again the protest and the demand were repeated, and the public, who knew nothing of these diplomatic proceedings, became more and more impatient at the long delay. The correspondence sent to Congress on Monday sufficiently explains the dilatory conduct of the British Government, and casts a most unfavourable light upon the action of Lord Beaconsfield's Cabinet. Up to the time when the preposterous decision of Mr. Delfosse against us was satisfied by the loyal payment of the 5,500,000 dollars, which was due in November 1878, the utterances of Lord Salisbury in regard to the question at issue were in the highest degree conciliatory—not to say evasive. The notes of Mr. Evarts were perfectly clear and distinct. He asserted our evident rights with equal energy and courtesy, and did not let the slightest doubt appear, either of the justice of our claims or of our confidence that the British Government would do what was required in the premises. He did not for an instant admit that provincial or local legislation could limit or diminish the rights which we had acquired by Treaty with the British Empire. Up to the period we have mentioned, there was no direct issue made by Lord Salisbury. On the contrary, he expressly admitted, "what was, indeed, self-evident, that British sovereignty, as regards these matters, is limited in its scope by the engagements of the Treaty of Washington, which cannot be modified or affected by any municipal legislation." And in another place he said: "If a law has been inadvertently passed which is in any degree or respect at variance with rights conferred on a foreign Power by Treaty, the correction of the mistake, as committed, at the earliest period after its existence shall have been ascertained and recognized, is a matter of international obligation." But after the enormous sum which the Commission of Arbitration obliged us to pay in execution of the Treaty was safely transferred to England, the British Foreign Office lapsed for some months into a profound silence, from which the most persistent efforts on the part of our Government were ineffectual to rouse it. When the answer came it was clear enough. Lord Salisbury's despatch of the 6th April, written in the last days of the Disraeli Government, flatly refuses to consider our claim for redress, on the ground of these same local and provincial Statutes, which, he asserts, our fishermen had violated.

It would certainly seem that Lord Salisbury had signed this note without even reading the Treaty and the British Case as presented at Halifax. The concession made to our fishermen in the Treaty was "to take fish of every kind except shell fish on the sea-coasts and shores, and in the bays, harbours, and creeks of the provinces, &c., without being restricted to any distance from the shore." A further concession is made of the privilege to use the land for drying their nets and curing their fish. As Mr. Evarts clearly shows, this concession does not limit or define the former one. There is a proviso of the Treaty that our fishermen, in using their right on shore, shall "not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose." The resulting dilemma cannot be better stated than in the language of the Secretary: "If this proviso does not include the use of the strand in taking fish, it does not qualify the fishing concession. If it does include that use of the strand, then it construes such use as within the fishing concession, and qualifies it by the observance of private property on shore and non-interference with British fishermen using the strand in their fishing." If we turn to the case presented by the British Government

at Halifax we see again and again the privileges of which our fishermen are now deprived brought forward to sustain the demand for a high pecuniary compensation. These privileges are continually spoken of as valuable and essential. Without them the practical use of the inshore fisheries was impossible. The British estimates included not only the positive advantages that our fishermen would reap from these inshore fisheries, but also the damage which the British inhabitants of the coast would suffer by reason of such privileges; and all these considerations went to swell the enormous amount of the money payment by which we were to secure the rights of our fishermen upon the coast. Further on in their case the British Government contended that the Treaty did include the right to our fishermen "to take fish and to land for fishing purposes," and expressly stated that for these new privileges, not enjoyed under the Convention of 1818, but which are enjoyed under the Treaty of Washington, "Her Majesty's Government contends that it has a right to claim compensation."

Her Majesty's Government received the compensation, in enormous disproportion to the privileges accorded, and now refuses the enjoyment of the privileges, on the ground that they conflict with certain local Statutes.

Here is a wrong so evident and glaring that it cannot remain unredressed. Satisfaction has been sought from the British Government, in accordance with international usage, and has been refused. The matter cannot end in this way. The nation must find some other means of redress. It seems to us that that which is indicated by the Secretary of State, and approved by the President, is the most judicious which could be devised. It is not in accordance with our national dignity to pursue any further a discussion in which the other party seems determined not to accord us our unquestionable rights. The Secretary of State therefore suggests that we shall withdraw the generous concession which we made of our customs duties in favour of the provincial fishermen; that we shall pursue by diplomatic means the claim we have upon England for the return of the money paid for the enjoyment of privileges of which we have been deprived; and that we shall audit the claims of our fishermen for losses sustained by the denial of their rights under the Treaty with a view to future settlement.

We hope there will be no division of party or sentiment in a matter so directly affecting our interests and honour. The National Assembly, by adopting the suggestions of the President and Secretary of State, can at once define the attitude of the American people upon this important matter, and initiate measures to redress a wrong and an indignity which it is out of the question for us to endure.

Inclosure 6 in No. 4.

Extract from the "New York Times" of May 19, 1880.

AN INTERNATIONAL DISPUTE.—The Government of the United States has paid to Great Britain the sum of 5,500,000 dollars for the privilege of fishing by American citizens in the waters of the Dominion of Canada and of Newfoundland. This sum, the magnitude of which amazed all candid people, was fixed by what is known as the Halifax Award. The Imperial Government has divided the amount between the Dominion and Newfoundland, the latter receiving 1,000,000 dollars for its share. Careful and painstaking mathematicians have made calculations concerning the cost of these fishing privileges to the United States and the market value of the "catch" annually brought from British American waters, from which it appears that we are paying for British American fish a price which is grotesquely out of all proportion to the real value of this product in the markets of the world. For, not only do we pay a great price in cash for the so-called privileges, but we have by Treaty agreed to remit our customs dues upon the fish products of the provincial share in these fisheries. Therefore, the amount of revenue derivable from the remitted duties on provincial fish products must be added to the cost of our licence to fish in provincial waters. There is a popular suspicion that we were not fairly treated in the Halifax Award. But we have paid it. Having performed our share of what seems a hard bargain, we have good reason to complain if we are not allowed to use the privilege for which we have paid so dearly.

The people of Newfoundland, having secured their share of the Halifax Award, are not willing that we should be their competitors on the fishing-grounds, which we have, so to speak, rented from the Imperial Government. The inhabitants of Fortune

Bay, for example, have heretofore found their best customers among the American fishermen, who have paid 1 dol. 50 c. per barrel for herring caught along the shore. They were indignant that they should lose their customers when the Imperial Government granted to us a lease, for twelve years, of the fishing-grounds. So they set about destroying the privileges sold by the Government. In January 1878, while several American fishing-vessels were seining herring in Long Harbour, Fortune Bay, a local mob set upon them, destroyed the nets, released the fish caught, and divided among the members of the mob a portion of the captured property of the Americans. The American fishermen were expelled from the waters of Newfoundland, local feeling being apparently stronger than Treaty rights. The State Department at Washington brought these facts to the attention of the British Government, which rejoined that the action of the inhabitants of Fortune Bay was justifiable, on the ground that the American fishermen were pursuing their calling in conflict with local regulations and laws. It is charged that they were fishing on the Christian Sabbath, that they were fishing in a season lawfully declared "close," and that they were employing a kind of net prohibited by the laws of Newfoundland. Three distinct infractions of local Statutes are here alleged. It should be noted, however, that the provincial fishermen were plying their vocation when the fracas began, so that they must also have been breaking the Sunday law, as well as the law closing the season, when they fell upon the visitors. And it should be added that the herring captured on this particular occasion had been driven into the harbour by the Americans, to the great profit of the excessively conscientious and law-abiding natives. It is clear that local prejudice is against the Treaty, and that the Imperial Government is unwilling, or unable, to enforce its provisions.

If the position taken by the British Government be correct, we have committed an error in treating with an Imperial Government, instead of Provincial Governments. It is assumed that Newfoundland legislation can practically nullify a Treaty concluded by the Government of Great Britain with another Power. If municipal legislation can qualify a Treaty, or suppress rights acquired under it, we are completely at the mercy of the authorities of the Dominion of Canada and Newfoundland, so far as the costly privileges conceded by the Halifax Commission are concerned. In this Republic, where we make no use of the high-sounding phrase, "Imperial Government," even a "sovereign State" cannot maintain a local law which contravenes the letter or spirit of a Treaty with another nation. The Legislature of California has made one or two unsuccessful experiments in this direction, when attempting to harass Chinese immigrants. But it is gravely contended by the British Government that the claims preferred by the American fishermen expelled from Fortune Bay are inadmissible, because these men, though exercising rights conceded by Treaty, were transgressing local laws, one of which, at least, has been enacted since the execution of the Treaty. It is likely that the British Government, after a more careful review of the principles involved in this unfortunate controversy, will recede from its present untenable position. There is no provision in the Treaty which limits the rights conceded to American fishermen by any existing or prospective legislation. An Imperial Government cannot honourably render a Treaty valueless by unfriendly legislation. Much less can it, consistently with its own dignity, permit a Provincial Legislature virtually to destroy a Treaty which it has made with the Government of a friendly nation.

Inclosure 7 in No. 4.

Extract from the New York "Evening Post" of May 20, 1880.

THE FORTUNE BAY DISPUTE.—The London "Times" of yesterday speaks of the Fortune Bay controversy in a judicious and temperate spirit, and in entire agreement with recent utterances of the "Evening Post." The suggestion of Secretary Evarts, to the effect that the Contracting Parties should, by some joint action, adopt regulations protecting the fisheries, the "Times" cordially approves; and sums up by observing that there need be no insuperable obstacle to an amicable adjustment of the present dispute.

The Toronto "Globe" of yesterday, on the contrary, comments with superfluous bitterness upon the Report and the recommendations of Mr. Evarts. The "Globe" seems to imply a belief that the position of Mr. Evarts is founded on something other

than sincere conviction touching the rights of the case, and, while insisting that Canada can better afford to have the fish duty reimposed than she can afford to lose her proprietary control of her fisheries, is extremely angry because proceedings are contemplated at Washington which will secure to Canada, for a time at least, exactly this preferential result. In these circumstances, it is probably well for the true interests of all persons concerned that we have to settle the controversy in hand, not with Toronto, but with London.

It is pointed out by the London "Times" that the party, and even the identical statesmen, who were originally responsible for the Treaty of Washington, are now again in power in England, and that they will not shrink from the task of amending that instrument where they may see need for amendment. This comports with our own suggestion on the subject, and is not only consistent with, but likely to promote, a friendly adjustment. The Treaty of Washington is so far defective in detail as to be susceptible, in certain exigencies, of opposing constructions; and it is because such exigencies have arisen that an embarrassing dispute has occurred. But there is no real occasion for heat or acrimony. There is no quarrel that cannot be reconciled so as to unite "peace with honour;" and even if some of our provincial neighbours wax a little intemperate in defence of rights which they suppose to be unfairly attacked, we can well afford to bear the ebullition with gentleness and patience.

The Bill whose provisions were foreshadowed by the "Evening Post" on last Tuesday was yesterday brought into the House of Representatives by Mr. Loring, of Massachusetts. Should that Bill become a law, it will, at most, secure the end which, according to the Toronto "Globe," our Canadian friends would prefer. In reimposing, that is to say, the fish and fish-oil duties originally imposed by section 2504, schedule F, of the Revised Statutes, the Fortune Bay claims, or any other claims that might arise under a like construction of the Treaty of Washington as that put forth by Mr. Evarts, will be temporarily waived or left in abeyance. Our Government will, in other words, assume a tentative attitude, and will await such amendatory action of the Treaty of Washington as the Administration of Mr. Gladstone may see its way to propose.

We have had more than one difference with Great Britain, like, for example, the differences touching both our north-eastern and north-western boundaries, which reached friendly settlement at last despite not a few sharp words on both sides as incident to the controversies. The Fortune Bay matter is easier to compound than was either of those territorial disputes, and we hope, notwithstanding the displeasure of our worthy contemporary in Toronto, that there is less likelihood now of sharp words as between the two countries than in those memorable affairs, and are sure that there is less occasion for them. A suitable Convention empowered to revise the Treaty of Washington, to modify some of its provisions, to amplify others, and to effect such an arrangement in behalf of the Fortune Bay sufferers as will be honourable to both nations, is the proper method of extrication from the existing embarrassment, and the method which, in the sequel, will no doubt be adopted.

No. 5.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, June 7, 1880.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington in regard to the Fortune Bay affair.*

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

* See Confidential Paper 4234, No. 49.

No. 6.

Mr. Bramston to Sir J. Pauncefote.—(Received June 8.)

Sir, *Downing Street, June 7, 1880.*
I AM directed by the Secretary of State for the Colonies to acknowledge the receipt of your letter of the 20th May, and to transmit to you herewith, for the information of Earl Granville, a copy of a despatch which has been addressed to the Governor of Newfoundland, communicating to him a copy of Lord Salisbury's note to Mr. Hoppin of the 3rd April last respecting the Fortune Bay affair, and relating to the Act of the Newfoundland Legislature, cap. 2 of 1879, upon the subject of the coast fisheries.

I am to state, with reference to the concluding sentence of your letter, that the wishes of the Secretary of State for Foreign Affairs in regard to the separate treatment of matters relating respectively to the French and American fisheries off Newfoundland will be attended to.

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

Inclosure in No. 6.

The Earl of Kimberley to Governor Sir J. Glover.

(Secret.)

Sir, *Downing Street, June 3, 1880.*
WITH reference to previous correspondence respecting the question which has arisen with the United States' Government arising out of the occurrences at Fortune Bay in January 1878. I have the honour to transmit to you, for your information and for that of your Government, a copy of a note addressed by the Marquis of Salisbury to Mr. Hoppin on the 3rd April last upon this subject.*

Adverting to the Act passed by the Legislature of Newfoundland, a transcript of which was forwarded for the consideration of Her Majesty in your despatch No. 124 of the 26th November last, entitled, cap. 2 of 1879, "An Act to amend the law relating to the Coast Fisheries," it would seem advisable, having regard to the further discussion, which is imminent, of the point raised in the last paragraph of Lord Salisbury's note to Mr. Hoppin, to consider carefully whether the present moment is a convenient one for bringing into operation or enforcing any acts which are not urgently required, and to which the United States' fishermen might object.

I have, &c.
(Signed) KIMBERLEY.

No. 7.

Earl Granville to Sir E. Thornton.

(Telegraphic.)

Foreign Office, June 9, 1880, 2.30 P.M.

HAS anything further been done in Congress since your last despatch No. 150, respecting the Fortune Bay affair?

No. 8.

Earl Granville to Sir E. Thornton.

(Telegraphic.)

Foreign Office, June 9, 1880, 7 P.M.

I HAVE had to-day a preliminary conversation with the United States' Minister on the Fortune Bay question. We merely touched the outside of the question, but the conversation was of a conciliatory character on both sides.

* Lord Salisbury to Mr. Hoppin, April 13, 1880.

Earl Granville to Sir E. Thornton.

(No. 87.)

Sir,

Foreign Office, June 9, 1880.

I HAD to-day an interview with the United States' Minister at this Court respecting the Fortune Bay affair.

Mr. Lowell stated that there was a much stronger and deeper feeling on the other side of the Atlantic upon this question than was appreciated here. There was, he said, a feeling that a wrong had been done which ought to be redressed.

We agreed that this was a reason why both Governments should try to settle the question.

I observed that the present Government had not their reputation to make as to a wish to act in a conciliatory manner towards the United States, but that we could make no concession which could not be made with perfect justification.

I then asked Mr. Lowell whether he had any suggestions to make. He replied, "none"; that his instructions were to conform his language to that of Mr. Evarts' note. I inquired whether it would not be possible to separate the two questions of the interpretation of the Treaty and of the attack upon the American fishermen. He replied that he feared that it might be too late to do this, but that, at my request, he would be prepared to ask the question.

Mr. Lowell added, not officially, but only as his personal opinion, that there would be no precipitate action on the part of the United States. The President, he said, had power to act, but the moment for doing so was at his own discretion.

We finally agreed to renew our conversation upon this subject at an early date.

I am, &c.

(Signed) GRANVILLE.

No. 10.

Mr. Herbert to Sir J. Pauncefote.—(Received June 10.)

Downing Street, June 9, 1880.

THE Under-Secretary of State for the Colonies presents his compliments to the Under-Secretary of State, Foreign Office, and would be glad to be informed what answer it is proposed to return to Sir H. Holland's question respecting the Fortune Bay papers, of which he has given notice for the 14th instant.

No. 11.

Memorandum by Lord Northbrook.

(Confidential.)

I THINK that the arguments put forward by Lord Salisbury in his letter to Mr. Hoppin of the 3rd April are unsound, and based upon insufficient evidence.

His first argument is—

The right of fishing from the shore was not conceded to the American fishermen by the Treaty of Washington. The collision at Fortune Bay was caused by an attempt on their part to exercise that right, which was resisted by the Newfoundland fishermen.

Therefore, their claim to compensation for damage is inadmissible.

It is correct that the right of fishing from the shore was not conceded to the American fishermen by the Treaty of Washington.

But the assumption that the collision was caused by an attempt of the American fishermen to exercise the right is not borne out by the evidence taken by Captain Sullivan. That evidence shows that the American fishermen were in the habit of employing Newfoundland men to draw their seines from the shore, and that no objection was made to that practice.

The cause of the collision was that the American fishermen used their seines on a

Sunday (6th January, 1878), and one Newfoundland fisherman was similarly treated on the same day. I quote the evidence :—

John Saunders :—

“There was no other reason that I know of destroying nets but for fishing on Sunday” (p. 25).

Mark Bolt :—

“The Newfoundlanders said it should not be done on a Sabbath day” (p. 26).

Richard Hendriken :—

“The American seine was destroyed on account of barring herring on Sunday” (p. 26).

Ambrose Pipe :—

“The Americans, we thought, had no right to haul their seines on Sunday” (p. 27).

James Thurnell :—

“The men forbid them hauling seines on the Sabbath day” (p. 27).

George Snellgrove, Sub-Collector of Customs :—

“They would not have molested the Americans had it not been Sunday” (p. 29).

Silas Fudge :—

“It was from regard to the Sabbath, on which day we never fish” (p. 30).

John Cluett :—

“The only cause of it was on account of its being Sabbath.”

Captain Sullivan, in his Report, says : “There is no evidence to prove that anything else but the fact of its being Sunday prompted them (the Newfoundlanders) to demand that the seines should be withdrawn.”

It seems to me to be proved, as clearly as anything can be, that the collision occurred entirely in consequence of the Sunday fishing, and not from any objection of the Newfoundlanders to the use of the shore by the Americans.

As, therefore, the Newfoundlanders raised no objection to this practice, which was not a new one, and from which, as they were themselves employed by the Americans to draw the seines, they probably profited, it appears to be exceedingly unfair to urge the fact that, by the letter of the Treaty they had no right to use the shore, to bar a claim to compensation for damage occasioned by a collision which arose from a different cause. It is incidentally stated by Lord Salisbury that, in using the shore, the American fishermen interfered with the “rights of private property, and with British fishermen in the peaceable use of that part of the coast in their occupancy.” The evidence quoted to support this is that of Mark Bolt and John Saunders, but I think it is wholly insufficient to sustain the proposition in the face of the general admission, that the use of the shore had been a constant practice, to which no objection was taken.

The next argument used by Lord Salisbury is that what is called the “inbarring” of herrings (that is, shutting the fish up in a bay by stretching a net across it) is illegal; also that fishing with a seine is illegal between the 20th October and the 12th April; consequently, that the Americans by inbarring with a seine on the 6th January were doing an illegal act, and as the collision was a direct consequence of that act, no compensation can be claimed for any loss they may have suffered.

It is true that both inbarring and fishing between the 20th October and the 12th April are prohibited by the laws of Newfoundland, but it is amply proved by the evidence that no attempt has been made by the Newfoundland Government to enforce these laws for the preservation of fish against Newfoundland fishermen, and it would, under these circumstances, be most unfair to press the point against the Americans.

None of the witnesses made any allusion to the close time; all the fishermen, Newfoundland and American, were fishing without any reference to the law.

The Sub-Collector of Customs, Snellgrove, deposed (p. 29) that the Act had never been carried out in Fortune Bay, nor were the natives aware of the illegality of fishing at that time of year. There is some trace of knowledge on the part of some of the witnesses that inbarring was illegal, but it appears to have been practised with impunity.

I cannot understand how the fact of the American fishermen having violated Newfoundland laws, which were habitually neglected by Newfoundland fishermen,

with the tacit consent of the Newfoundland Government, can be brought as a bar to compensation for violence used towards them.

But it is more than doubtful if the American fishermen were acting illegally at all.

The contention of Mr. Evarts is, that the right of fishing conceded by the Treaty of Washington could not be limited by any law of Newfoundland, but only by some joint agreement between Great Britain and the United States, the two Contracting Powers.

Mr. Evarts argues this on general principles. To my mind the strongest argument in support of his position is to be found in Sir E. Thornton's letter of the 4th November, 1878. He shows that after the Treaty of Washington a law was passed in Newfoundland in 1873 (p. 41) to open the right of fishing to American fishermen. This law contained a proviso to save "the laws, rules, and regulations relating to the time and manner of prosecuting the fisheries."

This reservation appears to have been based upon an opinion given by the English Law Officers in 1873 (p. 49), to the effect that the concession in the Treaty of Washington implied that American and British fishermen should be on an equality, and that if a close time was to apply to the one it should apply equally to the other.

But Mr. Fish objected to the reservation, on the ground that it would impose a restriction in point of time upon the herring fisheries, while the Treaty imposed no such limitation upon them, and this objection on the part of the United States' Government was maintained, notwithstanding Mr. Carter was specially sent from Newfoundland to confer with Mr. Fish on the subject.

The result was, that the Legislature of Newfoundland repealed the Act of 1873, and passed another Act in 1874, by which the fisheries were opened to the Americans, "any law of this Colony to the contrary notwithstanding."

"Mr. Evarts," Sir E. Thornton adds, "may have some ground for raising a doubt as to whether American fishermen are subject to the local laws of the Colony."

I notice that the Law Officers of the Crown, in their opinion of the 11th February last, say that "the Americans were bound by all local laws in existence at the time the Treaty was made." They did not, however, deal with the circumstances which I have narrated, and which may, I think, be fairly construed to imply an assent on behalf of the British Government to a different interpretation of the Treaty.

But this is of little consequence if I am right in my conclusion, that the local laws have not been enforced against Newfoundland fishermen, for American fishermen were undoubtedly entitled to equal rights.

The collision, as I have shown before, occurred in consequence of the American fishermen fishing on a Sunday, which was resented by the Newfoundland fishermen, because it was contrary both to their own custom and to a local law of Newfoundland. This law was passed after the Treaty of Washington ([2] p. 39), and in the opinion of our Law Officers "legislation subsequent to the time of the Treaty of Washington cannot modify or restrict the rights and privileges which the citizens of the United States acquired and their Government have paid for under that Treaty" (2nd series, p. 49).

It is therefore clear that in the opinion of our own Law Officers the American fishermen had the right to fish on Sunday if they pleased, and that the attack made upon them for that reason, which I have shown before to have been the real reason, cannot be justified on the ground of the illegality of their proceedings.

It will be observed that Lord Salisbury has abandoned in his letter of the 3rd April the position which he took in his previous letters to the American Government, which greatly weakens his case. In fact, it was only quite at the close of the correspondence, which has lasted two years, that the subject appears to have been at all carefully considered.

I have endeavoured to show that the reasons he has now put forward to bar the claim to compensation advanced by the Americans will not hold water, and I do not see how the claim can fairly be resisted, or how the present Government can, consistently with fairness, adhere to the position which Lord Salisbury has taken.

It cannot, in my opinion, be disputed that the Newfoundland fishermen had no right to take the law into their own hands. It is no answer to say that there was no magistrate to whom they could appeal. This state of things was evidently owing to the neglect of the Government of Newfoundland.

There are many statements of minor importance in Lord Salisbury's letters which are, in my opinion, much to be regretted, and I do not think I ever read the history of an important and difficult transaction with greater regret as regards the manner in which it has been conducted on behalf of the British Government.

The letter, it is to be observed, is dated the 3rd April, when Lord Salisbury must have known that he only held office till his successor was appointed.

N.

June 10, 1880.

No. 12.

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

(Telegraphic.)

Washington, June 10, 1880, 8 A.M.

SINCE my despatch No. 150, a Bill, copy of which has been transmitted in my despatch No. 167 of the 31st ultimo, in the sense of the President's recommendations, has been submitted to the House of Representatives, and referred to the Committee on Foreign Affairs, which has prepared another as a substitute, not yet submitted to the House.

The latter is said to reimpose duties on fish, but to authorize President to remit them in case of agreement with Her Majesty's Government; to empower him to prohibit American fishermen to fish in British waters till the two Governments agree; and to authorize Secretary of State to audit and pay claims of American fishermen on account of the Fortune Bay affair.

No. 13.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, June 10, 1880.

WITH reference to my letter of the 7th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the copy of a telegram from Her Majesty's Minister at Washington relative to the Fortune Bay affair.*

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 14.

Lord Tenterden to Sir A. Galt.

Foreign Office, June 10, 1880.

LORD TENTERDEN presents his compliments to Sir A. Galt, and begs to inform him that a telegram has been received from Sir E. Thornton* to the effect that a Bill, in the sense of the President's recommendations, was submitted to the House of Representatives, and referred by them to the Committee on Foreign Affairs, who substituted a new Bill for it, which latter has not yet been submitted to the House.

It is believed, however, that while reimposing duties on fish, &c., it authorizes the President to remit those duties in the event of an agreement being arrived at with Her Majesty's Government, and that he is further empowered to prohibit United States' fishermen from fishing in British waters pending a settlement between the two Governments, and also to authorize the Secretary of State to audit and pay the claims of American fishermen arising out of the Fortune Bay affair.

No. 15.

Mr. Bramston to Sir J. Pauncefote.—(Received June 11.)

Sir,

Downing Street, June 10, 1880.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 31st May, inclosing despatches from Her Majesty's Minister at Washington relating to the Fortune Bay affair.

The clerical error in Lord Salisbury's note to Mr. Hoppin of the 3rd April last has been corrected in the copies of that document supplied to this Department.

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

No. 16.

Sir E. Thornton to Earl Granville.—(Received June 11.)

(Telegraphic.)

Washington, June 11, 1880, 8 A.M.

BILL referred to in my telegram of yesterday was submitted to House of Representatives yesterday and read twice.

A joint resolution was also submitted to abrogate the Fishery clauses of the Treaty, and was read twice.

No. 17.

Sir A. Galt to Lord Tenterden.—(Received June 11.)

10, Victoria Chambers, June 11, 1880.

SIR ALEXANDER GALT presents his compliments to Lord Tenterden, and begs to thank him for the information conveyed in his note of yesterday, respecting the action of the House of Representatives in regard to the Fortune Bay matter.

No. 18.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, June 11, 1880.

WITH reference to my letter of the 10th instant, I am directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch from Her Majesty's Minister at Washington respecting the Fortune Bay affair.*

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

No. 19.

Mr. Lowell to Earl Granville.—(Received June 12.)

My Lord,

United States' Legation, London, June 12, 1880.

REFERRING to my conversation with your Lordship on the 9th instant, I have the honour to acquaint you that I took pleasure in communicating by cable the next day to my Government the friendly sentiments of your Lordship in respect to the differences between the two countries on the Fishery question.

I have this morning received a telegram from Mr. Evarts, by which he desires me to communicate his great gratification at the expression by your Lordship of the friendly disposition of the British Cabinet—a disposition which, he states, he should have been ready to assume from the public character of its members. He adds that the President will be quite ready to entertain any considerations which may be presented to the Secretary of State to relieve the question of the fisheries from its present difficulties, and that the Bill now pending before Congress extends to the President adequate discretionary power to meet an accord between the two Governments respecting the fishery rights of the United States under the Treaty, should such an accord be established during the recess of Congress.

I have, &c.
(Signed) J. R. LOWELL.

No. 20.

*Lord Tenterden to Mr. Herbert.**Foreign Office, June 12, 1880.*

LORD TENTERDEN presents his compliments to the Under-Secretary of State for the Colonies, and is directed by Earl Granville to request that he will inform the Earl of Kimberley, in reply to his letter of the 9th instant, in regard to Sir H. Holland's question on the subject of the Fortune Bay papers, that it is expected that the papers in question will be ready for presentation to Parliament in the course of next week.

No. 21.

Sir E. Thornton to Earl Granville.—(Received June 13.)

(No. 167.)

My Lord,

Washington, May 31, 1880.

I HAVE not been able to ascertain that any decision has been arrived at by the Committee on Foreign Affairs with regard to the Bill submitted to the House of Representatives by Mr. Loring, proposing to reimpose import duties upon fish and fish-oil, the produce of the British provinces, nor do I believe that the matter has been considered in that Committee. It is certain that no Report has been made to the House upon the subject.

Neither have the newspapers paid much attention to it. The three articles which I have the honour to inclose are the only ones which I have observed since I last wrote upon the subject.

The article in the "World" of the 28th instant is merely a précis of Mr. Evarts' Report.

That in the same paper of the 29th instant alludes to an article in the "Manchester Guardian," the substance of which was telegraphed to this country, and which, it states, shows a desire to discuss the American case with fairness, but adds, most incorrectly, that the "Guardian" overlooks the fact that the local Statutes which Lord Salisbury cited to justify the rioters of Fortune Bay were passed after the conclusion of the Treaty of Washington.

The "New York Times" of the 29th instant discusses the reasons why American fishermen desire the abrogation of the Fishery Articles of the Treaty of Washington, and comes to the conclusion that the catch of mackerel, for which they believe that the United States paid so excessive a price, has not been so great as they expected, and that the free competition of Canadian fish in this market has rendered their profits still smaller.

The article, however, advocates the continuance of the Treaty stipulations, and that a new agreement should be arrived at for the future, after the term of twelve years shall have expired, based, not upon a money award, but upon a Reciprocity Treaty with Canada.

I have just found another article in the "New York World" of to-day, which is also inclosed, alluding to a report which was telegraphed from England yesterday, that Mr. Evarts had sent instructions to the United States' Minister in London of a more friendly nature than the contents of his statement to Congress. It is stated that Mr. Evarts has denied this assertion, and has declared that he has sent no instructions to Mr. Lowell upon the subject, but is merely awaiting the action of Congress.

The article quotes one from the "Times" of the 19th instant, which it considers to be favourable to the American view of the case. It also suggests that the United States' Government should avail itself of this opportunity to secure likewise the consent of Great Britain to a friendly abrogation of the Clayton-Bulwer Convention of 1850.

I also observe it stated in to-day's "New York Herald" that the United States' sloop "Vandalia," of 8 guns, sailed for Canadian waters on the 28th instant, that the "Alliance," of 6 guns, left Norfolk yesterday for the Island of St. Pierre, and that the flag-ship "Tennessee," of 22 guns, was to sail to-day for Halifax. I have not, however, as yet been able to ascertain whether the above report is true, or whether their presence in the waters of Canada and Newfoundland is intended for the protection of American fishing vessels.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 1 in No. 21.

Extract from the "New York World" of May 28, 1880.

THE FORTUNE BAY QUESTION WITH ENGLAND.—The correspondence concerning the troubles at Fortune Bay has now been printed at length for the first time, and the official copy of this correspondence shows several favourable points to the United States which have not been adequately dwelt upon. Secretary Evarts, in his letter to the President on the subject, deals with it both as a lawyer and as a statesman, and so successfully as to sharpen our regret that he should not have taken up the pretensions of M. de Lesseps with equal vigour. Fortunately for him, the controversy between Great Britain and the United States has turned from the beginning almost entirely upon legal points. Without wasting time on extraneous considerations, Mr. Evarts thus puts the debate as to the Fortune Bay outrages upon its merits at the outset:—

“The issue between the two Governments is as to what regulations of the freedom of the fishery, in the very matter of the time and manner of taking fish, remain a part of British sovereignty over the fishery, under the colour of sovereignty over the place, when exclusive sovereignty over the fishery has been parted with by Great Britain, and when a participation in such fishery has been acquired by the United States, in the terms and on the considerations of the Treaty of Washington.”

The issue being thus defined, Mr. Evarts takes up the reasons which the British Government has given for sanctioning the unquestionably riotous conduct of its subjects at Fortune Bay:—

“These grounds were that our fishermen were pursuing their industry on Sunday, contrary to a law of Newfoundland passed subsequent to the Treaty of Washington; that they were using seines to take herring, contrary to a law of Newfoundland proscribing that method of fishing for the six months of the year between October and April; that they were using such seines in a manner prohibited at any season of the year by a Statute which precluded catching herrings by means of seines except by way of shooting and forthwith hauling the same.”

With these grounds the American Secretary makes short work. He says:—

“The three particulars in which our fishermen are supposed to be constrained by actual legislation of the province cover in principle every degree of regulation of our fishing industry within the three-mile line which can well be conceived. But they are in themselves so serious a limitation of the rights secured by the Treaty as practically to exclude our fishermen from any profitable pursuit of the right, which is equivalent to annulling by the provincial Government the privilege accorded by the Treaty with the British Government. If our fishing fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing-grounds for half the year, from October to April; if our “seines and other contrivances” for catching fish are subject to the regulations of the Legislature of Newfoundland, it is not easy to see what valuable measure for the privilege conceded to the United States this Government can promise to its citizens under the guarantee of the Treaty. It would not, under any circumstances, be admissible for one Government to subject the persons, the property, and the interests of its fishermen to the unregulated regulation of another Government upon the suggestion that such authority will not be oppressively or capriciously exercised, nor would any Government accept, as an adequate guarantee of the proper exercise of such authority over its citizens by a foreign Government, that, presumptively, regulations would be uniform in their operation upon the subjects of both Governments in similar case. If there are to be regulations over a common enjoyment, they must be authenticated by a common or joint authority. But most manifestly the subject of the regulation of the enjoyment of the shore fishery by the resident provincial population, and of the inshore fishery by our fleet of fishing cruisers, does not tolerate the control of so divergent and competing interests by the domestic legislation of the provinces. Protecting and nursing the domestic interest at the expense of the foreign interest, on the ordinary motives of human conduct, necessarily shape and animate the local legislation. The evidence before the Halifax Commission makes it obvious that to exclude our fishermen from catching bait, and thus compel them to go without bait or buy bait at the price of the provincial fishermen, is the interest of the local fishermen, and will be the guide and motive of such domestic legislation as is now brought to the notice of this Government.”

An International Court or a diplomatic umpire would be apt to regard this

argument of Secretary Evarts' as conclusive against the British interpretation of the Fisheries Treaty of 1871. But Mr. Evarts, remembering the doctrine of estoppel, clinches with an application of that doctrine to the facts in hand all his previous arguments. He turns to the printed "Case of Her Majesty's Government," which was submitted to the Halifax Commission in support of the large indemnity which the "case" or brief demanded from our own Government, and quotes from it to show that Her Majesty's Government, by its own admissions or interpretations of the Treaty of 1871, has absolutely "estopped" itself from even presenting, much more from arguing, Lord Salisbury's three points. He says:—

"The Convention of 1818 entitled United States' citizens to fish on the shores of the Magdalen Islands, but denied them the privilege of landing there. Without such permission the practical use of the inshore fisheries was impossible. Although such permission has tacitly existed as a matter of sufferance it might at any moment have been withdrawn, and the operations of United States' fishermen in that locality would thus have been rendered ineffectual. During the spring and summer fishery of the year 1875, when the mackerel were closer inshore than usual, the comparative failure of the American fishermen was owing to their being unprepared with suitable hauling nets and small boats, their vessels being unable to approach close enough to the beaches. In the case of the remaining portions of the seaboard of Canada, the terms of the Convention of 1818 debarred United States' citizens from landing at any part for the pursuit of operations connected with fishing. This privilege is essential to the successful prosecution of both the inshore and deep-sea fisheries. All the advantages above detailed have been secured for a period of twelve years to United States' fishermen. Without them, fishing operations on many parts of the coast would be not only unremunerative, but impossible; and they may therefore be fairly claimed as an important item in the valuation of the liberties granted to the United States under Article XVIII of the Treaty of Washington." ("Halifax Commission," vol. i, p. 93.)

In concluding his letter to President Hayes the Secretary of State dryly remarks in effect that Newfoundland has received 1,000,000 dollars as its share of the money payment made by the United States under the Treaty, and has received it through the influence of a Governmental argument that the United States—which substantially paid Newfoundland the money—had already acquired the full freedom of the fishery accorded by the Treaty; but that Newfoundland, after receiving the benefits both of the argument and of the money, has succeeded in constraining its Home Ministry to repudiate their own concessions in virtue of which the money was paid, while at the same time holding on to the counter-concessions of our inshore fishery and the remission of duty on the fish products of Newfoundland. The humour of these conclusions—which have doubtless by this time reached Earl Granville—will probably be better appreciated by the newly installed Secretary for Foreign Affairs than it might have been by his tart and captious predecessor. As a rule English Liberal Governments have been more apt to show themselves difficult and disagreeable in dealing with American questions than Tory Governments. But in the present case, as Great Britain has trouble enough on her hands in the East of Europe, and as the American contention is founded on simple justice and common sense, it may be taken for granted that this rule of British "practical politics" will be honoured in the breach rather than in the observance.

Inclosure 2 in No. 21.

Extract from the "New York World" of May 29, 1880.

SEVERAL signs confirm the opinion already expressed by us, that the Liberal Government of Great Britain does not mean to deal with the Fortune Bay outrage after the abrupt method of Lord Salisbury. The cable sends us to-day, for example, the summary of a leading article in the "Manchester Guardian," in which that influential Liberal paper not only shows a desire to discuss the American case with fairness, but virtually confesses the flimsiness of the British case, as that case was presented in Lord Salisbury's despatch. The "Guardian" sees and says that for a sovereign Power to grant and accept compensation for a concession in gross, while it reserves to a subordinate Power the right to nullify that concession in detail, would be to imitate that Batavian diplomacy of which a gifted British Foreign Secretary once melodiously sang:

"In matters of commerce the fault of the Dutch
Is giving too little and asking too much."

The despatches of Secretary Evarts, upon which "The World" commented yesterday, point out with sufficient explicitness that the ground taken by Lord Salisbury would leave it in the power of the local Legislature of Newfoundland to withdraw all of the privileges which Newfoundland had received a 1,000,000 of dollars for extending to American fishermen, while the United States, having paid the money, would have no redress whatever. The "Manchester Guardian" gives a striking illustration of the injustice that might have been done by a local law of Newfoundland passed before the Treaty of Washington was concluded; but it misses the full strength of the American case when it overlooks the fact that the local statutes which Lord Salisbury cited to justify the rioters of Fortune Bay were passed after the conclusion of the Treaty of Washington!

Inclosure 3 in No. 21.

Extract from the "New York Times" of May 29, 1880.

THE FISHERIES TREATY.—Not the least curious feature in connection with our Fisheries Treaty with Great Britain is the evident desire of those in this country who are engaged in the fishing business to have the Treaty annulled. The owners of fishing schooners in Gloucester, Newburyport, and Provincetown are almost to a man firm in the belief that their interests will be injured by a continuance of the existing agreement. One naturally cannot help asking why this opinion should be entertained. The sections in relation to the fisheries were inserted in the Treaty of Washington for their special benefit, and though it may be annoying to them, as it is to all Americans, to think that the award for this privilege made by the Halifax Tribunal should have been so preposterously large, this furnishes no reason why American fishermen should be unwilling to abide by the agreement now that their rights under it have been purchased. With the exception of the little incident at Fortune Bay, the American fishermen have had no particular trouble in obtaining all the rights guaranteed to them under the Treaty. The grievance in the case referred to was a valid one, though we fancy that in estimating the loss incurred by our citizens Secretary Evarts followed the precedent of valuation established by the Commissioners at Halifax. But on the whole the Americans have not been troubled, but have been permitted to take as many fish as they could catch, and catch them whenever and wherever they pleased. The objections that they now raise are not founded upon any attempt on the part of the Canadians to interfere with them in their occupation, though this plea has already been, and may hereafter be, put forward as an ostensible reason. Their real grievance is, that the goods paid for are not forthcoming.

It is well known that, aside from the right to obtain supplies and bait in the Canadian ports, a privilege that is mutually advantageous to both buyer and seller, the gain to our fishermen under the Treaty of Washington was the liberty to catch mackerel, which are obtained in much greater numbers inside of the 3-mile line than outside of it. As far as cod-fish are concerned they are not much better off now than they were ten years ago, for these are chiefly caught in deep water, and are rarely cured on shore. The mackerel are the fish we paid our millions of dollars to obtain, and it is somewhat of a disappointment to find that we do not get them in as large quantities as was anticipated. It seems to be admitted that the mackerel fisheries along the Canadian coast have declined very greatly within the past year or two. It would not be safe to say that this falling off is a permanent loss, and yet it has some of the characteristics of a gradual decay; but whether temporary or constant, the immediate effect of it upon our fishermen is the same; they have gained an admission to the inshore waters, but they reap very little benefit from their entrance. On the other hand, they find themselves put at signal disadvantage in the home market in consequence of the competition of the Canadian fishermen. These latter not only keep the price of mackerel down in the American markets by the quantity they send in, but they also ship to this country large supplies of cod-fish and fish-oil, and hence our own fishermen find their margin of profit narrowed down on the two latter articles. Before the Treaty went into force they were protected by what was almost a prohibitory duty; now this has been removed; but they have not yet been able to discover wherein they are the gainers by this change. It is for this reason that they are desirous that the Government should abrogate the Treaty, even if the money paid out has to be entirely sacrificed.

Independent of the losses and gains of our fishermen, the Fisheries Treaty has been of advantage to the people of this country in enabling them to procure a supply

of this food at lower prices than they would otherwise be called upon to pay. At the same time, it has been of equal advantage to the Canadians along the sea-board, in opening to them an immense market for their fish, an opportunity they have not been slow to avail themselves of. That the balance of benefit in our favour is worth 458,333 dol. 33 c. a-year, which is what we have paid for it, is a palpable absurdity; but, having made the payment, it is just as well to continue the contract through the five years more that it has to run. Some time before 1885 we shall have to arrange for a new agreement, which will certainly not be made on the basis of a monetary award. The most reasonable plan that has been proposed is to revive the Reciprocity Treaty, which was allowed to terminate in 1865, and which admitted without duty into either country the products of the other. A movement has already been made in this direction by the trade organizations of some of our eastern cities, and petitions have been sent to Congress asking that the necessary preliminary steps may be taken. In Canada the desire for a reciprocal trade does not seem to be as strong now as it formerly was. The Canadians are experimenting with a Protective Tariff, and they think, with good cause, that the free introduction of American wares would seriously interfere with several of their artificially-sustained industries. These feelings are, however, shared only by a small class, and if they were the only obstacles in the way of a Reciprocity Treaty could be easily removed. But since we paid our 5,500,000 dollars for a shadow the Canadians have become impressed with the belief that we need their productions much more than they need ours, and hence hold that an even exchange would be to them a losing trade. Time will doubtless eradicate this opinion, but it cannot be denied that after we have brought our wood, coal, and fish interests into line, in a desire for reciprocal trade, it will be a much harder task than it was before to convince the Canadians that they will gain by the agreement equally with ourselves.

Inclosure 4 in No. 21.

Extract from the "New York World" of May 31, 1880.

THE QUESTION OF THE FISHERIES.—Mr. Evarts, as will be seen by a Washington despatch which we this morning publish, emphatically contradicts the extraordinary statement of a correspondent of the "Liverpool Courier," cabled to us on Saturday night, that he had instructed the American Minister in England to put the American case concerning the outrages at Fortune Bay in his communications with the British Government less emphatically and energetically than that case has been put by Mr. Evarts himself in his communications with Congress. The "World" yesterday expressed its disbelief of this statement, and it is a pity that it should not have been submitted to the American Minister at London himself before it was flashed along the cable to this side of the Atlantic.

It would be difficult to mitigate the force of the American case, indeed, without emasculating it entirely. Lord Salisbury, in his reply to the original representations of Mr. Evarts, did not attempt to deny that the American fishermen on the coast of Newfoundland had been shut out of the enjoyment of rights to which they believed themselves to be entitled under the Treaty of Washington, or that they had been shut out of the enjoyment of those rights by a local law of Newfoundland. But he contended that this local law ought to be conclusive against the American fishermen as well as against the Newfoundland fishermen, and therefore that the American fishermen, even though aggrieved by the operation of the local law, had no just claim for redress. To this Mr. Evarts replies that if this must be admitted, the Treaty of Washington is a delusion and a snare so far as concerns the rights of our fishermen under it. He therefore recommends Congress to deal with the products of the Canadian and Newfoundland fisheries just as we dealt with them before the Treaty of Washington came into operation at all. That the Government of the United States only needs to show a firm front on this question in order to secure a practical and satisfactory settlement of it is apparent from the tone in which the leading English journals have discussed the subject since the accession to power of the Gladstone-Granville Ministry. The London "Times" of May 19 admits this clearly. After stating the case as presented in the communications sent in by Mr. Evarts on the preceding day to Congress, the "Times" goes on to say:—

"Fortunately, the present moment would seem to be not unfavourable for a final adjustment of the whole dispute. The fishery clauses of the Treaty of Washington

will, under the terms of that instrument, come up either for revision or renewal in the course of the next two years, and thus an opportunity will spontaneously arise for placing them on a more precise and satisfactory basis. The political party, and, to a great extent, the statesmen, who were originally responsible for the Treaty, are now again in power in this country, and they will not shrink from the task of amending it in points where it may seem to need amendment. Certainly the present situation of the question cannot be regarded as satisfactory. On the one hand, no State which had acquired by Treaty rights, absolute and unlimited, would be likely to consent to their material limitation and possible extinction by municipal legislation over which it had no control. On the other hand, if the establishment of a close time is a regulation required in the interests of the fisheries themselves, both parties to the bargain have an equal interest in establishing a common and binding limitation. The rights conferred by the Treaty, whether on American or British fishermen, are, as Mr. Evarts contends, not exclusive, but common. It would seem to follow that their necessary limitation, in the interest of all, should be a matter of common agreement. Some such principle of adjustment as this seemed to have been admitted and even suggested in Mr. Evarts' original despatch. It was highly reasonable, he said, that the contracting parties should, by some joint action, adopt regulations protecting the fisheries. An agreement of this kind would, at any rate, prevent disputes for the future, nor need there be any insuperable obstacle to the amicable adjustment of the dispute which has already arisen."

In this matter, as in the disputes which arose between the two Governments under the Clayton-Bulwer Treaty of 1850, almost before the ink was dry upon the signatures of the Plenipotentiaries, the wisdom of Mr. Buchanan's remark is vindicated, that Treaties have done more to complicate than to simplify the relations of the United States with Great Britain. And while the State Department is at work to rescue the relations between ourselves and our Canadian neighbours in regard to the coast fisheries from the confusion into which they have been thrown by the Treaty of Washington, it is to be hoped that Congress will empower it to clear away the rubbish heaped up around our relations with Central America by securing the consent of Great Britain to a friendly abrogation of the Clayton-Bulwer Convention of 1850.

No. 22.

Memorandum by Lord Tenterden.

Fortune Bay Affair.

SIR A. GALT and Mr. Ford have been talking to me about this. They read the papers separately, and are both agreed that the case, as regards the Newfoundland local laws, will not stand.

Mainly on the ground that in 1873 the Newfoundland Legislature expressly subjected the American use of the fisheries to the local laws, and this was embodied in the Governor's Proclamation.

Mr. Fish objected to this paragraph in the Proclamation.

Mr. Carter, the Newfoundland Attorney-General, went to Washington to argue the matter with Mr. Fish.

After discussion, the Newfoundland Government gave way, and issued a new Proclamation on the 28th March, 1874, inserting the following words, "any law of the Colony to the contrary notwithstanding."

The case stands, therefore, solely on the infraction of the Treaty which forbids fishing from the shore.

It seems with regard to this that these fishermen had never been warned off the shore.

On the contrary, the Newfoundlanders were in the habit of assisting the Americans to haul their nets, which the Americans were not skilful in.

The American nets were set on the shore on the Sunday. The Newfoundlanders only destroyed the one net which the American master of one of the fishing vessels persisted in hauling on a Sunday. The other nets were left alone, and were actually hauled on the Monday.

Consequently—

- (a.) The Americans were not liable to the local law prohibiting Sunday fishing.
- (b.) They were not acquainted with the law (or Treaty right) by which they were prohibited from fishing from the shore.

We cannot, therefore, well contend that it served them right to have their nets destroyed, inasmuch as the Newfoundlanders were actuated not by any law which could properly be enforced against the Americans, but by the Sunday observance, to which the Americans were not subject. The infraction of the Treaty right is so far an afterthought excuse.

T.

Foreign Office, June 14, 1880.

No. 23.

Mr. Lowell to Lord Tenterden.—(Received June 14.)

Dear Lord Tenterden,

37, Lowndes Street, June 14, 1880.

THE very words of the telegram were followed in my note to Lord Granville of Saturday. In such cases I never modify the text. I trust the note was duly received.

Faithfully yours,
(Signed) J. R. LOWELL.

No. 24.

Earl Granville to Sir E. Thornton.

(Telegraphic.)

Foreign Office, June 14, 1880, 5:40 P.M.

HOW does the Bill mentioned in your telegrams of the 10th and 11th now stand?

Cannot you get the American Government to stop its progress, in view of the willingness of Her Majesty's Government to come to an early agreement about the Fortune Bay affair?

It would be very unfortunate if the duties were reimposed for even the shortest time, and would make a settlement much more difficult.

No. 25.

Sir E. Thornton to Earl Granville.—(Received June 15, night.)

(Telegraphic.)

Washington, June 15, 1880.

NO progress has been made in the Bill mentioned in my telegrams of 10th and 11th instant.

Congress has decided to, and will probably, adjourn to-morrow.

I can hardly think it possible that the Bill will be passed even by the House of Representatives before then.

In consequence of your telegram of yesterday, I spoke to the Secretary of State last night, and expressed my hope that an obstacle to the settlement would not be raised by the passage of the Bill.

He said that he should have preferred its being passed, because it would place the question in a better position, but he believed that the chances were against its (?) being passed.

No. 26.

Sir E. Thornton to Earl Granville.—(Received June 16.)

(Telegraphic.)

Washington, June 16, 1880.

CONGRESS has adjourned till December without having taken any further action respecting the Bill or the Resolution on Fortune Bay affair.

No. 27.

Earl Granville to Sir E. Thornton.

(No. 89.)

Sir, *Foreign Office, June 17, 1880.*

WITH reference to my telegram of the 9th instant, I inclose, for your information, copy of a despatch, as marked in the margin,* on the subject of the Fortune Bay affair.

I am, &c.
(Signed) GRANVILLE.

No. 28.

*Sir J. Pauncefote to Mr. Herbert.*Sir, *Foreign Office, June 17, 1880.*

I AM directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying draft of a letter which it is proposed to address to the Law Officers of the Crown upon the question of the liability of this country for the losses incurred by American fishermen through the occurrences which took place in Fortune Bay in 1878; and I am to request that, in laying this draft letter before Lord Kimberley, you will move his Lordship to inform Lord Granville whether he concurs in its terms.

I am at the same time to transmit, for Lord Kimberley's perusal, a further despatch from Her Majesty's Minister at Washington,† together with its inclosures, reporting a conversation which he had had with Mr. Evarts, and I am to request that this paper may also be returned with your reply.

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

No. 29.

*Sir J. Pauncefote to Mr. Herbert.*Sir, *Foreign Office, June 17, 1880.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of two further telegrams from Her Majesty's Minister at Washington‡ on the subject of the Fortune Bay affair.

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

No. 30.

*Sir J. Pauncefote to Mr. Herbert.*Sir, *Foreign Office, June 17, 1880.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the copy of a note from the United States' Minister at this Court§ on the subject of the Fortune Bay affair.

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

No. 31.

Mr. Herbert to Sir J. Pauncefote.—(Received June 18.)

Sir, *Downing Street, June 17, 1880.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letters of the 10th and 11th instant, inclosing telegrams from Her Majesty's Minister at Washington respecting the Fortune Bay affair.

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

No. 32.

Earl Granville to Mr. Lowell.

Sir, *Foreign Office, June 18, 1880.*
 I HAVE the honour to acknowledge the receipt of the letter which you were good enough to address to me on the 12th instant, and in which you communicated to me the substance of a telegram received by yourself from Mr. Evarts in reference to the Fortune Bay question.

I have, &c.
 (Signed) GRANVILLE.

No. 33.

Sir E. Thornton to Earl Granville.—(Received June 20.)

(No. 173.)
 My Lord,

Washington, June 7, 1880.

WITH reference to my despatch No. 167 of the 31st ultimo, I have now the honour to transmit herewith printed copies of the correspondence which was forwarded to Congress on the 17th ultimo, together with the message of the President respecting the Fortune Bay affair.

The greater part of the correspondence is already known to the Foreign Office. I beg, however, to call attention to a paragraph in a letter from the United States' Commercial Agent at St. Pierre, Miquelon, to the State Department (p. 16), in which he contradicts the statement that the American fishing schooners were obliged to leave the bay on account of the antagonism of the natives, and says that they remained there for a fortnight or more after the occurrences of the 13th January, using the same seines, except the one which was destroyed.

At p. 93, and following pages, will be found a Report addressed to Mr. Evarts by Messrs. Babson and Foster, who were sent, during the season of 1879, on board of the United States' ship "Kearsarge," to inquire into the conduct of the inshore fisheries by the American fishermen, and the treatment which they received at the hands of the local authorities and population.

These gentlemen did not, however, find much to complain of, and heard of only one instance in which the native fishermen of Whitehead, on the northern part of Cape Breton, refused to allow the Americans to use seines for catching squid for bait. It appears, however, from this Report, that in general there has been a great falling off in the fisheries, and particularly in the mackerel fishery, and it is probably on this account that the American fishermen are of opinion that the relieving of the fish from import duties and the Halifax Award were a high price for the small return which they declare that they have derived from their fishing rights under the Treaty of Washington, and that they would have made a much greater profit if the fish caught on the United States' coasts, and that which in former times they were in the habit of purchasing from the Canadians and importing as their own catch, had been protected by import duties on all other fish.

I understand that Mr. Evarts has been earnestly urging the Committee on Foreign Affairs of the House of Representatives to come to a decision with regard to the recommendation made by the President in his message on the Fortune Bay affair, so that some Act upon the subject may be passed before the closing of the Session. The Committee does not, however, appear to be entirely in accord with Mr. Evarts' views. But I understand that a Bill has been prepared and approved by a majority

of the Committee, and will be shortly submitted to the House, perhaps to-day. It is said that it has a long preamble, accusing Her Majesty's Government of having failed to carry out the provisions of the Treaty of Washington.

Section 1 proposes to re-impose the duties on fish and fish-oil coming from Canada and Newfoundland.

Section 2 provides that, whenever an arrangement may have been come to with Her Majesty's Government as to the interpretation and execution of the Fishery Articles of the Treaty, the President may remit the collection of the duties.

Section 3 authorizes the President to prevent American fishermen from fishing on the coasts of the British provinces until the two Governments are in accord on the subject.

Section 4 authorizes the Secretary of State to audit the claims of the sufferers by the Fortune Bay affair, and appropriates the sum necessary for their payment by him.

Such are the statements made by the newspapers with regard to this Bill, and they are probably more or less correct.

It is added that Mr. Cox, the Chairman of the Committee, is preparing a Report to accompany the Bill and support it. It is also said that the minority of the Committee will present another Report, accompanied by a Resolution to request the President to take steps to obtain indemnity for the sufferers by the Fortune Bay affair, and to secure to United States' citizens their rights under the Treaty, and, failing to accomplish these purposes, to procure the abrogation of the Treaty.

The newspapers generally are paying but little attention to the subject. I inclose a single article from the "World" of the 2nd instant, which expresses the opinion, formed from English newspaper articles, that Her Majesty's Government is disposed to recede from the ground taken by the Marquis of Salisbury with regard to the Fortune Bay affair; it at the same time urges Congress to take measures to fortify the position assumed by the State Department with regard to that affair, and for the abrogation of the Bulwer-Clayton Treaty.

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

Inclosure 1 in No. 33.

Extract from the Message from the President respecting the alleged Outrage at Fortune Bay.

[46th Congress, Second Session: Ex. Doc. No. 84.]

Depositions of James L. Anderson, James D. Norwood, Peter Thibodau, James Challoner, and Charles Dagle, taken in relation to the trouble between the Canadian and American Fishermen at Aspee Bay, Cape Breton.

Gloucester, September 8, 1879.

I, JAMES L. ANDERSON, of Gloucester, Massachusetts, and master of the schooner "Cadet," of Gloucester, do, on oath, depose and say that I left Gloucester on the 7th June, 1879, bound for Aspee Bay, Cape Breton, to take squid. My vessel was fitted and furnished with a seine for the taking of squid, as I considered that, under the provisions of the Treaty of Washington, I had the right to take fish of any kind within 3 miles of the shores of the Dominion, and also to use seines or other apparatus for the purpose. I arrived at Aspee Bay on the 20th June; the American schooner "Bay State," Captain Goodwin, arrived the same day. He was fitted with a seine for the purpose of taking squid. The inhabitants of Aspee Bay came off to my vessel, and seeing the seine on deck, asked me what I intended to do with it. I told them that it was for the purpose of taking squid; they then left my vessel and went on shore. The next morning I went on shore and was met by a fisherman named Gwin, who informed me that the fishermen of the place had consulted together and had made up their minds that no seine should be set in the bay, and if it was attempted they would cut it up and destroy it, and that they would serve me the same.

He gave as a reason for this that they believed the using of the seine would drive away the squid and deprive them of bait for their own fisheries, and ruin their business of jigging squid. I explained to them that squid had been seined in

Chebucto for several years, with no more perceptible decrease of the squid than when they were caught by jigs; that the same amount of squid would be taken from the water by the jigs, as there are some 200 men who fish for squid at that place. I found that it was useless to argue, as every time I went on shore the threats were repeated, and that they would be carried out.

I then attempted to compromise by offering to pay them for all the squid I might take in the seine, at the same rate as if they caught them with jigs, and divide the money among them equally. They said that if my seine was used in the bay that it would establish a precedent for seining there, and other vessels would not then be prevented, after one had been allowed to seine. Finding I could not use my seine, and knowing that if it was cut up I should not have it to use in other places, and be deprived of the means of getting my cargo, I felt obliged to give it up. When the squid came into the bay there was a large fleet of bankers, and if I could have used my seine I could have supplied every vessel with bait and have also loaded my own vessel with squid to sell the vessels on the banks. For ten successive days the bay was swarming with squid, but not one would take the hook, and the people could not take any.

All of the vessels lying there were obliged to leave without obtaining any bait, and I left also, for Chetticamp. Failing to find squid there, I returned to Aspee Bay on the 21st July, and found squid in the bay that at that time would take the hook. I commenced buying of the fishermen, having over sixty boats with 180 men employed. I paid for this lot of squid 561 dollars in cash, getting about two-thirds of a cargo. This cargo I carried to St. Pierre, and sold the squid for $6\frac{1}{4}$ fr. per 100 to the Jersey fishermen. In a week's time I came back to Aspee Bay, and found squid plenty in the bay, but they would not take the hook. I could have taken all the squid I wanted if I could have used my seine. I remained three days, and finding that I could not obtain any squid, as they would not bite, I left the bay, and I then started for Newfoundland, and in the dense fog the current set the vessel on the Little Miguelon, where she was lost. My loss on being deprived of the use of my seine on my first trip would be 5,000 dollars, as for this season I could have loaded my vessel in three days on the first trip, and would have had them in St. Pierre's at least three weeks ahead of any other baiter, and as the squid failed at St. Pierre this season, I could have got 1 dol. 50 c. per 100 for them. The cargo I carried there three weeks later I got 1 dol. 25 c. per 100 for. I should have been at no expense in buying the squid, as my crew could have set the seine and handled the fish; on my second visit I paid the people 561 dollars for a partial cargo, and the third trip I could have seined my cargo, but was not allowed to, and the squid not biting, I could not purchase from the people.

My third trip, by being so deprived, I suffered a loss of at least 2,000 dollars. The delay, the uncertainty, and the consequent waste of time, and the continued expense of my vessel and crew obliging me to cruize from port to port in search of fish, when I could have realized full cargoes every time I was there, with certain sales, will not be computed in this amount, but simply the cost of the squid to me at Aspee Bay if I could have seined, and the value of the squid at St. Pierre.

In this whole matter no fishery officer or officer of the law forbade my seining; the threats and all demonstrations came from the local fishermen acting independent of all law, and combined together to act as a mob, violence enforced by numbers being their only authority. I told them time and again that under the Treaty of Washington I had a right to seine, as the Government had paid 5,500,000 dollars for this right; they replied that they cared nothing for Treaties or rights; they were going to take care of themselves; the money the Government had got done them no good, but when they got cash for squid it did them some good.

The squid on those shores are about a third grown, and are not mature enough for spawning; they are about 6 inches long, and they grow about 2 inches in a summer; they are the young squid, and every season they come on these coasts, always the young fish; by the use of the seine it makes the catch a certainty, while the hooking process cannot be depended upon.

On this trip my vessel was under a fishing licence, with a permit to touch and trade. I had a few boots and shoes and some cottons, in case I had occasion to trade. On arriving at Aspee Bay I reported to the Customs officer at North-west Harbour, and entered my vessel; the most of my goods I carried to St. Pierre.

(Signed)

JAMES L. ANDERSON, *Captain*.

Personally appeared the above-named James L. Anderson, who made oath that the above statement by him subscribed is true, before me.

(Signed) ADDISON CENTER, *Justice of the Peace.*
Gloucester, September 12, 1879.

Gloucester, September 10, 1879.

I, James D. Norwood, master of the American schooner "Messina," of Gloucester, do, on oath, depose and say that I left Gloucester for St. Ann's or Aspee Bay, Cape Breton, for a cargo of squid to sell for bait. I had been in these ports in previous years, and knew that the inhabitants would oppose the use of a seine in that bay, and consequently I went prepared to buy my squid.

I stopped at St. Ann's about a fortnight; got no squid, as they would not bite; then went to Aspee Bay and found that the squid would not take the hook, and that the people had opposed the use of any seine by Captain Anderson or any other person. I could have hired a seine and loaded my vessel if I had been allowed what I considered my rights under the Treaty of Washington, but finding the people in such a determined and threatening attitude, I knew it would be useless to try to get my cargo there, and left for Newfoundland. I arrived at Torbay, where I bought 300,000 squid of the local fishermen, paying 900 dollars in cash for them.

The same hostility to Americans taking their own bait with seines exists at Newfoundland as at Cape Breton. The fishermen can make twice the amount of money taking squid for the American bankers and baiters than they can in their usual avocation of cod fishing, and they will not be deprived of this lucrative trade if they can help it. It is cash to them, and the women and boys join with the local fishermen in the light work of taking squid with jigs. The whole community shares in the squid fishery and in the money they receive for them.

In my judgment, full 100,000 dollars is paid annually on these shores for bait alone, and this could all be saved if the Americans could use their seines to take bait; and the bait, if not purchased by the American fleet, would be useless and valueless to the people.

I have been informed that there is a local law against seining squid at Newfoundland. The present mode of taking squid by jigs is a slow process, costing the Americans a great loss of time, when, if the seine could be used, it would save two-thirds the time it now takes to get bait. Each banker now has to spend at least thirty days out of each trip in going around from place to place for bait, as when the squid will not take the hook none can be obtained, and the seine makes the catch a certainty.

(Signed) JAMES D. NORWOOD,
Master of Schooner "Messina."

Essex, ss.

Personally appeared the above-named James D. Norwood, who made oath that the above statement by him subscribed is true, before me.

(Signed) ADDISON CENTER, *Justice of the Peace.*
Gloucester, September 10, 1879.

Gloucester, September 10, 1879.

I, Peter Thibodau, master of the American schooner "Lizzie J. Jones," of Gloucester, do, on oath, depose and say that I left Gloucester in the said vessel on the 3rd June, 1879, for Aspee Bay, Cape Breton, on a trip for squid. I was not fitted with a seine, but was prepared to buy for this season; that the previous year I was at Aspee Bay with Captain Dagle, and knew that the fishermen there would not, under any circumstances, permit a seine to be used there.

I was at Aspee Bay when Captain Anderson, of the schooner "Cadet," tried to use his seine, and Captain Anderson asked me to assist him in using his seine for seining the squid; but the local fishermen, to a man, united in threatening destruction to the seine or any one who attempted to use it in that bay.

I am perfectly sure that the seine would have been destroyed, as the people

warned me from having anything to do with it, and were constantly on the watch to see if Anderson attempted to use it, and were prepared to attack him on the first demonstration on his part. I did not get but 3,000 squid at Aspee Bay. My vessel would take, as a cargo, 500,000.

All of the vessels could have been loaded with squid, could the seine have been used; the bay was swarming with them.

I told the people that Americans had the right to take these squid with seines, and they said they cared nothing for that; they should and would protect themselves; if they allowed seining it would ruin their business of jigging squid, and then they thought the seining would drive away the squid from the bay.

At this place the local fishermen have no money, except what they get from the Americans for squid, and they say if this trade is taken from them they will have no money to pay their taxes, &c.

They usually receive from the local traders goods and groceries for the fish they take during the season, while the Americans pay cash for the squid and bait they buy.

I was obliged to leave Aspee Bay, as I could not obtain any squid, as they would not bite.

I then went to Newfoundland to Conception and Trinity Bays, where I bought my squid of the local fishermen.

The feeling is the same at Newfoundland as at Aspee Bay aganst seining.

No American will be allowed to use a seine to take squid in any of the bays or coves of Newfoundland under penalty of destruction of the seine. I have heard the people say this over and over again, and know that it is impossible to obtain what we consider our rights in this respect under the Treaty of Washington.

(Signed) PETER THIBODAU,
Master of the Schooner "Lizzie J. Jones."

Essex, ss.

Personally appeared the above-named Peter Thibodau before me, and made oath that the above statement by him subscribed is true.

(Signed) ADDISON CENTER, *Justice of the Peace.*
Gloucester, September 10, 1879.

White Point, Br. Vic., August 17, 1879.

James Challoner, of White Point, Aspee Bay, being duly sworn, do depose and say that about the 20th July, 1879, Captain Anderson, of the schooner "Cadet," of Gloucester, came to see me, and said that his vessel, the previous season, had done very well with squid, which they had purchased here and had sold at St. Pierre Miquelon; and that there were ten vessels this year engaged in the same business, and eight of them did come to this bay for the purpose of getting squid and carrying them to the banks for sale to the bankers, and remained here until about the 16th July. Captain Anderson and Captain Goodwin of the "Bay State," had a seine for the purpose of seining squid in the bay, and did not attempt to use it, because the fishermen would not allow them to do so; they threatened to cut the seine if they placed it in the water; there never has been but one seine cast in this bay, and had Captain Anderson thrown his seine he would have swept the whole school of squid in the cove, and the fishermen would have been deprived of all their bait for the season. Last season the Americans purchased their squid, giving 20 cents per 100, and this, when the squid are plenty, is a source of profit and a large part of the business of the inhabitants. Captain Anderson could have purchased all he wished, but if the fishermen had allowed him to seine they would have lost the money paid for the squid by the cod fishermen from the banks. No opposition was made to Captain Anderson's catching squid by hook and line.

American and French bankers come here every summer for bait, and if Captain Anderson had taken all the squid by his seine the bankers would have been forced to purchase of him instead of the native fishermen, of whom there are about 150. I am not aware of any Colonial law against securing squid. The only reason the inhabitants threatened Captain Anderson was that he would ruin their squid catch. The only fishery officer lives at Fragnish, down the coast. Some Newfoundlanders living near here attempted, a little while ago, to use seines for taking caplin, but the

natives would not permit them to do so. I have been a resident here for thirty years, and engaged in the business of purchasing fish.

(Signed) J. A. CHALLONER.

Subscribed and sworn to before me this 17th day of August, 1879.

(Signed) J. H. SEARS, *Ensign, United States' Navy,*
United States' Ship "Kearsarge."

Charles Dagle, captain of the schooner "Joseph Story," being duly sworn, doth depose and say that he was at Aspee Bay, Cape Breton, in the latter part of June, 1879, for the purpose of purchasing squid to carry to St. Pierre for bait for the French bankers; that while he was there Captain Anderson, of the schooner "Cadet," of Gloucester, Massachusetts, who came for the purpose of catching squid at that place, and squid not being obtained in sufficient numbers by jigging, attempted to use a squid seine for the purpose of catching the squid, which schooled in great numbers, but would not bite at the jig. The inhabitants of Aspee Bay threatened that if he set his seine they would cut it, and there would be trouble, as selling squid was their only way of making money during the summer season, and if a seine was used in the cove all the squid would be taken or driven away, and they would lose all their summer's employment, as squid was the only bait they could obtain for catching cod. They were willing that Captain Anderson should jig his squid or purchase of them. Captain Anderson left the bay without a trip of squid, while if he had used his seine he would probably have filled his vessel.

That I have just come back from Torbay, Newfoundland, near St. John, with 94,000 squid, which were all purchased of the inhabitants there. That there is a law in force in Newfoundland against seining squid, which forces us to purchase of the natives, as we have no time to take them by the slow process of jigging.

(Signed) CHARLES DAGLE.

Sworn to before me at St. Peirre, Miquelon; this 19th August, 1879.

(Signed) W. F. McLAUGHLIN, *Vice-Commercial Agent,*
United States of America.

Inclosure 2 in No. 33.

Extract from the "New York World" of June 2, 1880.

THE Secretary of State is bestirring himself to secure the co-operation of Congress, before the adjournment of that body, with the Executive in the policy forced upon this country by the course of Great Britain in regard to the outrages upon our fishermen at Fortune Bay. It is plain from the recent tone of the leading English journals on the subject that the Gladstone Ministry are disposed to abandon the really untenable ground taken up by Lord Salisbury; but, of course, the Gladstone Ministry cannot reasonably be expected to do this unless the United States urge them into doing it. The "St. James' Gazette," which has taken up the old parable of the "Pall Mall" against the Liberals, is already charging upon Mr. Gladstone a willingness to "truckle" to the Yankees. The fact that "Punch," with all its irrepressible Liberalism, has been moved to depict Mr. Gladstone as "Willie Horner" eating a piece of humble-pie, on account of his apologetic letter explaining away certain harsh language which he had used on the hustings about Austria, shows that the "Jingoes" are not the only people in England who dislike to see an English Premier over-complaisant to foreign Powers. Sir Charles Dilke was evidently gratified the other evening to be able to say in his place in Parliament that the Government of which he is a member had heard nothing from the United States' Government touching the abrogation of the Clayton-Bulwer Treaty. If Congress should adjourn without acting upon Mr. Cox's Resolution requesting the Executive to secure from Great Britain the abrogation of that Treaty, and without taking steps to fortify the position assumed by the State Department in regard to the business at Fortune Bay, the Democrats at Washington will expose themselves to the just imputation of having left our foreign relations in a worse and less creditable condition than they were in when Congress assembled. Congress and the Executive between them have undertaken to carry out the Central American policy long ago recommended by Secretary Marcy, by establishing the flag of the United States in proper naval stations

on the Central American coasts. They have undertaken between them to give form and substance to the Monroe doctrine by making an end of the false and mischievous policy embodied in the Clayton-Bulwer Treaty of 1850. And now the Executive, having committed itself in the premises, asks Congress to co-operate with it in remedying effectually the evils which have grown up out of certain clauses of the Treaty of Washington. Unless final and decisive action is taken in regard to all these matters before Congress rises, the public policy of the country will be stultified; and Democrats probably know where the responsibility of stultifying it will be laid in a Presidential year.

No. 34.

Précis of Correspondence which passed in 1874 on the Newfoundland Fisheries Question.

THE Newfoundland Act for carrying into effect the fishery Articles of the Treaty of Washington of the 8th May, 1871, passed the Legislative Council on the 28th April, 1873, and received the Governor's assent on the 5th May of that year. Confidential Print
No. 2288, p. 141.

That Act stipulated that, as soon as the law for carrying out the fishery Articles of the Treaty of Washington should be passed by the United States' Legislature, all laws of the Colony of Newfoundland which operated to prevent those Articles from taking effect should, so far as they so operated, be suspended during the period mentioned in Article XXXIII,* "provided that such laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coasts of this island [Newfoundland] shall not be in any way affected by suspension." Ibid., p. 142.

This Act was submitted to the Law Officers on the 26th May, 1873, for their opinion as to whether it sufficiently complied with the terms of the Treaty of Washington, especially with reference to the proviso quoted above. Ibid., p. 144.

The draft Protocol sent to Sir E. Thornton for signature with the United States' Government (fixing the 1st July as the date at which the fishery Articles should come into operation) was also sent to the Law Officers at the same time. In reply, the Law Officers reported, on the 29th May, 1873, as follows:— Ibid., p. 137.

"That, in our opinion, the Protocol which recites the Acts of the Imperial Parliament of the Dominion of Canada, and of the Legislature of Prince Edward Island, should also recite the Act passed by the Legislature of Newfoundland, particularly with reference to Article XXXII of the Treaty of Washington, 1871. Ibid., p. 145.

"In reference to the proviso at the end of the 1st section of the Act of Newfoundland, we are of opinion that the clause should be so framed as expressly to cover the close time for the herring fishing, and the observation by American fishermen of the rules and regulations imposed upon the fishermen of Newfoundland in that particular."

The Colonial Office, to whom this Report was communicated, then inquired whether it was intended as expressing an opinion that the Newfoundland Act must be amended before the Treaty could be carried into operation. But if an amendment was only considered by the Law Officers to be advisable for the purpose of more clearly expressing the object of the proviso (viz., to place American fishermen on the same footing as Newfoundland fishermen), Lord Kimberley suggested that the Newfoundland Act, with the correspondence relating to it, should be forwarded to Sir E. Thornton, with instructions to sign a Protocol similar to the one proposed for Canada, &c., adding that Mr. Fish should be distinctly informed, in order to prevent misunderstanding hereafter, that the laws, rules, and regulations referred to in the proviso in the Newfoundland Act included the close time for the herring fishery, and the observation by American fishermen of the rules and regulations imposed upon the Newfoundland fishermen in that particular. Ibid., p. 148.

This letter was referred to the Law Officers, for their opinion whether the Act in question sufficiently complied with the terms of the Treaty, and as to the steps that should be taken for giving effect to it, when they reported as follows (7th June, 1873):—

"In obedience to your Lordship's commands we have to report—

"That, in our opinion, the Act does sufficiently comply with the terms of the Treaty. Ibid., p. 150.

"The suggestion made by Lord Kimberley, that Mr. Fish be asked to sign a

* Namely, for ten years from the date of those Articles coming into operation, and further until two years after either party should have given notice of their termination.

Protocol in respect of Newfoundland, similar to that which has been signed respecting Canada and Prince Edward Island, may be properly adopted.

“But that Protocol should contain a clause following, as nearly as possible, the words of the proviso at the end of the 1st Article of the Newfoundland Act.”

Confidential Paper
No. 2288, p. 150.

The above correspondence was forwarded to Sir E. Thornton on the 7th June, 1873, with the following instructions as to the Protocol he was to sign with Mr. Fish:—

“As the Protocol of which a draft was sent to you on the 17th May will have probably been signed before this despatch reaches you, I have to instruct you to propose to Mr. Fish to sign a similar Protocol respecting Newfoundland, with the addition of a clause following as nearly as possible the proviso at the end of the 1st Article of the Newfoundland Act, namely, that the laws, rules, and regulations of the Colony relating to the time and manner of prosecuting the fisheries on the coasts of the island shall not in any way be affected by the suspension of the laws of the Colony which operate to prevent the Articles XVIII to XXV of the Treaty of Washington from taking full effect during the period mentioned in the XXXIIIrd Article of that Treaty.

“You will report the results of your communication with Mr. Fish and the signature of the Protocol, if signed, by telegraph to this Office and to the Governor of Newfoundland, sending to both, as soon as possible, copies of the Protocol so signed.”

On the 26th June, 1873, Sir E. Thornton telegraphed as follows:—

Ibid., p. 157.

“Mr. Fish informs me officially that, owing to the provision in the 1st section of the Newfoundland Act, which imposes restrictions, although there are no such restrictions in the Treaty, the Act of Newfoundland does not appear such a consent to the application of the Treaty Articles as contemplated in the Act of Congress, in accordance with which the President of the United States is to issue a Proclamation.

“I am sending a similar telegram to the above to the Governor of Newfoundland.”

(Confidential.)

“Mr. Fish states confidentially that he presumes that in the waters of each country the fishermen of the other would have to comply with reasonable police regulations, but that his Government could not accept restrictions inserted in the Newfoundland Act with reference to the Treaty.”

Ibid., p. 157.
June 28, 1873.

In consequence of this objection on the part of the United States, the Governor of Newfoundland, who had been communicated with by the Colonial Office on the subject of issuing a Proclamation bringing the Act into operation, was instructed by telegraph to suspend his Proclamation until further instructions, and Sir E. Thornton was informed of this also by telegraph.

Confidential Paper
No. 2288, p. 158.

On the 1st July, 1873, the following instruction was addressed by the Colonial Office to the Governor of Newfoundland:—

“I have the honour to acquaint you that Sir E. Thornton has reported to Lord Granville that he has been officially informed by Mr. Fish that, in consequence of the proviso contained in section 1 of the Act of the Newfoundland Legislature, relating to the Treaty of Washington, by which certain restrictions are imposed, although none such appear in the Treaty itself, the Newfoundland Act does not seem such a consent to the application of the Articles of the Treaty as was contemplated by the United States' Act, under which the President's Proclamation is to be issued.

“In these circumstances I would suggest that you should bring the matter under the notice of your Ministers, with a view to their considering whether it would not be advisable to pass an amending Act, omitting the proviso which has been objected to by the United States' Government.”

Ibid., p. 159.

On the 5th July the Colonial Office transmitted to the Foreign Office a telegram from the Governor of Newfoundland, in which he stated that the proviso objected to by the Americans related to enactments as to the time and mode of taking herring and salmon, shown by experience to be necessary for the preservation of those fisheries, and consequently for the common interest of all engaged in them. He added, that he would, in his Proclamation, according to the Powers vested in him by the Newfoundland Act, confirm this, and so express it as to remove any possible objection to the terms of the Act, which was not intended in any way to interfere with the *bonâ fide* operation of the Treaty.

The powers of the Governor under the Newfoundland Act (section 2) were as follows:—

Ibid., p. 142.

“The Governor in Council, by any order or orders to be made for that purpose,

may do anything further in accordance with the spirit and intention of the Treaty which shall be found necessary to be done on the part of this island to give full effect to the Treaty, and any such order shall have the same effect as if the object thereof were expressly provided for by this Act."

On the 23rd June, 1873, Sir E. Thornton reported that he had addressed a note to Mr. Fish inviting him to sign a fresh Protocol extending to Newfoundland the fishery Articles of the Treaty of Washington, and that he had had an interview with Mr. Fish, in which the latter had expressed himself as disinclined to sign another Protocol for Newfoundland with the proviso of the Act, without knowing the exact restrictions to which it referred, while he should even hesitate to accept the Act in question as a law of the form required by the Treaty to carry into operation Articles XVIII to XXV, inasmuch as it spoke of restrictions to which the Treaty made no allusion.

Confidential Paper
No. 2288, p. 160.
Note to Mr. Fish,
p. 161.

Sir E. Thornton replied that the proviso merely referred to the seasons during which a particular class of fishing would be allowed, and that naturally the restrictions would be enforced alike against Newfoundland and American fishermen, adding that the same rule would apply in American waters, where British fishermen would have to submit to American regulations with respect to seasons and mode of fishing. Mr. Fish admitted that in both cases the fishermen of the two countries would have to observe the laws of the country within whose jurisdiction they might be fishing, but that such restrictions had not formed part of the Treaty, or of the laws of the different countries interested, with the exception of Newfoundland, and that he thought there was no ground for this exception. He promised, however, to consider the matter.

On the 20th June, 1873, Sir E. Thornton addressed the following note to Mr. Fish, explanatory of the nature of the proviso:—

Confidential Paper
No. 2288, p. 161.

"With reference to my note of yesterday's date, and to our conversation upon the subject of the Act passed by the Legislature of Newfoundland for carrying into effect Articles XVIII to XXV of the Treaty of the 8th May, 1871, I have the honour to state that, from a Report made by the Attorney-General of Newfoundland to the Governor, it would appear that the proviso at the end of section 1 of that Act has reference to the time for the prosecution of the herring fishery on the western coast of the island, and was merely intended to place citizens of the United States on the same footing with Her Majesty's subjects in that particular, so that the rules and regulations imposed upon the Newfoundland fishermen with regard to that fishery might also be observed by American fishermen.

"The Newfoundland House of Assembly has been prorogued, and will probably not meet again this year."

Sir E. Thornton's despatch recounting the above was forwarded to the Colonial Office on the 10th July, 1873.

Ibid., p. 153.

Mr. Fish's reply to Sir E. Thornton's note communicating the Newfoundland Act, and inviting him to sign a Protocol on the subject, was couched in the following terms:—

Ibid., p. 166.
June 25, 1873.

"An examination of the Act passed by the Legislature of Newfoundland discloses that the suspension by that Legislature of the laws which operate to prevent the Articles referred to of the Treaty from taking full effect is qualified, and is accompanied by a proviso that certain laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coast of Newfoundland are not to be in any way affected by such suspension.

"From your note of the 20th instant, I understand that from a Report made by the Attorney-General of Newfoundland to the Governor, it would appear that the proviso referred to contemplates a restriction, in point of time, of the herring fisheries on the western coast of the island.

"The Treaty places no limitation of time, within the period during which the Articles relating to the fisheries are to remain in force, either upon the right of taking fish on the one hand, or of the exemption from duty of fish and fish-oil (as mentioned therein).

"I regret, therefore, that the Act of the Legislature of Newfoundland, which reserves a right to restrict the American right of fishing within certain periods of the year, does not appear to be such consent on the part of the Colony of Newfoundland to the application of the stipulations and provisions of Articles XVIII to XXV of the Treaty as is contemplated by the Act of Congress to which you refer, and in accordance with which the Proclamation of the President is to issue."

On the following day Sir E. Thornton had an interview with Mr. Fish, when he

Confidential Paper
No. 2288, p. 167.

inquired whether he was to infer that the American fishermen were not to consider themselves bound to observe in the waters of Newfoundland the regulations which might be established there with regard to the modes and seasons of fishing, repeating the argument he had formerly used with reference to the regulations being equally enforced against Newfoundland and American fishermen, to which "Mr. Fish replied that he could state confidentially his understanding that the jurisdiction gave the right of laying down reasonable police regulations, and that, as a matter of course, such regulations would be observed by all who fished in the waters in question; but the permission to fish granted by the Treaty was accompanied by no restriction, except so far as to define the localities in which the fishing was to be carried on. The Proclamation, therefore, which would be a consequence of the Treaty, ought not to contain any restrictions which were not indeed comprised in any of the laws upon the subject, except the Act of Newfoundland, nor in the Protocol signed on the 7th instant."

July 17, 1873.

Confidential Paper
No. 2288, p. 173.

The Colonial Office, to whom the papers were referred, then suggested that the Governor of Newfoundland should be informed that if that Colony was to be brought within the Treaty, the Act must be amended.

In connection with the delay which would thus arise, the Colonial Office inquired what would be the position of Newfoundland as regarded compensation for the rights of fishing conceded to the United States, if the case of the Colony could not be laid before the Commissioners under the XXIVth Article of the Treaty.

Ibid., p. 174.

This point was submitted to the Law Officers, on the 17th July, 1873, for their opinion, which, on the 19th of the same month, they expressed in the following terms:—

"We have the honour to report—

"That Article XXXII of the Treaty of Washington, 1871, provides that Articles XVIII to XXV shall extend to the Colony of Newfoundland; but if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect, with a further proviso as to other Articles of the Treaty.

"It appears that the Congress of the United States and the Legislature of Newfoundland are not agreed upon the construction to be put upon the Treaty, the result being that the respective laws which were to be executed for carrying the Treaty into effect do not bring the Colony of Newfoundland within the Treaty, and the American fishermen will acquire no rights, and the Colony can claim no compensation in reference to Articles XVIII to XXV.

"We submit, for your Lordship's consideration, that the words 'in common with the subjects of Her Britannic Majesty,' which occur in Article XVIII, in fair construction mean that the American and British fishermen shall be upon an equality, and that if a close time is to apply to British fishermen, and the necessity of the case seems to require that, the same restriction shall apply to American fishermen.

"Also that since Mr. Fish admits that the right of laying down reasonable police regulations exists, and would be observed by all who fished in the waters in question—police regulations meaning, by the context, rules as to close time—the objection raised to the Newfoundland Act is more technical than real, and that the operation of the Treaty, as respects Newfoundland, ought not to be delayed or break down altogether on such an objection."

Ibid., p. 159.

The telegram from the Governor of Newfoundland, alluded to on p. 5 of this Memorandum, having been communicated to Sir E. Thornton, the latter reported, on the 7th July, 1873, that he had requested the Acting Secretary of State to forward it to Mr. Fish, expressing a hope that the explanations given therein would justify him in recommending the issue of the President's Proclamation for giving effect to the Treaty of Washington with regard to Newfoundland. Mr. Davis promised that he would send a copy of the telegram to Mr. Fish, but he expressed a doubt whether the wording of the Act of Congress would allow Mr. Fish to admit a law which contained any limitation of the right of fishing. Sir E. Thornton pointed out that the restrictions then in force had been enacted with a view to the preservation of the fisheries, and were, therefore, to the advantage of all parties, as their observance would also be obligatory upon all. Mr. Davis did not, however, hold out any hope that Mr. Fish would be induced to change his view of the matter.

Ibid., p. 175.

Ibid., p. 176.

July 7, 1873.

See p. 166.

Sir E. Thornton also addressed a despatch to the Governor of Newfoundland, in reply to his telegram, informing him of the steps he had taken, and of the objections raised by Mr. Fish to the Newfoundland Act, which are given in full on p. 33 of this Memorandum.

The reply of Mr. Fish to the request that he would admit Newfoundland to a participation in the fishery Articles of the Treaty is embodied in the following letter, dated July 10, 1873, addressed by Sir E. Thornton to the Governor of Newfoundland :—

Confidential Paper
No. 2288, p. 181.

“With reference to my letter of the 7th instant, I have the honour to inform your Excellency that Mr. Bancroft Davis, the Acting Secretary of State, this morning stated to me, on behalf of Mr. Fish, that the latter regretted that he was still unable, notwithstanding the explanations given in your Excellency’s telegram of the 5th instant, to recommend to the President to issue a Proclamation for carrying into effect, with regard to Newfoundland, certain Articles of the Treaty of May 8, 1871, because the Act of Newfoundland was not a full consent to the Articles of the Treaty, nor such a consent as would allow the President, who must be guided by the provisions of the Act of Congress upon the subject, to issue the Proclamation in question.

“Mr. Bancroft Davis added that Mr. Fish admitted that, as the United States’ authorities would expect British fishermen, in American waters, to observe the police regulations with regard to the fisheries, so the Government of the United States would make no objection to similar regulations being enforced against American fishermen in British waters; but it could not accept the Act of Newfoundland, which contained restrictions of which no mention had been made in the Treaty.”

The Governor of Newfoundland thereupon wrote to the Colonial Office repeating the assurance that the proviso in the Act had reference only to the mode and seasons of fishing, and expressing the hope that, in view of the fact that it would be impossible to pass a new Act until the Legislature met again in February 1874, the United States’ Government might be induced to reconsider a decision which had been arrived at without due consideration, and which would have disastrous results as regarded the trade of Newfoundland, by the imposition of duties on cargoes sent to the United States in anticipation of the Colony being admitted to participation in the advantages of the Treaty of Washington.

July 16, 1873.
Confidential Paper
No. 2288, p. 184.

The Governor inclosed a Report from his law adviser, showing that the proviso in the Act could not in any way interfere with the due execution of the Treaty of Washington.

Ibid., p. 184.

In forwarding the above papers, the Colonial Office observed that if the United States’ Government persisted in their view of the matter, it appeared that nothing further could be done until the meeting of the Newfoundland Legislature.

Ibid., p. 183.

On the 2nd August, 1873, the Colonial Office, commenting upon the Law Officers’ Report (given on p. 34 of this Memorandum) as to the position of Newfoundland in respect of compensation under the Treaty in the event of her not being able to lay her case before the Commission in consequence of the delay occasioned by the objection to the proviso in the Act, suggested that, as the question was one of urgency, a copy of the Report should be forwarded to Sir E. Thornton, in order that he might make a further endeavour to overcome the objections of the United States’ Government, and this was done on the 15th August, 1873.

Ibid., p. 186.

Mr. Carter, Q.C., was also requested by the St. John’s Chamber of Commerce to proceed to Washington for the purpose, if possible, of removing the difficulty, and at his suggestion the Governor of Newfoundland sent to Washington a draft Proclamation, which he was prepared to issue; but still Mr. Fish was not satisfied, arguing that the 1st section of the Newfoundland Act stipulated that certain laws should be suspended, provided that those same laws should not be in any way affected by such suspension, and this did not fulfil the requirements of the Act of Congress. Moreover, Mr. Fish added, in the case of the arrest of an American fisherman, it would be the *Act* which would be considered by the Courts, and not the Proclamation.

Ibid., p. 194.

Governor Hill to
Sir E. Thornton,
July 18, 1873.
Confidential Paper
No. 2415, pp. 14,
16, and 17.

Ibid., p. 16.

Mr. Fish, however, authorized Sir E. Thornton to state that if Her Majesty’s Government would guarantee that the suspension of all the laws which operated to prevent the Articles of the Treaty from taking full effect should, notwithstanding the wording of the Act of Newfoundland, be real and effective, he could not doubt that the President would issue the necessary Proclamation.

Ibid., p. 14
(No. 26).

The question of giving the guarantee required by Mr. Fish was referred to the Law Officers, who replied in two separate Reports, dated respectively the 10th and 12th September, 1873.

Ibid., p. 17
(No. 28).

In the first they reported as follows :—

Ibid., p. 24.

“That, in our opinion, the Imperial Government should not have been called upon

to guarantee that the suspension of the laws of a Colony, which suspension has been legally proclaimed by the Governor of the Colony, shall be 'real and effective.'

"To call for such a guarantee seems to us very like a suggestion of bad faith on the part of the Imperial Government; to give the guarantee would, we respectfully suggest for your Lordship's consideration, be contrary to the honour and dignity of Her Majesty's Government.

"And we are of opinion that Her Majesty's Government cannot properly give the guarantee required by Mr. Fish."

Confidential Paper
No. 2415, p. 24.

The Report of the 12th September went more fully into the objects which Mr. Fish might have in view in objecting to a proviso having reference to a close time:

"In drafting our former Report of the 10th instant, we have confined ourselves entirely to the question asked by the Colonial Office.

"But in reading the papers we have thought that Mr. Fish must have some private reason for objecting to the proviso as to a close time, which the Act of Newfoundland contains, and for asking a guarantee from the Imperial Government that the suspension of the laws shall be 'real and effective.'

"If the United States are ready to admit a close time as binding upon the fishermen of the two countries under the Articles XVIII and XIX of the Treaty, the words of the proviso are mere surplusage; and it is not easy to see why the proviso should be objected to, and the suspension of the proviso require the guarantee of the Imperial Government.

"Further, the proviso having been made, if the effect is now suspended or the proviso be withdrawn, will not the United States be able to argue with some force, when it suits their purpose, that a close time was never a restriction within the terms of the Treaty?

"In point of fact, Mr. Fish comes very near if not quite up to that contention now.

"The effect of that construction would be that the Newfoundland and other British North American fisheries would be ruined by the fishery being open all the year round.

"Nor could the English retaliate with any effect by continuing their fishery on the coast of the United States to the 39th degree, looking to the relative value of the two fishing grounds.

"For these reasons we should have advised against the framing of the Proclamation, had that question arisen.

"With reference to the required guarantee, it may be, but we doubt it, that Mr. Fish only means to put some further pressure upon Her Majesty's Government; but we are not aware of any precedent for a similar guarantee, and we think the Imperial Government may not, consistently with its own dignity, guarantee to a foreign Government the observance of the laws of a Colony.

"If those laws are not observed, the Imperial Government may properly be required to enforce their observance.

"To require a guarantee is to suppose beforehand that the Imperial Government may allow the laws to become unreal and ineffective."

Ibid., p. 25.

The Colonial Office were informed, on the receipt of these Reports, that Earl Granville concurred in the opinion that it would not be proper to give the guarantee, and the Colonial Office telegraphed on the 30th September, 1873, to the Governor of Newfoundland—"Her Majesty's Government cannot give the guarantee required by the United States' Government."

Ibid., p. 30.

On the 9th April, 1874, a telegram was received at the Colonial Office from the Governor of Newfoundland, stating that an Act to give effect to the Treaty of Washington had been passed without restriction; that the Newfoundland Government would allow Americans to fish during the coming season, but would withdraw this privilege should the President of the United States not accept the Newfoundland Act. The Act was subsequently received on the 17th of the same month, in a despatch from the Governor.

Cap. 2 of 1874.
Printed at p. 56 of
Confidential Paper
No. 3851; No. 23,
March 28. (Sent
to Foreign Office
April 18, 1874.)

In forwarding it the Governor stated that the proviso contained in section 1 of the Act of Newfoundland of the previous Session, by which certain restrictions as to time and manner of prosecuting the fisheries on the coast of Newfoundland were imposed, did not appear in the Act now passed, and that he hoped that the Act would be found to be such a full consent to the application of the Treaty as was contemplated by the

United States' Act under which the President's Proclamation was to be issued. He added that he was about to forward the Act to Sir Edward Thornton, with a request that the issue of the President's Proclamation might be arranged by telegraph, so as to admit of the Treaty being brought into operation by the 1st May following. A communication having been made to Sir E. Thornton by the Foreign Office, he replied: "There is no objection to the new Act of Newfoundland. Mr. Fish thinks that the President's Proclamation can be issued for the 1st May, if the preliminary conditions can be fulfilled in time."

To Colonial Office,
April 27, 1874.

The Newfoundland Act having been passed with a suspending clause, and therefore requiring special confirmation by Order in Council, there was not time to obtain the Order by the 1st May; but the Act was immediately submitted for the Queen's confirmation, and the Order in Council confirming it was passed on the 12th May.

Colonial Office,
April 29, 1874.
Colonial Office,
May 14, 1874.

Having received information to this effect, Sir E. Thornton, on instructions from the Foreign Office, requested that the President's Proclamation for carrying into effect the provisions of the Treaty might be issued; and through him it was arranged that the President's Proclamation, and that of the Governor of Newfoundland, should be issued, so that the provisions of the Treaty should take effect simultaneously in regard to the citizens of the United States and the subjects of Her Majesty in the Colony.

To Colonial Office,
June 9, 1874.

The Proclamations were subsequently published on the 30th May, 1874.

United States'
Proclamation sent
to Colonial Office
June 19, 1874.
Newfoundland
Proclamation; sent
to Foreign Office,
June 19, 1874.
P. 57 of Con-
fidential Print
No. 3851.

The earlier Act of 1873 was repealed by another Act of the Newfoundland Legislature, passed 29th April, 1874, cap. 10.

No. 35.

Mr. Herbert to Sir J. Pauncefote.—(Received June 22.)

Sir, *Downing Street, June 21, 1880.*
I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 17th instant, inclosing copy of a note from the United States' Minister at this Court on the subject of the Fortune Bay affair.

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

No. 36.

Mr. Herbert to Sir J. Pauncefote.—(Received June 22.)

Sir, *Downing Street, June 21, 1880.*
I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 17th instant, inclosing the draft of a letter to the Law Officers of the Crown upon the question of the liability of this country for the loss incurred by American fishermen through the occurrences which took place in Fortune Bay, Newfoundland, in 1878.

Lord Kimberley desires me to request that you will inform Earl Granville that he concurs in the terms of the proposed reference to the Law Officers.

I am to return herewith the papers which accompanied your letter, and to request that copies may be supplied, when convenient, for the use of this Office.

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

Sir J. Pauncefote to the Law Officers of the Crown and Dr. Deane.

Gentlemen,

Foreign Office, June 22, 1880.

I HAVE the honour to lay before you, by direction of Earl Granville, the papers noted in the accompanying list, and relating to a controversy now pending between Her Majesty's Government and that of the United States.

The controversy arises out of a claim preferred by the Government of the United States for compensation in respect of injuries and losses alleged to have been sustained by American fishermen while engaged in the exercise of the fishery rights secured to them by the Treaty of Washington, owing to the violent interference and obstruction they encountered from British fishermen at Fortune Bay, in the Colony of Newfoundland, on Sunday, the 6th January, 1878.

The correspondence which took place between the two Governments was laid before the Law Officers of the Crown on the 1st January last, together with a printed memorandum containing a statement of the facts and a reference to the Treaties, Colonial Acts, and other documents bearing on the case (Further Correspondence, No. 20, p. 35).

Their Report is printed at p. 38 (No. 22), and on the 3rd April last the Marquis of Salisbury, in accordance with the advice tendered therein, transmitted to the United States' Chargé d'Affaires the reply of Her Majesty's Government to the claim in question, stating the grounds on which they considered that it should not be entertained.

This reply, which is printed at p. 44 (No. 31), is the same (with a variation which does not affect the legal argument) as that which had been previously submitted to and approved by the Law Officers of the Crown (No. 29, p. 44). The refusal of Her Majesty's Government to satisfy this claim has caused great dissatisfaction in the United States, and, after a careful examination of the whole question, Lord Granville feels great difficulty in adopting the conclusions arrived at by the late Government.

Their refusal to entertain the claim is based on the ground, that the losses sustained by the United States' fishermen resulted from a collision which was the direct consequence of an excess on their part of their Treaty privileges, and of a violation by them of the local fishery laws. They are charged with having exceeded their Treaty privileges by fishing from the shore, and with having violated the local laws in using a seine during the close season and in barring herrings contrary to section 1 of the Newfoundland Act of 1862 (25 Vict., cap. 2, Further Correspondence, p. 63), confirmed by section 1 of the Consolidated Act of 1872 (*Ibid.*, p. 64).

As regards the excess of Treaty privileges by fishing from the shore, I am to observe that it appears from the depositions of the British witnesses (Further Correspondence, pp. 49 to 55) that no objection has been raised before or has been raised since the day on which the disturbance occurred to the use of the shore by the American fishermen for the purpose of hauling their seines, and that the grievance which really gave rise to the disturbance was the prosecution by them of their fishing on Sunday contrary to the provisions of a local law which was passed subsequently to the date of the Treaty, and is therefore admitted to be inapplicable to them. It appears to Lord Granville hardly equitable to base the refusal of Her Majesty's Government to award compensation for the damage sustained by the American fishermen, on the ground that they were technically and perhaps unwittingly exceeding their Treaty rights by fishing from the shore, a practice which up to that time had been tolerated, if not encouraged, by the local fishermen.

The only ground on which it appears to Lord Granville that such refusal could fairly be based is that they were knowingly committing a breach of some local fishery law which they were bound to observe, and it becomes most important therefore to consider whether they were bound by the provisions of the local laws which they are charged with having violated.

On this point I am to invite your particular attention to the correspondence which took place between the two Governments in 1873-74, and which is referred to in Sir Edward Thornton's despatch No. 296 of the 4th November, 1878 (Correspondence, Part I, p. 40). That correspondence, of which a précis is annexed to the papers, is contained in the "Foreign Office Confidential Papers respecting the British North American Fisheries," and having regard to the objection of the United States' Government to the proposed Proclamation under the Act passed in Newfoundland to

give effect to the Treaty, to the consequent repeal of the Act, and to the substitution of a new Act and Proclamation in which the proviso objected to was omitted, Lord Granville entertains grave doubts whether Her Majesty's Government are not now precluded from maintaining that the fishery laws of Newfoundland, whether in force at the date of the Treaty or not, are binding on citizens of the United States.

You will observe that Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878 (Correspondence, Part I, p. 36, paragraph 5), contains the following passage:

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

On the other hand, in his letter to Mr. Welsh of the 1st August, 1879 (Further Correspondence, p. 13, last paragraph), Mr. Evarts, after expressing regret at the conflict of interests which the exercise of the Treaty privileges enjoyed by the United States appears to have developed, concludes as follows:—"There is no intention on the part of this Government that these privileges should be abused, and no desire that their full and free enjoyment should harm the Colonial fishermen. While the differing interests and methods of the shore fishery and the vessel fishery make it impossible that the regulation of the one should be entirely given to the other, yet if the mutual obligations of the Treaty of 1871 are to be maintained, the United States' Government would gladly co-operate with the Government of Her Britannic Majesty in any effort to make those regulations a matter of reciprocal convenience and right a means of preserving the fisheries at their highest point of production, and of conciliating a community of interest by a just proportion of advantages and profits."

If you should be of opinion, after examining the correspondence relating to the Newfoundland Act of 1874, that Her Majesty's Government are precluded from maintaining that the American fishermen were bound by the fishery laws which they are charged with having violated on the occasion in question, Lord Granville would be disposed to consider the propriety of at once satisfying the claim of the United States' Government to the extent of the losses which can be shown to have been really sustained by the American fishermen, and to accept the offer of the United States' Government to co-operate with Her Majesty's Government in framing such regulations for future observance by the fishermen of both nations as are suggested in the concluding paragraph of Mr. Evarts' letter above referred to.

I am to request that you will take all the papers in this case into your consideration, and that you will favour Lord Granville, at your earliest convenience, with your opinion on the points raised in this letter, and on the legal rights of this country in relation to the controversy in question.

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

Inclosure in No. 37.

List of Inclosures in Draft to Law Officers, June 22, 1880.

Print, No. 3851.

Ditto, "In continuation of No. 3920."

Ditto, "In continuation of No. 3851."

Blue Book, North America No. 1, 1878.

Print, No. 2286, 1854—1863.

Sir E. Thornton's despatch No. 162 of May 24, 1880.

Memorandum, Foreign Office, June 21, 1880.

No. 38.

Mr. Herbert to Sir J. Pauncefote.—(Received June 23.)

Sir,

Downing Street, June 22, 1880.

WITH reference to the letter from this Department of the 22nd May respecting the Instructions drawn up for the guidance of the Senior Naval Officer on the coasts of Newfoundland and Labrador in connection with the fisheries, I am directed by the Earl of Kimberley to transmit to you, for the consideration of Earl Granville, a copy of a letter from the Lords Commissioners of the Admiralty, asking whether it is desired that, in consequence of the difficulty which has arisen with the Government of the United States in connection with the affair in Fortune Bay, any special instructions should be given bearing particularly upon the points in dispute.

Lord Kimberley would be glad to receive Lord Granville's opinion as to whether it might not be desirable that the Instructions should be modified so far as to include a direction not to enforce against American fishermen the provisions of any local Act passed subsequently to the Treaty of Washington.

I am to inclose a copy of the letter from this Department, to which the present Admiralty letter is a reply.

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

Inclosure 1 in No. 38.

Mr. Herbert to the Secretary to the Admiralty.

Sir,

Downing Street, May 18, 1880.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 23rd April, inclosing a printed copy of the instructions which will be issued by the Commander-in-chief on the North American and West Indian Station to the Senior Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Newfoundland and Labrador.

His Lordship presumes that a copy of these Instructions has been forwarded to the Foreign Office.

The only suggestion which occurs to his Lordship in regard to them is, that it might be well to add, when any fresh print is made, words at the end of Article 11 corresponding to those at the end of Article 7, viz., "and in certain later Acts which can be procured from the Colonial Government."

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

Inclosure 2 in No. 38.

The Secretary to the Admiralty to Mr. Herbert.

Sir,

Admiralty, June 10, 1880.

I AM commanded by my Lords Commissioners of the Admiralty to acknowledge the receipt of your letter of the 18th ultimo, suggesting the addition of certain words to the 11th section of the Instructions about to be issued to the Senior Naval Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Newfoundland and Labrador.

2. Before transmitting the Instructions as amended to the Commander-in-chief on the North American and West Indian Station, my Lords desire me to ask whether, in the opinion of the Earl of Kimberley, having regard to the difficulty which has arisen with the Government of the United States in consequence of the affair in Fortune Bay, some special Instructions should not be given to the Senior Naval Officer in Newfoundland.

3. The sections of the present Instructions, which appear to my Lords to bear directly upon the matters in dispute, are the 7th (subsection VII), the 11th, and the 12th.

4. If Her Majesty's Government do not desire that these Instructions should be adhered to, it is desirable that orders should be given to the Commander-in-chief, stating distinctly how far, if at all, they should be modified.

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

No. 39.

Mr. Bramston to Sir J. Pauncefote.—(Received June 24.)

Sir, *Downing Street, June 22, 1880.*
I AM directed by the Earl of Kimberley to acknowledge the receipt of the two telegrams from Her Majesty's Minister at Washington relative to the Fortune Bay affair, which were inclosed in your letter of the 17th instant.

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

No. 40.

The Secretary to the Admiralty to Sir J. Pauncefote.—(Received June 24.)

Sir, *Admiralty, June 23, 1880.*
WITH reference to my letter of the 23rd April last, transmitting a copy of the Instructions which would be issued to the Senior Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Newfoundland and Labrador, I am commanded by my Lords Commissioners of the Admiralty to forward herewith, or the information of Earl Granville, copy of the correspondence on the subject which has taken place since that date with the Colonial Office.

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

Inclosure 1 in No. 40.

Mr. Herbert to the Secretary to the Admiralty; May 18, 1880.

[See Inclosure 1 in No. 38.]

Inclosure 2 in No. 40.

The Secretary to the Admiralty to Mr. Herbert, June 10, 1880.

[See Inclosure 2 in No. 38.]

Inclosure 3 in No. 40.

The Secretary to the Admiralty to Mr. Herbert.

Sir,

Admiralty, June 22, 1880.

WITH reference to former correspondence respecting Instructions to be given to the Senior Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Labrador and Newfoundland, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Earl of Kimberley, that the sailing orders given to Commander Hall (Her Majesty's ship "Flamingo"), on the 10th instant, by Captain Kennedy (Her Majesty's ship "Druid"), Senior Officer at St. John's, Newfoundland, contained the following paragraph:—

"But, in the event of your finding any river or estuary barred, such being in contravention of the 1st clause of chapter 102, Consolidated Statutes of Newfoundland, and (in the case of Americans) also in violation of the Treaty of Washington, since no river or harbour can be barred without fishing from the shore, you are authorized, by virtue of your Commission as Justice of the Peace for Newfoundland, to remove the same, and bring the net to St. John's to be sold by auction."

2. As Commander Hall is about to proceed, in the "Flamingo," at once to Fortune Bay, my Lords considered it desirable to instruct him, by telegraph, to the following effect:—

"June 22nd. Pending discussions at Washington do not act upon first part of 6th paragraph of sailing orders from Captain Kennedy of the 10th June, but refer any breach of Colonial law on part of Americans for consideration."

I am, &c.

(Signed)

ROBERT HALL.

No. 41.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, June 26, 1880.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 31st ultimo, inclosing, for his Lordship's consideration, a copy of a memorandum by Sir A. Galt relative to the Fortune Bay affair, and to the question which has been raised in the United States as to the reimposition of the duties on fish and fish-oil, the produce of the Canadian fisheries, and suggesting that his Lordship might think it desirable to take the opinion of the Law Officers of the Crown on the various points discussed in the memorandum in question, and in particular as to the extent to which the other portions of the Treaty of Washington would remain in force in the event of one Article being set aside by the Government of the United States.

In reply, I am to inform you, for Lord Kimberley's information, that Lord Granville is of opinion that it would be better for the present to suspend making any such reference to the Law Officers, inasmuch as the Bill introduced into Congress for the above objects was not passed, and that there now appears some prospect of a settlement of the whole controversy being arrived at between the two Governments.

I am, &c.

(Signed)

JULIAN PAUNCEFOTE.

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

(No. 188.)

My Lord,

Washington, June 14, 1880.

WITH reference to my despatch No. 173 of the 7th instant, I have the honour to inclose copies of the Bill with regard to the fishery clauses of the Treaty of Washington, of which I gave a synopsis in that despatch.

I also inclose copies of the Report submitted to the House of Representatives, together with the Bill from the Committee on Foreign Affairs.

It will be seen that the language of the Report is not moderate; its principal argument is, that Her Majesty's Government gave by the Treaty full right of free fishing on the sea coasts and shores of the British provinces without being in any way subject to their local laws. It ignores altogether that the stipulation was that the inhabitants of the United States should have, in common with the subjects of Her Majesty, the liberty to take fish on those coasts and shores.

The last paragraph of page 5 of the Report intimates that, if the Dominion choose that a Commission should be organized to consider questions with regard to reciprocal trade, its demands with regard to fish and all other articles might be listened to.

But the Resolution reported by the Committee with regard to such a Commission has not been passed by Congress.

It is said that, although a joint Resolution passed by the two Houses has decided that the Session shall be finally adjourned on the 16th instant, the inclosed Bill will be taken into consideration by the House, perhaps to-day, and passed before the close of the Session. I cannot, however, conceive that the Senate will have time to take it up before that date, nor till Congress shall meet in December next, so that it is not likely to become law till then.

I also inclose copies of a Resolution submitted to the House on the 9th instant by Mr. Rice, a member from Massachusetts, and once Governor of that State, proposing that the President should take measures for securing indemnity on account of the Fortune Bay affair, and to procure the early abrogation of the fishery Articles of the Treaty. The Resolution was accompanied by a Report from the Committee on Foreign Affairs, copies of which are likewise inclosed.

The newspapers have made but few comments upon the subject, and the only articles which have come under my notice are the two from the "New York Herald" of the 10th and 11th instant, which I inclose.

The former refers to the Report of the Committee which accompanied the inclosed Bill, and entirely approves its contents, but expresses the opinion that, on the change of Government in England, there is a reasonable prospect of a settlement, and that Congress had better await the result of new diplomatic arrangements.

The second article rejoices at the news that the fishing-grounds are being patrolled by British men-of-war whose officers are invested with judicial powers, and thinks that their action may be depended upon to quiet any bad blood which may still exist between the fishermen of the two countries.

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

Inclosure 1 in No. 42.

46TH CONGRESS, 2ND SESSION.—HOUSE OF REPRESENTATIVES, 6453.

[REPORT No. 1746.]

A Bill relating to certain provisions of the Treaty of Washington.

MR. COX, from the Committee on Foreign Affairs, reported the following Bill as a substitute for H. R. 6242:—

"A Bill relating to certain provisions of the Treaty of Washington.

"Whereas by the provisions of the Treaty of Washington of 1871 the liberty of inshore fishing on the sea-coasts and shores, and in the bays, harbours, and creeks of

all Her Britannic Majesty's dominions in Canada, and of the Island of Newfoundland, without being restricted to any distance from the shore, was secured to the inhabitants of the United States; and

"Whereas by the provisions of said Treaty a Commission was appointed to meet at Halifax and award the compensation to be paid by the United States for this grant, in addition to the freedom of the fishery in United States' waters and the remission of all duties upon fish and fish-oil imported into the United States, being the produce of the fisheries of said dominions of Her Britannic Majesty; and

"Whereas the said Commission awarded to the Government of Her Britannic Majesty the sum of 5,500,000 dollars as such compensation, which has been paid by this Government; and

"Whereas the fishermen of the United States have been driven by violence from fishing grounds in which such freedom of fishery has been granted by said Treaty, and Her Britannic Majesty's Government have refused all redress therefor, and in justification thereof support the local legislation of said dominions restrictive of such liberty, notwithstanding said provisions of said Treaty; and

"Whereas the Government of the United States and the Government of Her Britannic Majesty are not in accord as to the interpretation and execution of said provisions of the Treaty of Washington; therefore

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the duties on fish-oil and fish, being the produce of the fisheries of the Dominion of Canada (including Prince Edward's Island) and of the Colony of Newfoundland, imported into the United States, as such duties were imposed by law before the fishery Articles of the Treaty of Washington came into operation, and before the passage of the Act of the 1st March, 1873, entitled 'An Act to carry into effect the provisions of the Treaty between the United States and Great Britain, signed in the City of Washington the 8th May, 1871, relating to the fisheries,' be, and the same are hereby, reimposed, and shall be collected to the same effect as they were in force before the passage of the said Act of the 1st March, 1873; said duties hereby imposed being as to such fish at and after the rate mentioned in Schedule F, and as to such fish oil at and after the rate mentioned in Schedule M of section 2504 of the Revised Statutes:—Provided, however, that such duties shall not be imposed or collected upon such fish or fish-oil unless the same shall be imported on or after the 1st July, 1880.

"Sec. 2. That whenever and as soon as the Government of the United States and the Government of Her Britannic Majesty shall be in accord as to the interpretation and execution of the fishery Articles of the Treaty of Washington as respects the liberty of the inshore fishery of the said Dominion of Canada and of the Colony of Newfoundland, as conceded by said fishery Articles, and in respect of the exercise of that liberty by the inhabitants of the United States, it shall be lawful for the President of the United States to issue his Proclamation to that effect, and to remit the collection of duties under or by virtue of this Act from and after such date as in and by such Proclamation he shall designate for such remission.

"Sec. 3. That the President is hereby authorized and empowered at any time while the duties reimposed by the provisions of this Act are in force and required to be collected, if in his discretion he shall think the public interests so require, to issue his Proclamation restraining, in such manner and degree as he may see fit, the inhabitants of the United States from the exercise of their liberty of fishing within three miles of the coasts and shores of Her Britannic Majesty's said dominions, or any parts thereof, until the Government of the United States and the Government of Her Britannic Majesty shall be in accord as to the interpretation and execution of the fishery Articles of the Treaty of Washington as respects the said liberty of the inshore fishery of the said Dominion of Canada and of the Colony of Newfoundland as conceded by said fishery Articles, and the same to revoke, and from time to time to reissue, as in his discretion the public interests may seem to require.

"Sec. 4. That the Secretary of State be, and he is hereby, authorized and empowered to examine into and audit the claims of our fishermen for loss and injury sustained by and from the interruption of their exercise of the liberty of the inshore fishery at Fortune Bay in January 1878, and their expulsion from said fishery; and that the sum necessary to compensate said fishermen for such loss and injury, to be paid and distributed to them under the direction of the Secretary of State, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated."

Inclosure 2 in No. 42.

46TH CONGRESS, 2ND SESSION.—HOUSE OF REPRESENTATIVES.

[REPORT No. 1746.]

Fishery Provisions of the Treaty of Washington.

MR. COX, from the Committee on Foreign Affairs, submitted the following Report: (To accompany Bill H. R. 6453).

The Committee on Foreign Affairs, to whom was referred the message from the President of the United States communicating certain correspondence with the Government of Great Britain in regard to the alleged outrages on the American fishermen at Fortune Bay and the Province of Newfoundland, and also House Bill 6242, "relating to certain provisions of the Treaty of Washington," introduced by the Hon. Mr. Loring, of Massachusetts, report the accompanying substitute for said Bill, for which they ask the favourable consideration of the House.

The preamble of the Bill has five several recitals. As to these there can be no controversy.

The first recites the provisions of the Treaty of Washington of 1871 as to the liberty of inshore fishing. The second recites the meeting of the Commission at Halifax, and the object thereof under said Treaty. The third recites the award to Her Britannic Majesty of 5,500,000 dollars, as compensation paid by the United States for the freedom of the fishery. The fourth asserts the fact that the fishermen of the United States were driven by unlawful force from the fishing-grounds in which such freedom of fishery had been granted, and asserts the refusal of redress therefor. It recounts the pretended justification thereof in the local legislation of the Province of Newfoundland, restrictive and violative of such liberty, notwithstanding the plain provisions of the Treaty. The last recital indicates the discord between the two Governments which celebrated the Treaty.

The enactments of the Bill are intended to provide the best remedy now possible for the wrongs inflicted. These remedies consist in the imposition of duties on fish-oil and fish produced by the fisheries of the Dominion, including Prince Edward Island and Newfoundland. The 2nd section of the Bill provides for a discontinuance of such duties in case an accord be established between the two Governments. The 3rd section provides for a Presidential Proclamation to restrain our citizens from the exercise of their right to fish until the accord be established. The 4th section provides for a proper audit of the claims of fishermen by reason of the violence at Fortune Bay on the 6th January, 1878, and appropriates money therefor.

The Committee refer to the message of the President and the accompanying letter of the Secretary of State, as well as to the documents accompanying the President's communication to the House of Representatives in reply to their Resolution of the 27th April, 1880, for a detailed Statement of this vexed question.

This Committee has already reported to the House a Resolution for the abrogation of the fishery clauses of the Treaty of Washington. This abrogation may, in one regard, be accomplished by the mode prescribed by the Treaty. Notice is required to be given, and by the provisions of the Treaty it cannot be annulled formally until 1885.

This remedy seems to be too remote, inconsequential, and almost futile to remedy the wrongs which our fishermen have suffered. By a bold, violent, and outrageous infraction of the terms of the Treaty, as illustrated in the repulse of twenty of our vessels, the destruction of their seines, and the loss of their ventures at the Fortune Bay in January 1878, the advantages of the Treaty, for which we paid and are paying so much, have been nullified.

It is evident from the facts that a new adjustment of the fishery relations under the Washington Treaty is necessary. But before that adjustment can be had by cancelling that part of the Treaty itself, certain other measures are indispensable. They should be promptly taken by Congress in aid of the President's vigorous and patriotic remonstrance. This Congress will be responsible if we fail thus to vindicate our undoubted rights and dignity.

The rights conceded by this Treaty in the XVIIIth Article are as follows:—

"That inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on

the sea-coasts and shores, and in bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward Island, and of the several islands thereto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also Magdalen Islands, for the purpose of drying their nets and curing their fish; provided, that in so doing they do not interfere with the rights and private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose. It is understood that the above applies solely to the sea fishery."

From the terms of this Article it will be seen that the liberty to take fish of every kind, except shell-fish, is conceded to our people on the sea-coasts and shores, as well as the bays, harbours, and creeks of the provinces. No more comprehensive language can be used to give an undivided interest to the inhabitants of the United States along and equal with those of Great Britain in this adventurous and hazardous business. Every interpretation of these rights in the Halifax Commission and in the correspondence, including the "Case" made by Her Majesty's Government, confirms the views of our Administration—that without such permission to fish on the "shores" the practical use of the fisheries is impossible. Without such permission, we paid for nothing. We bought back what we unwisely relinquished or failed to defend in 1818, and the delivery has been withheld.

For reasons not necessary here to state, the equal participation in the fisheries, which was conceded to us by the sovereign power of Great Britain, was considered at Halifax to be so immensely valuable, that 6,000,000 dollars was claimed from us for it. Of this 20 per cent. was estimated as net profit on 1,200,000 dollars. It was urged at Halifax, as one reason for the enormous award which our Government was in too great haste to pay, that not only had we in the present an enormous advantage, but in the future a splendid prospect, by which our enterprise might be aggrandized and our wealth and industries increased.

What, then, was the surprise of the American Congress and people when, after appropriating and paying the 5,500,000 dollars on this dubious Award, made under circumstances which require close diplomatic scrutiny and urgent demand, that we had paid our money and mitigated our Tariff for Dominion fish, only to receive no returning consideration. True, the British Minister, Lord Salisbury, just before he received our millions, was exceedingly complaisant. He signified, in no ambiguous style, that British sovereignty, as regards these matters, was only limited in its scope by the engagements of the Treaty of Washington, and that these engagements could not be modified or affected by any municipal legislation. But as soon as the money was paid a different tone prevailed. A new interpretation, as the concomitant and justification of violence, pervaded the British correspondence.

It is a singular fact connected with this affair, that while the occurrence of Fortune Bay was in January, 1878, and while in March of that year our Government demanded an explanation and asserted its rights, the British Government did not respond until the 4th September of the same year.

What, then, was their answer? Upon this answer depends the reason for the legislation proposed by the Committee. The grounds were that our fishermen infringed a law of Newfoundland as to fishing on Sunday, which was passed subsequent to the Treaty of Washington; that they used seines to take herring contrary to a law of that province, which prescribed the methods of fishing for six months of the year between October and April; and that they had the audacity to use seines in a manner prohibited by provincial statute, or by a codification of all their provincial laws made after the Treaty. The English Minister justified the violence against the American fishermen by a charge that they had committed three distinct breaches of a law of that province.

If it had been the provincial Government or that of the Dominion which was the Treaty-making Power, or if the Treaty had recognized the existing provincial laws or the right to enact such fishery laws thereafter, it might have changed the logic and situation. But it was the sovereign Government of Great Britain which made the Treaty, without reservation as to local legislation, by which was justified this wanton violence. Our Treaty relations are, therefore, made to depend on provincial restraints, regulations, and statutes, not only in force at the time of the Treaty, but those enacted afterwards; and, by a similarity of reasoning, by all statutes, rules, and regulations enactable at the pleasure of the provinces. This cannot be tolerated.

In these particulars, therefore, our fishermen were denied their rights under the Treaty. These rights consisted in an enjoyment with the British inhabitants,

authenticated by a common or joint authority which was supreme above provincial law.

The Committee believe that no power, not even the British Imperial authority, could thus wrongfully restrain the rights acquired under the Treaty. So believing, they report that so much of the consideration not yet given by the United States for the benefits and privileges of that Treaty shall be withheld until the two supreme Governments are agreed as to the interpretation of the Treaty.

Without discussing the failure and lack of consideration paid for our fishery freedom, which in Treaties as in private contracts unbinds the injured party, it will be conceded that, in addition to the 5,500,000 dollars paid in money, equivalent rights were granted to the British inhabitants for fisheries on our own coasts; and, second, an exemption of the provincial fish products from duties, giving to the Dominion an absolutely free market for fish and fish-oils in the United States. If it be said that the Bill reported by the Committee is a violation of the fishery clauses of the Treaty, which allows free fish to come into the United States, it may be answered that the violent infraction of that Treaty at Fortune Bay destroys the very object for which these immense considerations were granted and paid. Since it is not possible, except by diplomacy, to recover the 5,500,000 dollars paid to the British Government for the now valueless concession; since we do not propose to take away the concession to the British inhabitants who desire to fish on our shores; one thing remains to be done by this Congress, which is entirely consistent with international law and the decisions of our Supreme Court.

The decisions of our highest Law Tribunal go so far as to say that in all matters within the purview of Congress, as, for instance, the Tariff, as on hemp in the case of *Tyler v. Morton* (Curtis' Reports, vol. ii, p. 454), no Treaty should intervene to prevent the action of the Federal legislation as to imposts on foreign articles.

The question as to the right of the Treaty-making power to affect duties on imports is not a new question. The Constitution in delegating such a power did not, however, interfere with that of Congress to regulate commerce and to impose duties. It is not necessary to discuss here and now how far Congress may participate in the matter of reimposing duties on fish, which were made free by the Washington Treaty, as whatever power the Federal Government had to make the Treaty as to imposts may of right be controlled by Congress. This part of our constitutional duty it is now proposed to assume by the Bill reported. No one can question the power of Congress to control the revenues to be derived from fish and fish-oil.

As to international law, the violence by which the Treaty was boldly broken at Fortune Bay, as well as the antagonistic legislation of the provinces by which it was justified, would be a serious complication, if not a *casus belli*. In the absence of reparation and harmony, no other relief is possible for such infraction, except by reprisal, letters of marque, or *via facti*, known to the law of nations.

"The violation of any one Article of the Treaty is a violation of the whole Treaty; for all the Articles are dependent on each other, and one is to be deemed a condition of the other. A violation of any single Article abrogates the whole Treaty, if the injured party so elects to consider it. This may, however, be prevented by an express stipulation that if one Article be broken, the others shall nevertheless continue in full force. If the Treaty is violated by one of the Contracting Parties, either by proceedings incompatible with its general spirit, or by a specific breach of any one of its Articles, it becomes not absolutely void, but voidable at the election of the injured party. If he prefers not to come to a rupture, the Treaty remains valid and obligatory. He may waive or remit the infraction committed; or he may demand a just satisfaction."—(Lawrence's "Wheaton," Part 4, Chap. iv, p. 887.)

Vattel, in his chapter (xv) on the "Faith of Treaties," after considering their sacredness, says, however, that they are no better than empty words if nations do not consider them as respectable engagements—as rules which are to be inviolably observed by Sovereigns, and held sacred throughout the whole earth. Upon this observance depends the safety and repose of nations; and, as a conclusion, he remarks that he who violates his Treaties violates at the same time the law of nations. He who makes sport of such solemn sanctions is to be treated, not as an enemy merely of the injured party, but of the human race.

Phillimore holds that it has been made a matter of dispute with respect to Treaties whether a change of circumstances subsequent to the Treaty does not operate to the defeasance of the Treaty itself. If so, *a fortiori*, a violent change, a disruption

of such relations provided in any Article of the Treaty which defeats its object, leaves the Treaty itself voidable at the election of the injured party.

The Committee do not propose that this country, after paying so much, should waive or remit the infraction; but it proposes that not only should there be a claim presented for the return of the 5,500,000 dollars, and a demand for the satisfaction of the losses at Fortune Bay, but that there should be a prompt reimposition of the duties on fish and fish-oils, which all countries except the Dominion have continued to pay into our Treasury.

The Committee have not thought proper to consider such ultimate and protentious means and issues as look to reprisal or collision. All they propose is what their Bill proposes: that in the absence of agreement between the two Governments as to the interpretation of the Treaty and as to the effect of these provincial Statutes and Regulations, the great boon given to Dominion fishermen of a free market to the United States for their fish or fish-oils should be withheld. In ordinary cases, perhaps, the Committee on Foreign Affairs would not increase the revenues of the Government by any additional Tariff on any commodity, and much less when that commodity, which is a source of food, may be enhanced in price. It is not a matter in question whether fish will be cheaper or dearer by reason of the re-enactment of the tax on fish from the Dominion. It is a matter of patriotic respect and interest, when great advantages were given to the Dominion and the immense sum of 5,500,000 dollars paid, and the great exceptional privilege given to bring their fish into our market free, that the object for which we paid this sum and bestowed these privileges shall not now be allowed to turn to ashes. It would be a national humiliation, for which there is no material or moneyed equivalent, to allow such an audacious infraction by mob violence, under the cover or colour of mere provincial legislation, backed by British Imperial authority, without our using every remedy.

The United States can no more deal with these provinces than Great Britain can deal with New York or Massachusetts. They know only one party to the Treaty of Washington, namely, the Imperial Government. When the Imperial Government made this Treaty, everything inconsistent with that Treaty, either provincial Regulations or Statutes, were annulled by the Treaty, and everything possible to be enacted after the Treaty were to be subordinate to the clauses of the Treaty. When, therefore, our fishermen lost 103,000 dollars in the destruction of their seines and their venture, it is not only a case for reclamation against the British Government, but it is a case which puts us on our best endeavour to prevent any possible recurrence of such outrage. In fine, the circumstances make it the indispensable duty of our Government to withhold every consideration possible, not yet completed, in order to bring the Dominion or the British Government to the observance of the Treaty.

It may be that a restoration and even monopoly of the domestic market for the products of our own fish industry will do something to aid our own fisheries. Of that the Committee does not propose to take any account.

When Great Britain or the Dominion choose a Commission organized to consider the questions as to the reciprocal trade between the United States and the Dominion, such as this Committee have reported, it will be time to listen to their demands as to fish and all other articles. Thus, mutuality in the commerce of the two countries may have more prompt attention and relief.

The issue, as stated by the Secretary of State, between the two Governments, is this: shall there be provincial sovereignty over our fishery relations under the Treaty, after the exclusive sovereignty of that subject has been parted with by the Government of Great Britain.

The United States having acquired a participation in such fishery by paying the consideration fixed by the Treaty, how can the British Government claim, as Lord Salisbury did on the 3rd April, 1880, that these provincial regulations which were in force at the time of the Treaty still remain in full force; and especially, how can they make such claim when the very Minister himself acknowledged "the incompetency of the Colonial or even Imperial Government to remit by subsequent legislation the advantages secured by the Treaty to the subjects of another Power."

The freedom for which we have paid should neither be curtailed nor burdened. What we acquired from Great Britain under the Treaty was neither subject to the will of the provinces nor to the will of Great Britain. Having been fixed by Treaty, it should not be arbitrarily and forcibly annulled. If Great Britain had the power to dispose of her right, then we had from her the privilege of the shore fisheries. Our right is then equal to hers. There is no power except brute violence

to despoil us of that privilege which we have so abundantly and inordinately paid for.

The power of Great Britain over this subject was plenary. That plenary power was exercised not merely to obtain an immense sum of money which she has distributed among the provinces, and 1,000,000 of which was received by Newfoundland itself, but by the same authority we were made coparceners in the advantage of this freedom to fish on her sea coasts and shores.

Our citizens being, therefore, debarred from the enjoyments of the rights to which they were entitled under the Treaty of Washington, not only have they a just claim for redress to the amount of their damages which our Bill proposes to ascertain, but we have a right to withhold any one of the considerations which we yielded for the advantages thus denied. As nothing is given for the advantages we supposed we had received, so nothing should be left undone to rescue whatever we can from the grasp of these provincial law and Treaty breakers. The Committee therefore submit the accompanying Bill, and recommend its passage.

Inclosure 3 in No. 42.

46TH CONGRESS, 2ND SESSION.—HOUSE OF REPRESENTATIVES, 324.

[REPORT NO. 1275.]

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

MR. RICE, from the Committee on Foreign Affairs, reported the following joint Resolution:—

Joint Resolution relating to the termination of Articles XVIII and XXI of the Treaty of 1871 with Great Britain relating to the fisheries.

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President be, and he is hereby, respectfully requested to take such measures as will secure indemnity to our citizens for the damages sustained by them from past unlawful violence committed against them by the inhabitants of Newfoundland, and protection from any repetition of such violence, and to procure the early abrogation or termination of the Articles in the Treaty of 1871 relating to the fisheries.”

Inclosure 4 in No. 42.

46TH CONGRESS, 2ND SESSION.—HOUSE OF REPRESENTATIVES.

[REPORT NO. 1275.]

Relating to the Fisheries.

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

The Committee on Foreign Affairs, to whom were referred the Resolutions of the Legislatures of Maine and Massachusetts, relating to the termination of Articles XVIII and XXI of the Treaty of 1871 with Great Britain, having had the same under consideration, submit the following Report:—

The following Resolutions of the Legislature of the State of Maine were referred to the Committee on Foreign Affairs of this House:—

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

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

“Resolved, that we respectfully instruct our Senators and request our Representa-

tives in Congress to use all honourable means to accomplish the purposes indicated by the foregoing resolve.

“Resolved, that the Secretary of State be required to transmit a copy of these resolves to each of our Senators and Representatives in Congress, and also a copy to the President of the United States.”

Similar Resolutions of the Legislature of the State of Massachusetts were referred at the same time to the Committee. Articles XVIII and XXI referred to in the foregoing Resolutions are as follows:—

“Article XVIII. It is agreed by the High Contracting Parties that in addition to the liberty secured to the United States’ fishermen by the Convention between the United States and Great Britain, signed at London on the 20th October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward’s Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts, and shores, and islands, and also upon the Magdalene Islands, for the purpose of drying their nets and curing their fish: provided that, in so doing, they do not interfere with the rights of private property or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

“It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad-fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

“Article XXI. It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oils, being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward’s Island, shall be admitted into each country, respectively, free of duty.”

Article XIX of the Treaty concedes the same privileges to British subjects as are conceded by Article XVIII to the subjects of the United States. Article XXII of the Treaty provides for a Commission to determine how much shall be paid by the United States to Great Britain for the value of the privileges conceded by the Treaty to the United States by Article XVIII above the value of those conceded to Great Britain by Articles XIX and XXI. The Halifax Commission was duly appointed under the provisions of Article XXII, and awarded the payment of 5,500,000 dollars by the United States to Great Britain. Article XXXIII provides that Articles XVIII to XXV, inclusive, and Article XXX “shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the High Contracting Parties has given notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years, or at any time afterward.”

It was subsequently agreed that the Articles of the Treaty should take effect on the 1st July, 1873. According to the terms of the Treaty, therefore, notice of its termination cannot be given until July 1883, to take effect July 1885. As, however, the Commission awarded a very large sum as the excess of the value of the British concessions over those of the United States, which was not nearly what was claimed by the British counsel, it may be assumed that it ought not to be a difficult piece of diplomacy on the part of the United States to secure the termination of the Articles referred to at an earlier period than is provided by the Treaty itself, as the United States would thereby surrender privileges which were claimed by the British counsel to be of greater value, in exchange for those of less value. With the means, however, by which the result may be accomplished, this Committee have now nothing to do. The question for us to decide is whether we shall recommend the termination of the Treaty provisions relating to the fisheries, as requested by the Resolutions of the Legislatures of Maine and Massachusetts referred to us.

The fisheries have always been regarded as among the most important of our national industries. They furnish for our market a cheap and healthy article of food. They give employment to a large number of men, of a nature peculiarly interesting and advantageous to the country. They have been a nursery for sailors; a training-

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

The Treaty of 1783 between Great Britain and the United States recognized the rights of American citizens to the fisheries, as they had been exercised before the Revolution, as fully as it did their rights to the soil within the boundaries of the States. The statesmen of that day would accept nothing less than perfect equality for our fishermen upon any fishing grounds where they might choose to go. John Adams said he would fight the Revolution over again if the fisheries were not secured to us. It was not his fault, or that of his compeers, that the United States have since been reduced to a position of humiliation and disgrace in this respect. In the Treaty by which they obtained recognition of our national existence, they included, as one of our recognized and vested national rights, freedom and equality upon the fishing grounds of the north-east, which had been won from France to England by New England fishermen, under their favourite leader, Sir William Pepperill.

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

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

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

In 1854, our diplomacy struck another blow at the fishing interests by the Reciprocity Treaty. This Treaty gave to American fishermen the right to British inshore fisheries, and the same right to British fishermen in American waters north of the 38th parallel. It also opened the markets of each country to fish of the other, free

from duty. The greater demand in the American market made this concession of great value to British fishermen; they at once enlarged their fleets, and when the reverses of our civil war drove our vessels from the fishing grounds they pressed their advantages, and supplied our market with free fish, while our fishermen were engaged in the navy in the war, or were, by force of circumstances, excluded from participation in the business which had supplied themselves and their ancestors for generations. It will be noticed, by reference to the prices current, that the price of fish was not varied to the American consumer. The hardy toiler on the seas was depressed—the bread was taken from him; but there was no compensating advantage to any one except the British fisherman and the market middlemen.

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

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

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

It is useless here to discuss the character of the testimony by which this claim was controverted, or of the Tribunal by which it was coolly and peremptorily disregarded. After payment of the award, the men most interested in the subject justify the claim of our counsel by offering to resign what they get for what they give, less the 5,500,000 dollars award, which we must be content to pay for our experience of the result of friendly arbitration with Great Britain—they only ask to be restored to the ante-Treaty status, and they will trust to their own resources for future protection against Canadian competition. Their claim in substance is, that the privileges they gain may be estimated in money value, pretty accurately, by the highest amount which could be derived by the Canadian Government from licences between 1866 and 1871, before the price was raised to the prohibitory point, which was less than 40,000 dollars a-year, while, on the other hand, the duty on the fish which the Canadians import free into our markets would average 350,000 dollars a-year: they complain that the Treaty discriminates against them in favour of the Canadians, that they fish in vessels and with apparatus whose price is increased by the duty imposed upon the materials of which they are made, while the British fish in smaller, less expensive, and untaxed vessels. They are far from home; the British are along their own shores, near their supplies, and the catch of both is equally free to enter our markets. They profess a confidence in their own ability to overcome by superior skill and energy the other disadvantages, excepting those growing out of their heavier taxation at home, but they claim that while they sustain their share of the burdens of their own country by payment of duties and taxes they should be protected, as are other industries, against the competition of those who are not subjected to these burdens; they claim that they should be allowed to fish in untaxed vessels, or should be protected against their competitors who fish in untaxed vessels. Handicapped by this indirect discrimination, they claim that it is only a question of time when their business will be ruined, and the fisheries so highly prized by the early statesmen, so important in many respects to the country, be given over to their British competitors; they complain still further that they are deprived of the small advantages which they might derive from the Treaty, and for which this country has paid so dearly by colonial legislation and by illegal action by the British fishermen, and thus far without redress or protection. And they give proof of the sincerity of these complaints by asking for the abrogation of these Treaty provisions.

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

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

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

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

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

Halibut are now taken by American fishermen in the deepest water upon the ocean banks; they have been taken at particular seasons in the Gulf of St. Lawrence, but never continuously, and of late years not to any considerable extent at any time. The American fishermen are content to take the halibut from the same localities where they take the cod. In-shore halibut fishing in British waters is of no value to them.

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

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

All the above statements of the value of these fisheries to our fishermen were

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

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

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

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

Legislation restricting the sale of bait and of ice for packing to American fishermen were discussed in the Newfoundland Legislature. A Statute was enacted April 1876 prohibiting the taking of herring and other fish used for bait on Sundays. It may well be argued that any restrictive legislation in conflict with the Treaty concessions would not be applicable to American fishermen. In the discussions before the Halifax Commission, the British concessions were rated at full price, as without restriction, and whatever local laws might be made, the Treaty stipulations should override them as to American fishermen. The inshore herring fishery, as has been seen, was almost the only concession of the Treaty worth anything to Americans. By it they could catch their own herring instead of buying them from the British fishermen.

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

“To the Hon. William M. Evarts, Secretary of State.

“Respectfully represent John Pew, Charles H. Pew, and John J. Pew, all of Gloucester, county of Essex, and commonwealth of Massachusetts, co-partners under the firm-style of John Pew and Son, that they are American citizens, and engaged in the fishing business at said Gloucester, and were and are owners and fitters of fishing vessels; that they are the sole owners of the American fishing schooners ‘Ontario’ and ‘New England,’ of said Gloucester, and were such owners in the months of November, December, and January last past; that both of said schooners were fitted

for the herring fisheries in the month of November, 1877, and for voyages to Newfoundland, and provided with seines for catching herring; that said schooner 'Ontario,' whereof Peter McAulay was master, sailed on the 1st day of December, 1877, from said Gloucester, and the said schooner 'New England,' whereof John Dago was master, on the 28th day of November, 1877; that both schooners had a full supply of men and outfits for said voyage; that said schooner 'Ontario,' when she sailed from said Gloucester on said voyage with her outfits and seine, was worth the sum of 7,500 dollars, and the said 'New England,' with her outfits and seine, was then and there of the value of 8,500 dollars; that said schooners both returned to said Gloucester from said voyage on the 17th day of February without any herring, except that the said 'Ontario' had about fifty barrels purchased by her.

"And we further represent that we are informed by the masters and crews of said schooners, and believe the same to be true, that the reason why they returned without any herring, and made disastrous voyages, is that they arrived at Long Harbour, Fortune Bay, Newfoundland, on or about the 16th day of December, 1877, and found herring scarce, and were unable to obtain any considerable quantity of herring, and that the masters and crews of said schooners waited at said Long Harbour until the 6th day of January, 1878, to catch or purchase herring, as they might be able to do; that on said 6th day of said January, the 'signs for herring being good,' the masters and crews of both of said schooners joined their purse seines, thereby making a double seine, which was the value of at least 1,400 dollars, and making a seine of about 2,400 feet long, and 150 feet deep; that the masters and crews of said schooners threw said double seine at said Long Harbour, and caught and secured therein a very large quantity of herring, amounting to at least 2,000 barrels of herring, and more than sufficient to load both of said schooners; that at about 4 o'clock of said 6th day of said January, some 200 men who belonged about Fortune Bay, and had gone ashore from English vessels in said Long Harbour, made a warlike demonstration against the masters and crews of said schooners, and seized hold of said double seine, tore it in pieces, and carried it off, and thereby freed all of said herring, and prevented the masters and crews of said schooners from obtaining them, and thereby destroyed all hope of their obtaining a cargo for either of said vessels; that of said 200 men some sixty took hold of said seine and destroyed it, and the others were participating in the destruction of the seine by inciting and encouraging those who were destroying it; that the masters and crews of said schooners were pursuing their business of catching herring at said Fortune Bay in a lawful manner, and were not in any manner or form interfering with the rights of any party or parties at said Newfoundland, and that the action of said parties in destroying said seine was a most wanton destruction of the property of said firm, and was without the least justification in law or good conscience, and was intended to be a warlike demonstration against the American vessels, their owners, masters, and crews, and to intimidate them and prevent them from prosecuting the herring fisheries in the waters of Newfoundland by catching herring, and thereby compel them to buy herring of the inhabitants of Newfoundland, if they would obtain them, at such prices as said people of Newfoundland might ask for them; that all the American vessels at said Newfoundland on said 6th day of said January were from said Gloucester, and were there for herring, and among them were the schooners 'Moses Adams,' 'Herbert M. Rogers,' 'John W. Bray,' 'F. A. Smith,' 'Hereward,' 'William E. McDonald,' 'Moro Castle,' 'Ed. E. Webster,' 'Bonanza,' 'Wildfire,' 'Bunker Hill,' and 'Isaac Rich;' that said schooners 'Ontario' and 'New England' were, by reason of the destruction of said seine and the freeing of the herring therein, both prevented from obtaining cargoes for said schooners.

"That, after the destruction of said seine, as above set forth, the said parties who had destroyed the same returned to their vessels, and on the evening thereafter, to wit, on the evening of the 6th day of said January, they made a jubilant demonstration, blowing horns, firing guns, and shouting as if celebrating a victory, to impress upon the masters and crews of the American vessels in said harbour that they were prepared to stand by and justify what had been done, and that the Americans might expect to be treated in future in the same manner should they attempt to catch herring in Newfoundland waters. And we further respectfully represent that, in view of the treatment of the American fishermen by the British subjects at said Newfoundland, it is wholly unsafe for American vessel owners to fit vessels for and send them to Newfoundland waters to catch herring, and that it is unsafe for American fishermen to attempt to catch fish in said waters, and that the demonstration against the American fishing-vessel owners, masters, and crews is of such a character as to make it a public violation of the rights of the citizens of the United States wishing to catch herring and

attempting to catch herring there. That the loss to said firm by reason of the warlike demonstration of the people of Newfoundland hereinbefore set forth, and the destruction of said seine in the voyages of said two schooners 'Ontario' and 'New England,' amounts to at least the sum of 6,700 dollars. In verification of the facts herein set forth, we beg leave to refer to the affidavits of the masters and crews of both of said schooners 'Ontario' and 'New England,' herewith submitted.

"Wherefore we respectfully ask that your Department will cause our said damage to be paid by the British Government, and such action to be taken as will secure to American ship-owners and fishermen the rights to which they are justly and legally entitled by the laws and Treaties of the United States. And as in duty bound will ever pray.

(Signed)

"JOHN PEW.

"CHARLES H. PEW.

"JOHN J. PEW."

American fishermen had been in the habit of purchasing herring from the British rather than of taking them themselves. This was the source of a profitable trade to the Newfoundlanders; the loss of this trade by the concession of inshore fishing to the Americans was made one of the points of damage to be paid for by the British counsel at Halifax.

It was also made a farther point that the Americans, taking their herring under the circumstances already referred to, would use large seines, and thus not only do their work more speedily than the British, but, perhaps, to such an extent as to reduce the supply. Both these points were considered, if anything was considered, in making up the Award. For the first time after the Treaty the attempt to catch herring under its provisions was made on any considerable scale. Twenty-two vessels went from Gloucester to Fortune Bay, for the purpose of taking herring, in the winter of 1877-78; they waited there from the 15th December until the 6th January, awaiting the arrival of the expected schools of herring. On Sunday, the 6th January, these schools arrived. The Americans at once proceeded to improve the opportunity they had so long waited for. They got out their boats and seines, and commenced proceedings. Had they been permitted to proceed, they claim that they could have taken herring enough on that day to load all their vessels. But they were attacked by a large and violent mob of the Newfoundlanders, their seines were injured or destroyed, and they were compelled to desist. They made no further attempts to fish, and most of them went home in ballast. This wholesale outrage was but the culmination of a long series of petty annoyances by which American fishermen, seeking to avail themselves of the Treaty privileges, had been harassed after the ratification of the Treaty. Thus were they deterred by local prejudice, culminating in mob violence, from enjoying the petty privileges for which this Government had opened our markets to British fishermen and paid in addition 5,500,000 dollars. The Secretary of State made complaint to the British Government of the outrages at Fortune Bay. The 23rd August, 1878, Lord Salisbury replied. He excused the inhabitants of Newfoundland, on the ground that the American fishermen had, on that occasion, committed three distinct breaches of the law:—

1. They had used seines for catching herring.
2. They were catching herring on Sunday.
3. They were barring the herring.

The first and third of these points were correct, if the local law superseded the Treaty provision; but that would seem to be settled in our favour by the 28th section of the Statute in which the prohibitions were contained, which is as follows:—

"§ 28. Nothing in this chapter shall affect the rights and privileges granted by Treaty to the subjects of any State or Power in amity with Her Majesty."

The Sunday law was created subsequently to the Treaty. This construction of the territorial law, which we understand to be insisted upon by the British Government in a late despatch, and the inferred approval of the hostile action against our fishermen, deprives us of all the privileges which the British Government priced so highly and for which we paid their price.

As the matter now stands, we got but little by the Treaty, and that little is taken from us by unlawful violence apparently sustained by the British Government. We gave a great deal in return, part of which has already been finally paid and is beyond our recall; but a portion of the consideration is in the opening of our markets to the British fishermen free of duty. That privilege they are still enjoying, to their great gain and our great loss. In view of the position assumed by the British Government

in regard to the outrages at Fortune Bay, it would seem proper for our Government to declare the Treaty terminated for violation of its provisions by the other Contracting Party, and for Congress to sustain such action. Such a course would seem almost the only one consistent with proper national self-respect. But, whatever may be deemed the wisest course in this respect, it would not seem a debateable question that our Government should take measures to terminate the fishery Articles of the Treaty at the earliest possible moment. The Committee, therefore, recommend the adoption of the following joint Resolution:—

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

“Resolved, that the President be and he is hereby respectfully requested to take such measures as will secure indemnity to our citizens for the damages sustained by them from past unlawful violence committed against them by the inhabitants of Newfoundland, and protection from any repetition of such violence; and to procure the early abrogation or termination of the Articles in the Treaty of 1871 relating to the fisheries.”

Inclosure 5 in No. 42.

Extract from the “New York Herald” of June 10, 1880.

REPORT ON THE FISHERIES CONTROVERSY.—Mr. Cox, Chairman of the House Committee on Foreign Affairs, has prepared an able and cogent Report in support of the Bill introduced some time since by Mr. Loring, of Massachusetts, as a proposal that Congress take redress into its own hands for the violation of our Treaty rights by the Newfoundland local authorities. As an argument Mr. Cox's Report is conclusive on the several points it discusses. It demonstrates a plain violation of the Treaty under colour of local law; demonstrates that no local law should interfere with the operation of a solemn compact entered into by the paramount authority of Great Britain; refutes the subterfuges of Lord Salisbury, the late British Minister of Foreign Affairs; shows that we are deprived of the privileges for which we paid a heavy sum, and argues that the mode of redress proposed by Mr. Loring's Bill is moderate and reasonable, consistent with the powers of Congress as expounded by the Supreme Court and with the law of nations as explained by the highest authorities. What the Bill proposes is simply to collect on Canadian fish and fish-oil, which are admitted to our ports free under the Treaty, the same duties levied on those articles when imported from other nations until the British Government shall make compensation for the injuries done to our fishermen.

Mr. Cox's Report has not yet been adopted by the Committee on Foreign Affairs, and we trust that action on it may be postponed. Had it not been for the recent change in the British Ministry, if Lord Salisbury still had charge of the question on the British side, it would be wise to adopt the Report and pass the Bill. But we have no doubt that Mr. Gladstone's Government will listen to reason, and that a satisfactory adjustment will be reached by negotiation. With this prospect of an amicable settlement, it is better that Congress should await the result of new diplomatic arrangements. The Report, however, held in reserve during pending negotiations, may do good as indicating to the British Minister at Washington the means of redress to which Congress will resort if Mr. Gladstone's Government should refuse us the redress which was denied by its predecessor.

Inclosure 6 in No. 42.

Extract from the “New York Herald” of June 11, 1880.

THE FISHERIES.—All peaceably-disposed citizens will be glad to learn from our Newfoundland letter that several British war vessels are actively patrolling the fishing banks off the Dominion coast, the officers being invested with judicial powers. There can be no doubt that the mere presence of force, whether on American or English naval vessels, would have prevented the Fortune Bay outrage, and it may safely be

depended upon to quiet any bad blood that may still exist between the fishermen of the two countries. Meanwhile, all the fishing vessels on the banks seem to be lying on their oars and waiting for bait to turn up. The ice that has been floating down the coast so steadily since the breaking up of winter is perhaps to blame for the scarcity of herring, which are largely used for bait, for the herring, although fond of cold water, is said by experts to have an unconquerable aversion to melting salt ice drizzling down upon his back, and will not, under any circumstances, come inshore through such water. Other bait being about due, however, our fishermen may soon again begin to take what they can of the fish for which the United States paid about the price of an equal number of Long Island trout.

No. 43.

Mr. Herbert to Sir J. Pauncefote.—(Received June 29.)

Sir, *Downing Street, June 28, 1880.*
 WITH reference to the letter from this Department of the 22nd instant, and to previous correspondence respecting the Instructions drawn up for the guidance of the Senior Naval Officer on the coasts of Newfoundland and Labrador in connection with the fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from the Admiralty upon the subject of an Instruction, included in the sailing orders given to Commander Hall, of Her Majesty's ship "Flamingo," by Captain Kennedy (Her Majesty's ship "Druid").
 Lord Granville will observe that the Lords Commissioners of the Admiralty have instructed Commander Hall not to act upon the Instruction in question pending discussions at Washington, but to refer any breach of Colonial law on the part of Americans for consideration.

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

Inclosure in No. 43.

The Secretary to the Admiralty to Mr. Herbert, June 22, 1880.

[See Inclosure 3 in No. 40.]

No. 44.

Sir J. Pauncefote to the Law Officers of the Crown and Dr. Deane.

Gentlemen, *Foreign Office, June 30, 1880.*
 WITH reference to my letter of the 22nd instant, in regard to the Fortune Bay affair, I have the honour, by direction of Earl Granville, to inclose further correspondence, as marked in the margin,* in regard to the Instructions drawn up for the guidance of the Senior Naval Officer on the coasts of Newfoundland and Labrador, in connection with the fisheries; and I am directed by his Lordship to request that you will take these papers into your consideration, together with the correspondence which has already been submitted to you, and favour his Lordship with any observations you may have to offer thereupon.

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

* Nos. 36, 40, and 43.

The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received July 15.)

My Lord,

Temple, July 15, 1880.

WE were honoured with your Lordship's commands signified in Sir Julian Pauncefote's letter of the 22nd June last, stating that he was directed by your Lordship to lay before us the papers noted in the accompanying list relating to a controversy now pending between Her Majesty's Government and that of the United States.

That the controversy arose out of a claim preferred by the Government of the United States for compensation in respect of injuries and losses alleged to have been sustained by American fishermen while engaged in the exercise of the fishery rights secured to them by the Treaty of Washington, owing to the violent interference and obstruction they encountered from British fishermen at Fortune Bay, in the Colony of Newfoundland, on Sunday, the 6th January, 1878.

That the correspondence which took place between the two Governments was laid before the Law Officers of the Crown on the 1st January last, together with a printed memorandum containing a statement of the facts, and a reference to the Treaties, Colonial Acts, and other documents bearing on the case. (Further Correspondence, No. 20, p. 35.)

That their Report was printed at p. 38 (No. 22), and, on the 3rd April last, the Marquis of Salisbury, in accordance with the advice tendered therein, transmitted to the United States' Chargé d'Affaires the reply of Her Majesty's Government to the claim in question, stating the grounds on which they considered that it should not be entertained.

That that reply, which was printed at p. 44 (No. 31), was the same (with a variation which did not affect the legal argument) as that which had been previously submitted to and approved by the Law Officers of the Crown (No. 29, p. 44). That the refusal of Her Majesty's Government to satisfy that claim had caused great dissatisfaction in the United States, and, after a careful examination of the whole question, your Lordship felt great difficulty in adopting the conclusions arrived at by the late Government.

That their refusal to entertain the claim was based on the ground that the losses sustained by the United States' fishermen resulted from a collision which was the direct consequence of an excess on their part of their Treaty privileges, and of a violation by them of the local fishery laws.

That they were charged with having exceeded their Treaty privileges by fishing from the shore, and with having violated the local laws in using a seine during the close season, and in barring herrings contrary to section 1 of the Newfoundland Act of 1832 (25 Vict., cap. 2: Further Correspondence, p. 63), confirmed by section 1 of the Consolidated Act of 1872. (*Ibid.*, p. 64.)

That as regarded the excess of Treaty privileges by fishing from the shore, Sir Julian Pauncefote was to observe that it appeared from the depositions of the British witnesses (Further Correspondence, pp. 49-55) that no objection had been raised, before or since the day on which the disturbance occurred, to the use of the shore by the American fishermen for the purpose of hauling their seines, and that the grievance which really gave rise to the disturbance was the prosecution by them of their fishery on Sunday, contrary to the provisions of a local law which was passed subsequently to the date of the Treaty, and was therefore admitted to be inapplicable to them. That it appeared to your Lordship hardly equitable to base the refusal of Her Majesty's Government to award compensation for the damage sustained by the American fishermen on the ground that they were technically, and perhaps unwittingly, exceeding their Treaty rights by fishing from the shore, a practice which, up to that time, had been tolerated, if not encouraged, by the local fishermen.

That the only ground on which it appeared to your Lordship that such refusal could fairly be based was that they were knowingly committing a breach of some local fishery law which they were bound to observe, and it became most important, therefore, to consider whether they were bound by the provisions of the local laws which they were charged with having violated.

That on that point Sir Julian Pauncefote was to invite our particular attention to the correspondence which took place between the two Governments in 1873-74, and which was referred to in Sir Edward Thornton's despatch No. 296 of the 4th November, 1878 (Correspondence, Part I, p. 40). That that correspondence, of which a

précis was annexed to the papers, was contained in the "Foreign Office Confidential Papers respecting the British North American Fisheries," and, having regard to the objection of the United States' Government to the proposed Proclamation under the Act passed in Newfoundland to give effect to the Treaty, to the consequent repeal of the Act, and to the substitution of a new Act and Proclamation in which the proviso objected to was omitted, your Lordship entertained grave doubts whether Her Majesty's Government were not now precluded from maintaining that the fishery laws of Newfoundland, whether in force at the date of the Treaty or not, were binding on citizens of the United States.

That we would observe that Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878 (Correspondence, Part I, p. 36, paragraph 5), contained the following passage:—

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

That on the other hand, in his letter to Mr. Welsh of the 1st August, 1879 (Further Correspondence, p. 13, last paragraph), Mr. Evarts, after expressing regret at "the conflict of interests which the exercise of the Treaty privileges enjoyed by the United States appears to have developed," concluded as follows:—

"There is no intention on the part of this Government that these privileges should be abused, and no desire that their full and free enjoyment should harm the colonial fishermen.

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

That if we should be of opinion, after examining the correspondence relating to the Newfoundland Act of 1874, that Her Majesty's Government were precluded from maintaining that the American fishermen were bound by the fishery laws which they were charged with having violated on the occasion in question, your Lordship would be disposed to consider the propriety of at once satisfying the claim of the United States' Government to the extent of the losses which could be shown to have been really sustained by the American fishermen, and to accept the offer of the United States' Government to co-operate with Her Majesty's Government in framing such regulations for future observance by the fishermen of both nations as were suggested in the concluding paragraph of Mr. Evarts' letter above referred to.

That Sir Julian Pauncefote was to request that we would take all the papers in this case into our consideration, and that we would favour your Lordship, at our earliest convenience, with our opinion upon the points raised in that letter, and on the legal rights of this country in relation to the controversy in question.

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

That we have carefully considered the facts connected with this case and the different views which have been presented in relation to them.

We have regarded the facts as being as follows:—

By the Treaty of May 1871 the United States secured for American subjects additional rights of fishery on certain coasts of the British North American Colonies in common with the subjects of Her Britannic Majesty. (Article XVIII.)

By Article XXXII of the Treaty the provisions of the Fishery Articles XVIII to XXV inclusive were extended to the Colony of Newfoundland, subject to the Legislature of Newfoundland and the Congress of the United States embracing the Colony of Newfoundland in their laws enacted for carrying such Articles into effect.

The Consolidated Statutes of Newfoundland, 1872, cap. 102 (substantially re-enacting an Act of 1862), placed certain restrictions upon the prosecution of the fisheries by British subjects.

By section 1 of that Statute fishermen were prohibited from using a seine for taking herrings between the 20th October and the 12th April. By the same section they were further prohibited from using a seine at any time except by way of shooting and forthwith hauling it, thus preventing herrings from being "barred."

By section 18 it was declared that nothing in that chapter should affect the rights and privileges granted by Treaty to the subjects of any State or Power in amity with Her Majesty.

It will be observed that the above restrictions were imposed prior to the acceptance of the Fishery Articles of the Treaty of Washington by the United States so far as they relate to Newfoundland, which took place in March 1874.

By the Act of the Newfoundland Legislature of the 5th May, 1873, passed for carrying into effect the Treaty of Washington, the laws relating to the time and manner of prosecuting the fisheries were expressly saved from suspension. Mr. Fish, on the part of the United States' Government, objected to this provision on the ground that no such limitations were contained in the Treaty, and in consequence declined taking the necessary steps on the part of his Government for bringing the Fishery Articles into operation. In the following year, on the 28th March, 1874, an Act was passed by the Legislature of Newfoundland enabling the Governor, by Proclamation, to declare that the provisions of Articles XVIII to XXV of the Treaty should come into operation in Newfoundland, and should continue in force, any law of the Colony to the contrary notwithstanding. This Act omitted all reference to the laws relating to the time and manner of prosecuting the fisheries; and on the 29th April, 1874, an Act was passed repealing the Act of the 5th May, 1873. Thereupon the requisite Proclamations for bringing the Treaty into operation were published by the United States' Government and the Governor of Newfoundland. It will be seen that Mr. Fish's objection was thus substantially recognized.

On the 26th April, 1876, an Act was passed by Newfoundland prohibiting any taking of herrings between 12 o'clock on Saturday night and 12 o'clock on Sunday night.

On Sunday, the 6th January, 1876, the destruction of the American nets by the local fishermen occurred. A careful perusal of the depositions seems to make it apparent that the only reason which influenced the Newfoundland fishermen to pursue the course they took was the fact that the Americans were fishing on a Sunday.

No objection seems to have been made by the British fishermen to the Americans fishing from the land, or to the use of the seine during the prohibited time, or to the mode in which the nets were used. Captain Sullivan (p. 24, paragraph 7, 3851), says: "It does not appear that the native fishermen were aware of the illegality of hauling a seine in the month of January; it is therefore to be presumed that the Americans were also ignorant of that law."

It will be observed that the real cause for the destruction of property complained of was the breach of a local law passed after the coming into operation of the Fishery Articles of the Treaty.

We, therefore, think that in considering the course which should be pursued, whilst there is no reason to abandon the contention that the rights of the American fishermen are controlled by local legislation which came into operation before the acceptance of the Fishery Articles of the Treaty, that to rely upon breaches of such regulations as a justification in theory of the conduct of the British fishermen, who did not proceed upon, and were not influenced, in fact, by any such breaches of the local law, would be inexpedient and inequitable. It may also be observed that even if Her Majesty's Government found in the facts connected with the occurrence ground for relying upon the breaches of local law existing prior to the acceptance of the Fishery Articles, it would be difficult to justify the conduct of the British fishermen in taking the law into their own hands. It must be conceded that as early as 1873 there was a clear notice given on the part of the United States' Government that the application of local laws limiting the enjoyment of the fishing was objected to, and such contention cannot justly be met by a violent destruction of property.

If this view be correct, the only ground on which Her Majesty's Government can seek to justify the acts of the British fishermen must be the breach by the American fishermen of the Newfoundland Statute of 1876, prohibiting fishing on Sundays.

We are of opinion that the restrictions created by local legislation subsequent to March 1874 cannot be insisted upon by the British Government.

We would observe that the late Law Officers of the Crown, in their Report dated the 11th February, 1880, express a similar opinion.

We therefore think that the Government of the United States can find a justification for their contention that the action of the British fishermen was unjustifiable.

For these reasons, we submit that whilst Her Majesty's Government need not abandon the contention that they still regard American fishermen bound by the local laws existing prior to March 1874, they may take into consideration the real cause of the destruction of property in this case, and may admit that both in relation to the

manner and the extent of that destruction, it cannot be entirely excused; and that, therefore, your Lordship will be justified in considering the propriety of satisfying the claim of the United States' Government to the extent of the losses which can be shown to have been really sustained by the American fishermen, and to accept the offer of the United States' Government to co-operate with Her Majesty's Government in framing such regulations for future observance by the fishermen of both nations as are suggested in the concluding paragraph of Mr. Evarts' letter.

We have, &c.

(Signed) HENRY JAMES.
FARRER HERSCHELL.

P.S.—Dr. Deane has prepared a separate Report.

H. J.
F. H.

I regret that in this case I am unable to agree entirely with the Attorney- and Solicitor-General.

In my opinion, the United States' fishermen are bound by the local laws existing at the time of the Treaty of Washington, 1871.

The liberty to fish "in common" with the British gave the United States' fishermen the same, and no greater, rights than those enjoyed by the British fishermen.

At the date of the Treaty of Washington, strand fishing and herring fishing in close time were forbidden to the British, and were not allowed under the Treaty, either expressly or by implication, to the United States' fishermen.

Two infractions of the Treaty were therefore committed in Fortune Bay by the United States' fishermen, and they are, I conceive, not entitled to compensation for any injury or loss sustained on that occasion.

But the permanent settlement of the North American Fisheries question, independently of the provisions of the Treaty of Washington, is, at the present time, so important that, in accepting the offer of the United States' Government to co-operate in making regulations for the fisheries in future, Her Majesty's Government may take the opportunity for waiving the strict rights of this country, under the Treaty, and entertaining the subject of compensation, as expedient.

Your Lordship, however, I would respectfully suggest, may properly make the withdrawal of the Bill introduced by Mr. Loring a condition preliminary to the consideration of the amount of compensation to be paid to the United States' fishermen.

I have, &c.

(Signed) J. PARKER DEANE.

No. 46.

Memorandum by the Lord Chancellor.

I FIND it difficult to express my opinion in terms of simple assent to the Report of the Law Officers, and I cannot, without much qualification, agree with Lord Northbrook's Memorandum.

There are three distinct questions, which ought, I think, to be separately considered: (1) the question of the conduct of the Newfoundland fishermen, on the occasion out of which the complaints of the United States' Government arose; (2) that of policy, as to the course which it is for the interest of this country to take, having regard to its relations with the United States on the one hand, and to the rights and interests of the Colony of Newfoundland on the other; (3) the question of law, as to the true construction and effect of the Treaty of Washington.

It is on the latter, mainly, that I propose to state my opinion.

1. I agree with the opinion given in 1873 by Lord Coleridge, Sir G. Jessel, and Dr. Deane, that the clause in the Treaty of Washington, which provides that the citizens of the United States shall be entitled "*in common with British subjects*" to fish in Newfoundland waters within the limits of British sovereignty, means that the American and the British fishermen shall fish in these waters upon terms of equality; not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject. There is nothing to waive any

part of the territorial sovereignty of Great Britain in those waters, or to give the citizens of the United States any privilege or advantage in them above British subjects. Mr. Marcy's Circular of the 28th March, 1856, seems to me to be altogether right, and its principle is as much applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view.

2. I cannot regard the correspondence, &c., which took place in 1873-74, as to the terms of the Act passed on the 5th May, 1873, by the Newfoundland Legislature, and the subsequent repeal of that Act and the substitution of that passed on the 28th March, 1874, as involving any waiver or relinquishment of the right of the British Government to regulate the use of Newfoundland waters for fishing purposes. The United States' Government objected (as it was entitled to object) to the form of the Act of the 5th May, 1873, because it was not a simple adoption of the Treaty, but was a conditional adoption, subject to all local laws, &c., "relating to the time and manner of prosecuting the fisheries," which laws, if consistent with the Treaty rights of the United States, did not require any such saving, and, if not consistent with those rights, could not properly be so saved. The British Government and the Newfoundland Legislature rightly yielded to this objection; but the only effect of this was that any question as to the force and validity of the local regulations was left to be determined according to general principles of international law, and the true construction and effect of the Treaty. And I think there is sufficient proof that this was the understanding at the time of the United States' Government. Sir Edward Thornton's confidential telegram to the Foreign Office on the 26th June, 1873, is in these terms:—

"Mr. Fish states, confidentially, that he presumes that in the waters of each country the fishermen of the other would have to comply with reasonable police regulations; but that his Government could not accept restrictions inserted in the Newfoundland Act with reference to the Treaty." In a previous conversation with Sir E. Thornton (reported the 23rd June, 1873), Mr. Fish had said, "That, in both cases, the fishermen of the two countries would have to observe the laws of the country within whose jurisdiction they might be fishing, but that such restrictions had not formed part of the Treaty."

3. This is a principle of much too considerable and general importance to be waived or relinquished, even to get out of a temporary difficulty with the United States. And I do not agree with what seems to have been the view of the late Law Officers (adopted, apparently, by the present), that there is any difference in this respect between territorial laws and regulations which were in existence at the time of the Treaty and those made afterwards. Both, if reasonable, and of impartial incidence on British and American fishermen, are, in my judgment, equally binding and equally consistent with the Treaty. Neither would be so, if they gave to British fishermen in the exercise of those rights of sea-fishing in which citizens of the United States were by the Treaty admitted to participate any preference or other unfair advantage over American fishermen.

4. The two "Coast Fisheries Acts" of Newfoundland (Appendices A and E to "Correspondence, &c., in January 1878") must be read together; the second, which was later than the Treaty of Washington (39 Viet., cap. 6, 26th April, 1876), being a mere amending Act, and referring to the first for the penalties by which it is to be enforced. The concluding section of the first Act is in these words:—"Nothing in this chapter shall affect the rights and privileges granted by Treaty to the subjects of any State or Power at amity with Her Majesty." These local regulations, therefore, are, on the face of them, limited by any Treaty rights, belonging to the United States or to any other Power. But so far as they are reasonable, and not protective of British as against American fishermen, it appears to me that they are consistent with the Treaty rights of the United States, and that American as well as British fishermen ought to be held bound by them. Any other view would involve one or other of three impossible alternatives: (1) That there can be no law or regulation at all as to the fishing in these waters; (2) that Great Britain has admitted the United States to participation in her own rights of sovereignty in Newfoundland waters, and can now only legislate as to them (so far as fishing is concerned) with the concurrence of that foreign Government; or (3) that the Treaty has a protective operation in favour of American against British fishermen in British waters.

5. With respect to the three provisions of these Newfoundland Acts, which are said to have been violated by the American fishermen in Fortune Bay in January 1878, two only, as I understand them, are applicable to those rights of fishing in which the citizens of the United States are by the Treaty admitted to participate, viz.: (1) the

regulation prohibiting certain modes of capture between 20th December and 12th April (extended by the Amending Act of 1876 to the 25th April); and (2) the regulation of 1876 as to Sundays. It is not obvious to me that either of these regulations is unreasonable in itself, or unfair and unequal in its operation against United States' fishermen in their competition with British subjects while in British waters. I do not think it is a sound argument, that, because United States' fishermen may have come to those waters from a distance, and may stay there only for a limited time, it is therefore an encroachment upon their Treaty rights to place them, equally with the British fishermen who live on the spot, under restrictions in themselves reasonable; though such restrictions may prevent them from fishing continuously during the whole of that time, or with nets of a certain sort or size. Nor do I think that any such inference can fairly be drawn from the arguments which preceded the Halifax Award, or from that Award itself. It would, however, be right for Her Majesty's Government to give a friendly and equitable consideration to all arguments which the United States' Government may be able to bring forward, in order to show (if such is their opinion) that these regulations are unfair or unreasonable; and if any such arguments should appear to Her Majesty's Government to be of substantial weight, it may be proper that those regulations should be repealed. With respect to the four months' "close time" (as it is called), I suppose that herrings may be caught with other kinds of nets besides those which are forbidden, and I do not perceive that "seines" are by name prohibited. But if the use of seines during those months is (as seems to be assumed in Captain Sullivan's Report of the 21st June, 1878) prohibited in effect, and if the native fishermen at Fortune Bay were ignorant of the existence of any such prohibition and habitually disregarded it, I agree with Lord Northbrook that it would be wrong to ascribe importance, in the present controversy, to the violation by the American fishermen of that particular law which the Colonial Government did not practically enforce, and which British fishermen were permitted habitually to disregard.

6. The third provision of the local Statutes, that against "*barring*" herrings (an operation performed from the shore, and by the use of the shore), stands on quite different ground. Not only does this provision appear to me to have been in itself very proper and reasonable, but it is no restriction upon any right of fishing conceded by the Treaty of Washington to the United States. The right of strand-fishing, or of using the shore for the purpose of catching fish by nets thrown out from the shore and carried back to it, is not one of those in which, under the Treaty, the citizens of the United States have any right to participate. This is (to my mind) made perfectly clear, by the facts and reasons stated in the opinion of the late Law Officers, dated the 11th February, 1880, and in Lord Salisbury's despatch of the 3rd April, 1880, and also by the decision of the Halifax Commission mentioned in Mr. Bergne's Memorandum of the 5th March, 1880. Nor do I perceive that any reply has been offered by the United States' Government to Lord Salisbury's despatch upon this point. The operation of "*barring*" (which I understand to be the inclosure or impounding, for an indefinite time, of a certain water-space between the shore, and a seine carried out from and brought back to the shore, for the purpose of accumulating and keeping alive in it, as long as may be convenient, large quantities of captured herrings) would, if legal, be in excess of any Treaty-rights which can be claimed by the United States, and could (in that case) only be practised by sufferance, or under arrangement with native Newfoundland fishermen entitled to make such a use of the shore. It is, in fact, illegal; and it appears to me to be prohibited for very good reasons. Being so prohibited to British fishermen (a prohibition which, though it may have been more or less frequently violated, is not alleged to have been either unknown or misunderstood), no connivance on their part, and no assistance by some of them, could make it lawful to Americans; and when the Americans practised it on a Sunday, against a further special prohibition by law applicable to all fishing on that day (which appears to have been strictly obeyed by the British fishermen, and which, whatever might be its efficacy as to fishing by Americans in the open water, was unquestionably binding upon them when they fished from the shore in a manner not within their Treaty-rights), they were acting, not illegally only, but so as to take (as it seems to me) an unfair and unreasonable advantage of the British fishermen. Although, therefore, the resistance of the British fishermen was caused by the violation of the Sunday rule, and not by any zeal on their part for the observance of any other local laws, still it was caused by the violation of the Sunday rule in that manner, under those circumstances, and with that effect; and I cannot agree with Lord Northbrook, that the double illegality of "*barring*" from the shore, and of doing this on Sunday, can be excused by considerations

which might possibly have been more to the purpose if the United States' fishermen had confined themselves to open-water fishing on Sundays, and had merely disputed their obligation to observe in that respect the local law.

7. That the Newfoundland fishermen were not entitled to take the law into their own hands, and forcibly to remove or destroy one or more of the seines used by the Americans, is a point which Her Majesty's Government ought certainly, without hesitation, to admit; and there might be no objection to a grant of reasonable compensation (if fairly assessed) on that principle. But the actual claim made by the American Government is for compensation upon the hypothesis that the United States' fishermen ought to have been allowed to continue, without interruption, their illegal and unauthorized mode of strand-fishing, by "barring" the fish throughout that Sunday; and that, as (if they had done so) they might possibly have caught all the herrings then in the bay, they ought to be compensated for the loss of such a catch. Such a claim seems to me to be altogether inadmissible. Whatever concessions Her Majesty's Government may be disposed to make, out of friendliness towards the United States, and whatever understanding they may find it convenient to establish for the future, I cannot think that it would be either wise or right to abandon the ground taken up in Lord Salisbury's despatch as to those questions of law on which I consider Lord Salisbury to have been rightly advised.

(Signed) SELBORNE.

July 21, 1880.

No. 47.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, July 27, 1880.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Minister at Washington in regard to the Fortune Bay affair.*

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 48.

Memorandum by Mr. Ford.

MY opinion having been asked on several points with regard to the occurrences at Fortune Bay in January 1878, and particularly as to whether "barring" can only be carried on from the shore, I beg to state that the act of "barring" or "stopping" fish need not necessarily be carried on from the shore. Thus Mr. Bennett, a Judge of the District Court at Harbour Grace, Newfoundland, and who was an important witness examined during the proceedings of the Halifax Commission, made the following statement in reply to a question put to him:—

"Stopping herrings," he said, "is to put out a large seine and surround a large school of herrings in a quiet place, and keep them thus inclosed for a month or more."

Again, on Mr. Bennett being asked whether "the herring came in very large quantities and run up into small deep inlets where a stop of seines has been put across," he replied, "Not across, they surround the school of herring." (*Vide volume Halifax Commission, United States' Reprint, vol. i, p. 508.*)

I should observe that this practice is highly prejudicial to the fisheries, as many of the fish, thus inclosed, die.

With regard to the question as to whether nets used for "barring" are applicable only to that mode of taking fish, I am unable to answer positively; but my impression is that the ordinary purse seines, which are tied together, if necessary, in order to extend the line, are used, and that it is not requisite to use especially-constructed nets for the purpose.

With regard to the question as to whether the nets employed at the time the

* No. 21.

occurrences at Fortune Bay took place were used in a manner contrary to the Treaty, I should say that those only which were actually attached to the shore were being used in a manner contrary to the Treaty, and that the American fishermen whose nets being so employed were destroyed by the Newfoundland fishermen, although I doubt the latter's right to take the law into their own hands and destroy them, have strictly no right to compensation; but the American fishermen, and I would particularly instance the case of James McDonald (p. 12 of the Confidential Print), who were not engaged in fishing from the shore, but whose occupation was interfered with in a serious manner by the Newfoundland fishermen, have a claim to compensation.

I quite agree with Sir Julian Pauncefote in thinking that Her Majesty's Government, in consenting to reconsider the merits of the question arising out of the occurrences at Fortune Bay, might seize the opportunity presented by the United States' Government of revising the Fisheries Regulations in Newfoundland with a view to placing them, and the future observance of them, on a more satisfactory basis than the one at present existing.

(Signed) F. C. FORD.

Foreign Office, July 31, 1880.

No. 49.

Mr. Meade to Sir J. Pauncefote.—(Received August 3.)

(Confidential.)

Sir,

Downing Street, August 2, 1880.

WITH reference to the letter from this Department of the 7th June relating to the Fortune Bay affair and to the Act of the Newfoundland Legislature, cap. 2 of 1879, upon the subject of the coast fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a despatch which has been received from the Governor of Newfoundland in reply to the despatch addressed to him concerning the Act in question.

2. It will be observed that this Act repeals section 1 of the Act cap. 6 of 1876 as well as section 1 of cap. 102, Title XXVII of the Consolidated Statutes of Newfoundland (1872), and re-enacts the latter section with an alteration as to the date up to which herrings may not be taken in seines.

3. On comparing the Acts (which are printed at pp. 54-57 of Foreign Office Confidential Printed Paper, 3851, February 1879), it will be seen that the Act of 1879 is a concession to fishermen as compared with the Act of 1876.

4. Lord Kimberley proposes, with Lord Granville's concurrence, to inform the Governor that the instruction to him, to which his present despatch is a reply, was intended as a general caution against enforcing, to the prejudice of American fishermen at the present stage of the negotiations, any Acts which might be considered by the Americans to interfere with the rights of fishery granted to them by the Treaty of Washington, and that he does not think it necessary that this Act should be disallowed at present.

I am, &c.

(Signed) R. H. MEADE.

Inclosure 1 in No. 49.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, Newfoundland, July 8, 1880.

WITH reference to the last paragraph of your Lordship's despatch, Secret, of the 3rd June, relating to bringing into operation an Act passed by the Legislature of Newfoundland, entitled, cap. 2 of 1879, "An Act to amend the Law relating to the Coast Fisheries," I have the honour to inform your Lordship that I have warned my Government against enforcing any Acts which are not urgently required, and to which the United States' fishermen might object.

At the request of my Ministers I transmit herewith, for your Lordship's consideration, an extract from the minutes of my Executive Council on the subject, and I

would request to be informed if I shall notify officially in the "Royal Gazette" the disallowance of the Act in question.

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 49.

Extract from Minutes of Council, dated July 3, 1880.

THE despatch of the Right Honourable the Earl of Kimberley, dated the 3rd June last, having been considered, the Council desire to invite the attention of his Lordship to the fact that the Act 42 Vict., cap. 2, "An Act to amend the Law relating to the Coast Fisheries," removes the restriction affecting the use of seines between the 18th and 25th April.

The Council appreciate the observations of Lord Kimberley with regard to enforcing Acts not urgently required, and to which American fishermen might object. They feel that wise policy is quite opposed to any restrictive measures not required for the conservation of the fisheries, and those which have passed into local laws have been dictated solely by regard to this object, in which it has appeared to the Legislature that the United States' fishermen and our own had a common interest in proportion to their common fishery privileges. In this view it seems necessarily to follow that such laws cannot be infringed without detriment to the interests of both nations concerned.

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

No. 50.

Mr. Bramston to Sir J. Pauncefote.—(Received August 5.)

Sir,

Downing Street, August 4, 1880.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 27th July, transmitting two printed copies of a despatch from Sir E. Thornton, with inclosures, in regard to the Fortune Bay affair.

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

No. 51.

Sir J. Pauncefote to Mr. Meade.

(Confidential.)

Sir,

Foreign Office, August 20, 1880.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 2nd instant, inclosing copy of a despatch from the Governor of Newfoundland in regard to bringing into operation an Act of the Legislature of that Colony upon the subject of the coast fisheries; and I am to request that you will state to the Earl of Kimberley, in reply, that Lord Granville concurs in the terms of the despatch which his Lordship proposes to address to the Governor of Newfoundland on this subject.

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

No. 52.

Sir J. Pauncefote to the Law Officers of the Crown and Dr. Deane.

(Confidential.)

Gentlemen,

Foreign Office, August 23, 1880.

I HAVE the honour to transmit to you, by direction of Earl Granville, the draft of a letter on the subject of the Fortune Bay case, which his Lordship, after consultation with the Secretary of State for the Colonies and other members of the Cabinet, proposes to address to the United States' Minister. I am to inclose a copy of a memorandum on the case by the Lord Chancellor; and I am to request that you will inform Lord Granville, at your earliest convenience, whether the proposed draft meets with your concurrence.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 53.

Mr. Herbert to Sir J. Pauncefote.—(Received September 18.)

Sir,

Downing Street, September 17, 1880.

I AM directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the accompanying copy of a despatch from the Governor of Newfoundland, transmitting a Report by Commander Hall, R.N., of Her Majesty's ship "Flamingo," on an alleged case of obstruction offered to some American bait-vessels at Job's Cove, Conception Bay, on or about the 3rd August.

Attached to the Report is a copy of the deposition of Loren B. Naus, of the American schooner "Moro Castle," the vessel interfered with by the Newfoundland fishermen.

Lord Kimberley is of opinion that it would be desirable to address to the United States' Government a representation regarding this case, protesting against the conduct of the United States' fishermen, which would appear to have been in contravention of the XVIIIth Article of the Treaty of Washington, which expressly provides that there shall be no interference with the rights of private property or with British fishermen; and I am to request that you will move Lord Granville, should his Lordship see no objection to this course, to take steps without delay for drawing the attention of the United States' Government to the illegal practices complained of.

It is only by repressing such practices that the danger of the local fishermen taking the law into their own hands, and thereby causing difficulties between the two Governments can be avoided.

I am, &c.

(Signed) ROBERT G. W. HERBERT

Inclosure 1 in No. 53.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, Newfoundland, September 2, 1880.

I HAVE the honour to transmit, for your Lordship's information, six printed copies of the Report of Commander Hall, R.N., Her Majesty's ship "Flamingo," whom I desired to inquire into a case of obstruction offered to some American bait-vessels at Job's Cove, Conception Bay, on or about the 3rd August.

2. On the 10th August I heard that some obstruction had been offered to certain vessels at the before-named place, and I at once placed myself in communication with Commander Hall, in order that immediate steps might be taken to investigate the case

3. I also transmit, attached to the Report, a copy of the deposition taken upon oath, of Leven B. Naus, of the American schooner "Moro Castle," the vessel interfered

with, from which your Lordship will observe that no injury was done to himself, his crew, or his vessel.

4. I will report further on this case by the next mail.

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 53.

Captain Kennedy to Governor Sir J. Glover.

(Confidential.)

"Druid," at St. John's, August 24, 1880.

SUBMITTED for the consideration of his Excellency the Governor of Newfoundland, observing that the original and duplicate Reports have been forwarded to the Commander-in-chief.

(Signed) W. R. KENNEDY.

Commander Hall to Captain Kennedy.

Sir,

"Flamingo," at St. John's, August 23, 1880.

I have the honour to inform you that on the 16th instant I received two telegrams from his Excellency the Governor of Newfoundland (copies of which are inclosed), requesting me to inquire into the obstruction offered to some American bait vessels at Job's Cove, Conception Bay, about the 3rd instant.

2. I proceeded to Job's Cove on the 18th instant, and made the necessary inquiry, and beg to forward herewith a report of the same.

3. I took the depositions, on oath, of five of the inhabitants of the cove.

4. Two happened to be on shore when I landed, and the others came in from fishing later on.

5. I examined each man separately, and I am satisfied they had no opportunity of consulting together during the inquiry, and agreeing as to what should be said.

6. It will be noticed that four of the men examined are named English; this, I was informed, is a very common name at Job's Cove, nearly the whole population being more or less related to one another.

7. The facts of the case appear to be as follows:—

8. About the beginning of this month several American and British bankers came to Job's Cove for squid.

9. The former anchored in the middle of cod nets laid down by the Job's Cove people, one vessel anchoring on top of a net belonging to one of the men examined; the latter (the British vessels), anchored nearer the shore and clear of the nets.

10. The day was fine, with but little wind or sea, and the nets were all marked by large buoys, which were distinctly visible.

11. The same afternoon the Americans commenced to jig for squid from their vessels.

12. Upon seeing this the Newfoundland fishermen, comprising men from Job's Cove and several of the neighbouring settlements, from 200 to 400 in number, including four of the five men examined, who were jigging for squid from boats nearer the shore, the usual squid grounds, pulled off to the American vessels and told the crews they must not jig for squid there, as it was in the middle of their nets and their best fishing ground, and they would draw the squid out of the bight into the tide, when they would be swept away.

13. They further told them they should either bring their vessels nearer the shore where the British bankers were anchored, or else come into the bight in their dories and jig for squid, where they could do so without any hindrance.

14. On being told this the Americans ceased jigging, and the Newfoundland fishermen returned to the bight.

15. The next morning, observing that the Americans had resumed jigging from some of their vessels, they (the Newfoundland fishermen) went off alongside them, and told them the same thing again, upon which the Americans ceased jigging.

16. On the Newfoundland fishermen returning to the bight they observed jigging

going on again from some of the American vessels, and went off alongside one or more of them for the third time, and told the same thing they had said on the two previous occasions.

17. The Americans again ceased jigging, but recommenced as soon as the Newfoundlanders left.

18. On seeing this the Newfoundlanders went off for the fourth time to one of the vessels they had spoken to before, and about thirty to forty jumped on board.

19. These men then told the captain that if he did not stop jigging there they would heave his anchor up, and they again told him to come into the bight if he wanted squid, either in his vessel or his boats, and offered to pilot him in, or to another good squid ground nearer the shore, and about half a mile off, which offers were declined.

20. They also told him he must cast off the punts made fast to his vessel, in which some Newfoundlanders were jigging for squid.

21. The captain replied that he would leave when he was ready.

22. Shortly after (one witness said while they were actually on board), a strong breeze sprung up from the westward, blowing right into the cove, obliging all the vessels, British as well as Americans, to weigh at once and leave the anchorage.

23. The British bankers anchored further to windward under the land on the squid ground before mentioned, and the Americans proceeded to Northern Bay, about $2\frac{1}{2}$ miles to the westward.

24. The next day several of the Americans came to Job's Cove in their dories, and bought bait, and amongst them was the captain of the vessel which had been boarded.

25. One of the men examined stated that when he took up his net the day after the American vessels had left he found it almost destroyed, and believes it was damaged by the American vessels which anchored on top of it.

26. One of the American vessels is also stated to have dragged about her own length when the breeze sprung up.

27. I have been unable to obtain any information relative to the specific complaint made by the Americans, and am therefore not in a position to say whether the inquiry has been sufficiently comprehensive.

28. By the Treaty of Washington of 1871, the provisions and stipulations of which, as regards Articles XVIII to XXV inclusive, have been extended to the Colony of Newfoundland, Americans have, in common with British subjects, the liberty to take fish of every kind, except shell-fish, on the sea coasts and shores of this Colony without being restricted to any distance from the shore; but this liberty cannot be exercised to the detriment of British subjects.

29. In this case the anchoring of the American vessels in the midst of cod nets set by British subjects, marked by easily-seen buoys, the significance of which is known to all engaged in fishing operations, was, in my opinion, detrimental to the owners of these nets, as one net was damaged by one of the vessels.

30. The anchoring of these vessels amongst their nets, and on their best fishing ground, naturally annoyed the Job's Cove fishermen, and this annoyance was increased when they found their remonstrances unheeded.

31. Although they boarded one vessel with the avowed intention of weighing her anchor if she did not stop the practice complained of, jigging from this vessel, not any the others left in consequence of this threat, but because the strong westerly wind which sprung up, blowing right into the cove, obliged all the vessels anchored there to weigh.

32. With regard to the Americans, it seems to me that, in anchoring in the midst of well-marked nets, they were interfering with and impeding British subjects in the free exercise of their rights of fishing, which they were not justified in doing by the terms of the Treaty of Washington.

33. As regards the proceedings of the Newfoundland fishermen, their proper course would appear to have been to complain to the nearest magistrate, if there was no man-of-war at hand, when they found their remonstrances were unheeded, and invoke the aid of the law; but on this point there is something to be said on their side.

34. The nearest magistrate, I understand, resided at Old Perlican in Trinity Bay, 7 miles in a straight line by land, and 23 miles by water, from Job's Cove, and whoever went to him would lose his fishing for the time being, for which he would receive no compensation; moreover, immediate action was considered absolutely necessary to prevent the squid being driven out of the bight and swept away by the tide, a

result which is stated to have actually occurred in consequence of the Americans' proceedings.

35. I believe the Newfoundland fishermen acted mainly from ignorance of the law, as I was several times asked whether the Americans had any right at all to come to Job's Cove; and I have, during my cruize round the coast, found the fishermen, as a rule, always willing to abide by the law when it has been explained to them by some one of authority.

36. I understand the bankers come to the coast chiefly in the latter end of May and beginning of June for caplin; and again the latter end of July and beginning of August for squids; and that as a rule they all come together at the same time and to the same place each year.

37. At Carbonear this year forty-five bankers arrived in one day.

38. The recurrence of these disputes may, I believe, be prevented by informing the inhabitants of the outlying settlements, which are frequented by bankers, in clear language, of the right of the Americans, under the Treaty of Washington, and warning them that in the event of their having any complaints against any bankers, whether foreign or British, they are at once to make them known to the nearest magistrate, or British man-of-war if one is at hand, who will be instructed to make immediate inquiry into such complaints, and by further warning them that they are on no account to take action themselves.

39. In order to facilitate communication with the magistrates, I would further suggest that when the bankers arrive on the coast the magistrates of the districts visited be at hand in some central settlement and give notice to the inhabitants of the respective settlements under their jurisdiction that they are there, and that if there is any cause of complaint against any of the bankers, it is at once to be made known to them, and they will proceed immediately to inquire into it, and that they are on no account to take action themselves.

40. I believe if this course can be adopted it will effect the desired end. (Copies of depositions inclosed.)

I have, &c.
(Signed) W. H. HALL.

Copy of Telegrams received from and sent to his Excellency the Governor, at St. John's.

Received.		Forwarded.	
Date.	Subject.	Date.	Subject.
Aug. 11, 1880	* 111A.—Old Army Navy Signal Book, 0938, 19677, Job's Cove, Trinity Bay, 4539, 030, 5938, 6006, 064; bait 9450, 044, 046, 137, 8791, 4582. Governor.	Aug. 16, 1880, Catalina.	* Just arrived. Your two telegrams 11th received. Old Army Navy Signal Book, 4917, Job's Cove, Conception Bay, 010, 041. Trinity Bay, 078, 0676, 059, 9675, 6437, 3600, 064. Trinity Harbour, 3651.
Aug. 16, 1880	Vessels interfered with were Americans. * 112A.—Old Army Navy Signal Book.—Will you call at Job's Cove, Trinity Bay; inquire into obstruction offered to bait vessels on or about the third instant.		* Just arrived. Your two telegrams 11th received. Old Army Navy Signal Book.—Know Job's Cove, Conception Bay, but not Trinity Bay. Will call there, weather permitting. Go to Trinity Harbour tomorrow morning.

(Signed) W. H. HALL, *Commander.*

August 23, 1880.

The deposition of Philip English, taken upon oath, and who saith:—That about the beginning of August about five or six American vessels came here for squid, and anchored about three-quarters of a mile off the bight. One of them anchored right on top of a net I had down, the position of which was shown by large wood buoys. As soon as they anchored they commenced to jig for squid from the vessels. In the bight, about half-way between the American vessels and the shore, the Newfoundland fishermen, from Job's Cove, Gull Island, Northern Bay, Burnt Point, including myself, about 300 or 400 in all, were jigging for squid on their usual ground. We went off the afternoon they anchored alongside one vessel and told them they mustn't jig there, as they would bring the squid out of the bight into the tide and they would be swept away. We also told them that where they were was our best fishing ground then, and we hailed the other vessels and told them the same. They then knocked off jigging, and we returned to the bight. The next morning the Americans went on jigging again, and we went off alongside the same vessel again and told them the same thing again. They knocked off jigging

then, and we returned to the bight. They then went on jigging again from the vessels. We went alongside the same vessel the same morning the third time, and told them that if they did not come in the proper bight and jig, we would haul their anchors up. We returned to the bight and then they went on jigging again. Then we went off a fourth time alongside the same vessel, and went on board her, and told the captain he mustn't jig squid there, but that we would pilot him into the bight, where several Newfoundland vessels were anchored, or he must come into the bight in his dories and jig, otherwise we would haul his anchor up. Shortly afterwards it blew hard from the westward, and they all left, Newfoundland vessels as well. Some of the Newfoundland vessels returned next day. The Americans went to Northern Bay. The next day the captain of the American vessel we boarded came over in a dory and bought squid in Job's Cove. Since the American vessels left the squid have all disappeared from the bight.

The evening after the American vessels left I hauled up my net, and all I found was a bit of twine in one end of it, and the foot-rope broken in three or four places. I believe this was done by the vessel that anchored on top of it. The net was two years old, and made of three-thread caplin twine, and was in thorough good order when I laid it down.

We offered no violence, nor were any threats used towards the Americans.

(Signed) PHILIP ENGLISH, his × mark.

Sworn before me, at Job's Cove, the 18th day of August, 1880.

(Signed) W. H. HALL, *Commander, H.M.S. "Flamingo," and Justice of the Peace for Newfoundland.*

The deposition of Richard English (son of Edward English), taken upon oath, and who saith that about a fortnight ago, one afternoon, four or five American vessels (bankers) came here for squid, and anchored from $\frac{1}{2}$ to $\frac{3}{4}$ of a mile off the bight, one of them inside three of my nets and outside of one, about 150 yards from them; these were large bottom cod-nets with wooden buoys. The Americans commenced to jig squid from their vessels. In the bight, about midway between the Americans and the shore, Newfoundland fishermen from Job's Cove, Burnt Point, Gull Island, and Northern Bay, about 200 in all, including myself, were jigging for squid, that being the usual squid ground. We all went off alongside three of the Americans, and told them it was not allowed here to jig squid on our fishing ground, they should come in their dories into the Bight where we were jigging. We told them that where they were jigging was our prime fishing ground; they knocked off jigging then. The next morning the Americans went on jigging from three of their vessels. We all went alongside one of these vessels, the first one visited the day before, and told them again it was not allowed to jig squid there, and that if they wanted squid they must come in their dories and jig squid in the bight. They stopped jigging then, and we returned to the bight. They then went on jigging again from the vessels, and we went off a third time to another of the three vessels visited before, and told them they should either bring their vessels into the Bight or go in their dories there for squid. They knocked off jigging then, and we offered to pilot their vessels into the bight, where four Newfoundland vessels were anchored, for squid, or else to pilot them to another good squid-jigging ground, about $\frac{1}{2}$ a mile away; but they refused these offers, and we returned to the bight. The Americans went on jigging again from their vessels, and then we all went off to one of the vessels, the last one we had seen jigging, and a good many, including myself, went on board. We told them we would heave their anchors up if they did not knock off jigging there, and cast off all the punts which had come from other places, and were made fast to her, jigging. The captain said he should leave "When he'd see his own time when he would be ready." While we were on board it came on to blow hard from the westward, and all the schooners, both American and Newfoundland, had to get under weigh, and one of the latter had to slip her chain and the Newfoundlanders anchored on the jigging ground before mentioned. The Americans went to Northern Bay, but came back in their dories the same evening and next day, and bought squid from us. We offered no violence, nor were any threats used towards the Americans.

(Signed) RICHARD ENGLISH, his × mark.

Sworn before me, at Job's Cove, this 18th day of August, 1880.

(Signed) W. H. HALL, *Commander, H.M.S. "Flamingo," and Justice of the Peace for Newfoundland.*

The deposition of Patrick Kinsella, taken upon oath, and who saith that about a fortnight since several American vessels came here for squid, and anchored between $\frac{1}{2}$ to $\frac{3}{4}$ mile off the bight. They anchored inside some cod-nets and outside others. I had three bottom-nets down, buoyed by large wood buoys, and two of these were outside and one inside them. One of the vessels was within 70 yards of one of my outside nets, and about the same distance from the inside one. There was very little wind when they came, and the buoys could be readily seen. In the evening the Americans commenced to jig squid from their vessels. Newfoundland fishermen, about 200 in number, myself included, were jigging in the bight for squid, about half-way between the American vessels and the shore, the usual squid ground. We went off alongside one of the vessels and told them it was our best fishing ground, and they must not jig there, and told them they must either bring their vessels into the bight where some Newfoundland vessels were anchored, or else come in the bight in their dories and jig for squid. They knocked off jigging then. The next morning they commenced jigging again, and we went alongside the same vessel and told them the same thing. They stopped jigging then, and we returned to the bight. They commenced jigging again, and we went off alongside several of the vessels and told them the same thing again. They stopped jigging then, and we returned to the bight. They then commenced jigging again. We went off and boarded one vessel, and told the captain we would pilot him into the bight, or else to another good squid ground under the land about $\frac{1}{2}$ a-mile off. He refused these offers, and then we told him if he didn't stop jigging there, we would heave his anchor up. Shortly after it came on to blow hard from the westward, and they all left, Newfoundlanders as well; the latter went to the other squid ground before mentioned, and the Americans went to Northern Bay. The next morning the Americans came here in their dories and bought squid. The squid, since the Americans left, have all gone, and we have been without squid since. We offered no violence, nor were any threats used towards the Americans.

(Signed) PATRICK KINSELLA.

Sworn before me, at Job's Cove, the 18th day of August, 1880.

(Signed) W. H. HALL, *Commander, H.M.S. "Flamingo," and
Justice of the Peace for Newfoundland.*

The deposition of Richard English (son of James English), taken upon oath, and who saith that about a fortnight ago several American vessels came here for squid, and anchored about $\frac{1}{2}$ a-mile from the bight, right among the nets, and inside two of my bottom cod-fish nets, marked by two large buoys. There was very little wind when they came in, and the buoys could be very readily seen. The American vessels commenced to jig squid. About 200 of us were jigging squid about half-way between the American vessels and the shore, our usual squid ground. We went off alongside two of the vessels and told them to knock off jigging squid, as they were on our best fishing ground, and they were amongst our nets. We also told them they were drawing the squid out of the bight, and we should get no more for bait. We told them to come in in their dories into the bight and jig for squid, and there would be no hindrance to them. They stopped jigging then. Next morning they commenced jigging again, and we went off alongside the same vessel and told them the same thing, and that if we had to come the third time they should either leave or we should have to drive them away. They stopped jigging then, and we were scarcely back in the jigging bight when they commenced jigging again. We then went alongside the same vessel again, and told them for the third time to knock off jigging. They stopped again and we went back to the bight. They commenced jigging again, and we then went alongside one of the same two vessels, and about thirty of us, myself amongst them, went on board. We told the captain to get under weigh and leave, as he wouldn't do what he was told, and he said he would go when he was ready. Shortly after it came on to blow hard from the westward, and they all left, Newfoundlanders as well, one of the latter having to slip her chain. The vessel we were on board of, when the wind sprung up from the westward, dragged about the length of herself, and then brought up again. Some of the Newfoundlanders went under the land to another good squid ground. The Americans went to Northern Bay, and the same evening and next day the captain of the vessel we boarded came here and bought squid. I spoke to him when he came here, and he made no complaint about having to leave, nor did he seem annoyed when we were on board. When we were on board when he was heaving up, a gust of wind came down, and we all

had to jump into our boats, and we offered to pilot him into smooth water under the land.

(Signed) RICHARD ENGLISH, his × mark.

Sworn before me, at Job's Cove, the 18th day of August, 1880.

(Signed) W. H. HALL, *Commander, H.M.S. "Flamingo," and Justice of the Peace for Newfoundland.*

The deposition of Patrick James English, taken upon oath, and who saith that about three weeks since several American bankers came to Job's Cove for squid, and anchored between $\frac{1}{2}$ to $\frac{3}{4}$ mile from centre of the bight; there were bottom cod-nets set all round them; they were there when they anchored. They commenced to jig for squid from the vessels. The Newfoundland fishermen, who were jigging for squid from punts from a $\frac{1}{4}$ mile off to close in shore, the usual ground for jigging squid, went out to the American vessels and told them to knock off jigging for squid where they were, as they would bring the squid out of the bight into the tide, where they would be swept away, and told them to come into the bight and jig as much as they liked, which they did not do, but went on jigging from the vessels the next morning. That day the Newfoundland fishermen, consisting of men from Job's Cove, Burnt Point, Gull Island, Northern Bay—about 300 in number—went alongside the American vessels and told them they were spoiling the fishing ground altogether, and must knock off jigging there and come in their dories in the bight and jig, but the Americans still continued jigging from their vessels. Finding that they were going on jigging from the vessels, the Newfoundland fishermen went off a third time the same morning, and, I believe, told them they must leave the bight. About an hour after, finding there were no sign of them going, the Newfoundland fishermen went off to one vessel which was going on jigging, and went on board her. I don't know what happened then, but shortly afterwards all the American vessels left. There were several St. John's vessels in the jigging bight. I believe there were no nets interfered with or damaged by the Americans. Since the American vessels left the squid have all left the bight.

(Signed) P. J. ENGLISH.

Sworn before me, at Job's Cove, this 18th August, 1880.

(Signed) W. H. HALL, *Commander, H.M.S. "Flamingo," and Justice of the Peace for Newfoundland.*

Northern District, Carbonear, to wit.

The examination of Loren B. Naus, of the schooner "Moro Castle," belonging to Gloucester, United States of America, taken upon oath before Israel L. McNeil, Esq., one of Her Majesty's Justices of the Peace for the said district, this the 23rd day of August, in the year of our Lord 1880, who saith that on the 4th day of the present month I anchored my vessel at Job's Cove, in the district of Bay de Verd, for the purpose of purchasing squid bait; I succeeded in purchasing a quantity from the inhabitants who came off in boats. On the following day, about 8 o'clock, A.M., I left my schooner and went toward Northern Bay, to ascertain if bait was to be got there. When about two-thirds of a mile from my vessel I noticed my mainsail being hoisted, and suspecting something to be wrong I immediately turned back and found a large body of men had gone on board my vessel and taken charge of her, and stated they intended running her on shore for having seen parties jigging squid from boats alongside, and from her deck. When I boarded my vessel the anchor was just breaking ground, and she was drifting towards the shore. I heard some one say, "Cut away the jib." I ordered them to leave the vessel, which they accordingly did, after getting a promise from me to take my vessel away. I and my crew, after using great exertions, succeeded in getting the vessel out of danger, and proceeded on my voyage to the banks, and continued to prosecute the fishery, there being no injury done to myself, my crew, or my vessel. I had secured from 17,000 to 19,000 of squids at the time of leaving Job's Cove.

Taken and sworn and subscribed to, at Carbonear, the day and year above written, before me,

(Signed) ISRAEL L. MCNEIL, J.P.

(Signed) LOREN B. NAUS.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, September 24, 1880.*
I AM directed by Earl Granville to acknowledge the receipt of your letter of the 17th instant, forwarding copy of a despatch from the Governor of Newfoundland in regard to an alleged case of obstruction offered to some American bait-vessels at Job's Cove, Conception Bay, and suggesting that a representation in regard to this case should be addressed to the United States' Government, protesting against the conduct of the United States' fishermen as contrary to the XVIIIth Article of the Treaty of Washington.

I am to request that you will inform the Earl of Kimberley that Lord Granville is of opinion that, before taking the steps suggested in your letter under reply, it is desirable to be in possession of the further Report upon this question, which may be expected from Sir John Glover by the next mail.

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

The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received September 28.)

My Lord, *Temple, September 27, 1880.*
WE were honoured with your Lordship's commands signified in Sir Julian Pauncefote's letter of the 23rd August last, stating that, by your Lordship's direction, he transmitted to us the draft of a letter on the subject of the Fortune Bay case, which your Lordship, after consultation with the Secretary of State for the Colonies, and other members of the Cabinet, proposed to address to the United States' Minister.

That Sir Julian Pauncefote was to inclose a copy of a memorandum on the case by the Lord Chancellor, and he was to request that we would inform your Lordship, at our earliest convenience, whether the proposed draft met with our concurrence.

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

That we concur generally with the proposed draft; but we desire to submit the following observations with reference to the reasoning contained in p. 2 of the draft, with which we are not able entirely to concur.

We quite agree that there is nothing in the Treaty to waive any part of the territorial sovereignty of Great Britain in the Newfoundland waters, or to give the citizens of the United States any privilege or advantage in them over British subjects. But it does not appear to us to follow that the Treaty may not, as a matter of international obligation, have limited the extent to which the territorial sovereignty could properly be exercised in legislation restricting the rights of fishing.

We think the United States' Government might well concede that Great Britain has not admitted the United States to participation in her right of sovereignty in Newfoundland waters, and that the Treaty has no protective operation in favour of American against British fishermen, and yet contend that it would be a violation of the rights acquired by the United States under the Treaty if by legislation the right of fishing in Newfoundland waters was substantially restricted or limited.

We fully agree that it would be quite consistent with the Treaty to enact any reasonable police regulations, and also to pass any reasonable laws, having for their object the more convenient and beneficial enjoyment of the fishery; but we are not satisfied that legislation going beyond what was necessary for these purposes could be justified, even though it could be shown to affect British and American fishermen impartially.

We have, &c.
(Signed) HENRY JAMES.
FARRER HERSHELL.
J. PARKER DEANE.

Mr. Wingfield to Sir J. Pouncefote.—(Received October 2.)

Sir, *Downing Street, October 1, 1880.*
 WITH reference to the letter from this Department of the 17th, and to your reply of the 24th instant, respecting the alleged case of obstruction offered to American bait-vessels at Job's Cove, Conception Bay, Newfoundland, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a further despatch from Sir John Glover in corroboration of the statement contained in Commander Hall's Report as to the cause of the "Moro Castle" and other vessels having put to sea on the occasion referred to.

Lord Kimberley would suggest, for Lord Granville's consideration, that in view of the present Report, the proposed representation to the Government of the United States should be no longer delayed.

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

Inclosure in No. 56.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, September 15, 1880.*
 WITH reference to paragraph 4 of my despatch of the 2nd instant, relating to the alleged obstruction offered to some American bait-vessels at Job's Cove, Conception Bay, I would observe that the report of meteorological observations taken at St. John's shows that on the day in question the wind, which was originally gentle from the south-west, freshened in the course of the morning, causing a strong wind to blow right into the Cove, and thus corroborating the statement in paragraph 22 of Commander Hall's Report as to the cause of all the vessels, British as well as Americans, weighing and leaving the anchorage.

The "Moro Castle," like the rest of the vessels in the anchorage, put to sea in consequence of this strong wind, and if there had been any intention on the part of those on board to run the vessel on shore they would not have set the mainsail, but rather the jib.

I have, &c.
 (Signed) JOHN H. GLOVER.

No. 57.

Mr. Drummond to Earl Granville.—(Received October 3.)

(No. 270.)
 My Lord, *Newport, September 20, 1880.*
 I HAVE the honour to bring to your notice the inclosed extract from one of the daily papers, from which it appears that two American fishing-vessels, on the 3rd and 4th ultimo, were prevented from catching squid in Conception Bay, Newfoundland, and it is stated that violence was used by the natives on both occasions.

The cause appears to be the old complication growing out of the difference between the inshore fishing rights guaranteed by the Treaty of Washington and the Municipal Fishing Regulations of Newfoundland.

Remarks on this present fishery trouble are being made in the press. One paper gives as its opinion that "the proper mode of settlement would seem to be upon the plan of as absolute freedom to the fisheries as is at all compatible with the enforcement of necessary laws to prevent the fish and fisheries from being destroyed."

The Americans are very susceptible on these fishery disputes, and it will be of great benefit both to Great Britain and the United States when arrangements can be made of such a character as will for ever prevent future controversies of this nature arising, which, although having the appearance of no great importance, become irritating to both countries, and thereby cause dissensions between them.

I have, &c.
 (Signed) VICTOR DRUMMOND.

Inclosure in No. 57.

Newspaper Extract.

VIOLATIONS OF THE FISHERY TREATY.—The schooner “Morro Castle,” Captain J. B. Naus, which arrived at Gloucester from a Grand bank cod-fishing trip this morning, reports that on Wednesday, the 4th August, she anchored near Job Cove, about a mile from the shore, in Conception Bay, Newfoundland, for the purpose of procuring bait. After purchasing squid, left during the absence of Captain Naus, Thursday morning, the crew attempted to catch a few squid with jigs, when the vessel was boarded by two or three hundred natives, who drove the crew into the cabinway and forecastle, and attempted to get the vessel under way. Captain Naus returned and found the Newfoundlanders very threatening, but as the vessel began drifting on the rocks, they were frightened and left. The vessel came very near going ashore. The day previous the schooner “Victor,” of Gloucester, was boarded in a similar manner, and violence used to prevent her fishing. The Newfoundland Government’s objection to Sunday fishing and use of the seine does not hold in this case, as the crew of the “Morro Castle” were line fishing, and had taken but ten or a dozen squid.

Boston, September 16, 1880.

No. 58.

Memorandum by the Lord Chancellor.

I DO not perceive the difference between the present view of the Law Officers and my own, except that they think there may be some expressions in the draft despatch capable of being so construed as to seem inconsistent with the principle (in which I entirely agree, and which I have myself laid down), that any local regulations, not substantially consistent with the enjoyment of the rights of fishing conceded to the United States by the Treaty of Washington would be *unreasonable*, and would not be binding under that Treaty in the United States.

Although I do not myself see that there was in the draft despatch anything fairly open to a misconstruction of that kind, I think it will nevertheless be improved by the omission of the parts proposed to be left out by Sir Julian Pauncefote: provided it is also in other respects altered, as suggested by myself in red ink in the copy returned herewith.

(Signed) SELBORNE.

October 7, 1880.

No. 59.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, October 11, 1880.

WITH reference to your letter of the 21st June, I am directed by Earl Granville to transmit to you, to be laid before Her Majesty’s Secretary of State for the Colonies, for his consideration, the accompanying draft of a letter which his Lordship proposes to address to the United States’ Minister relative to the Fortune Bay question,* and I am to request that in laying this paper before Lord Kimberley you will move his Lordship to cause Lord Granville to be informed whether it meets with his concurrence.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 60.

Sir J. Pauncefote to Mr. Wingfield.

Sir, *Foreign Office, October 11, 1880.*
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 1st instant, inclosing a copy of a further despatch from Sir John Glover, relative to the alleged case of obstruction offered to American bait-vessels at Job's Cove, Conception Bay, Newfoundland, and suggesting that, in view of the present report, the proposed representation to the Government of the United States, recommended in your previous letter upon the subject, should be no longer delayed.

I am directed by Earl Granville to state to you, for the consideration of the Earl of Kimberley, that his Lordship is of opinion, setting aside the question of the conflict of evidence in the present case, that the only request which Her Majesty's Government can make to the United States' Government is, that the latter should issue some notification to United States' fishermen resorting to Newfoundland, enjoining them to be careful, while in the prosecution of their fishery rights, not to interfere with British fishermen engaged in the same occupation, nor to commit any injury to private property; but his Lordship considers it desirable to delay a communication in this sense until after the proposed letter to the United States' Government upon the Fortune Bay case has been dispatched.

In the meanwhile, I have to express Lord Granville's hope that Lord Kimberley will move the Colonial Government to adopt without delay the measures recommended by Commander Hall, R.N., in paragraphs 38 and 39 of his Report, a copy of which was inclosed in your letter of the 17th ultimo.

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

No. 61.

Sir J. Pauncefote to Mr. Wingfield.

Sir, *Foreign Office, October 12, 1880.*
 WITH reference to my letter of the 11th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, respecting the dispute at Job's Cove.

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

No. 62.

Mr. Wingfield to Sir J. Pauncefote.—(Received October 20.)

Sir, *Downing Street, October 19, 1880.*
 I AM directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that he concurs in the draft, inclosed in your letter of the 11th instant, of a letter which Lord Granville proposed to address to the United States' Minister respecting the Fortune Bay question.

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

No. 63.

Mr. Wingfield to Sir J. Pauncefote.—(Received October 25.)

Sir, *Downing Street, October 23, 1880.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letters of the 11th and 12th instant, respecting an alleged case of obstruction offered to American bait-vessels at Job's Cove, Conception Bay, Newfoundland.

Lord Kimberley concurs in the course proposed in the first letter under acknowledgment, and in accordance with the suggestion contained therein he has instructed the

Governor of the Colony to move his Government to adopt, with as little delay as possible, the measures recommended by Commander Hall, R.N., in paragraphs 38 and 39 of his Report.

I am to inclose a copy of a further despatch from Sir J. Glover on the same subject.

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

Inclosure 1 in No. 63.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, September 28, 1880.*

WITH reference to my despatches of the 2nd and 15th instant respectively, relating to the alleged obstruction offered to some American bait-vessels at Job's Cove, Conception Bay, I have now the honour to transmit, for your Lordship's information, an extract from the St. John's "Evening Telegram" of the 24th instant, in which a report of this case is reprinted from the American newspaper "The Cape Ann Advertiser."

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 63.

Extract from the "Evening Telegram" of September 24, 1880.

ANOTHER NEWFOUNDLAND RIOT: TWO GLOUCESTER FISHING SCHOONERS DRIVEN FROM THE FISHING-GROUNDS.—Under the above startling heading the "Cape Ann Advertiser" of Friday last makes what looks like a very serious charge against the people of Job's Cove, Conception Bay. If it can be proved that the statements of the "Advertiser" are correct, if the "outrages" complained of were actually committed, why, then, we shall probably have a renewal of the fishery difficulties, and possibly the Premier may ere long see another opportunity of earning a "big fee" in connection with the "Commission business."

Here is what our Cape Ann contemporary says about the matter:—

Schooner "Moro Castle," Captain Loren B. Naus, arrived from a Grand Bank cod-fishing voyage yesterday, bringing information of further riotous proceedings on the part of the Newfoundland fishermen, and the forcible prevention of Gloucester fishing vessels taking squid for baiting purposes.

The "Moro Castle" had been on the Grand Bank trawl fishing, and having exhausted her bait, went to Newfoundland to procure a supply of squid. She anchored in Conception Bay, in Job or Devil Cove, on the afternoon of Wednesday, the 4th August, about a mile from the shore. That afternoon Captain Naus purchased of the natives 18,000 squids at 60 cents per 100, paying them 108 dollars. The next morning (Thursday) Captain Naus left the vessel in a dory to go in search of more bait, having learned that some could be procured at a neighbouring cove. While absent he saw the mainsail of the schooner start, and knowing that something must be wrong, hurried back, and found his vessel surrounded by boats, and that some 200 or 300 Newfoundlanders had boarded and taken possession of her. He ordered the intruders to leave the vessel, but they took no notice of him, and being all alone, his crew, mostly of Nova Scotians, having been frightened and taken refuge in the cabin and fore-castle, he was without the means of enforcing his orders. The natives were very threatening, and the captain feared for his life if he attempted unaided to regain control of the schooner. These men had come on board because some of the crew had been seen jigging for squid, although they had taken only ten or a dozen. The squid were plenty, and it would have been easy to have secured a sufficient supply for bait if the crew had been allowed their rights to free fishing without intimidation. The invaders had broken the anchor from bottom and put the schooner under mainsail and jib, and she was fast drifting towards the rocks. Seeing that there was danger of the vessel being wrecked, the invaders became frightened, and hurriedly took their departure, and she was rescued from shipwreck with considerable difficulty.

Captain Naus reports that on the previous day, Wednesday, the 4th August, the

schooner "Victor," of this port, engaged in the Grand Bank cod-fishery, was prevented by violence from securing a supply of bait.

These outrages cannot be justified by the Newfoundland Government on the ground of their objection to Sunday fishing or the use of seines, as both assaults occurred on week days, and the men were engaged in line fishing.

Even had there been a violation of Treaty rights, or of local laws, there can be no justification of the resort to mob law. We trust that these additional outrages upon unoffending American fishermen will result in some authoritative settlement of the meaning of the Treaty stipulations, and, unless suitable redress is promptly made, to the abrogation of the Fisheries Treaty.

No. 64.

Mr. Wingfield to Sir J. Pauncefote.—(Received October 25.)

Sir, *Downing Street, October 23, 1880.*
 WITH reference to my letter of this day's date, I am directed by the Earl of Kimberley to transmit to you, for communication to Earl Granville, a copy of a despatch from the Governor of Newfoundland, with its inclosures, respecting another case of obstruction alleged to have been offered to an American vessel by the people of Conception Bay.

It will be observed that Sir J. Glover has directed that inquiries should be made into the facts of the case, and it would seem unnecessary for Her Majesty's Government to take any action in the matter, unless their attention be called to it by the United States' Government.

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

Inclosure 1 in No. 64.

Governor Sir H. Glover to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, September 30, 1880.*
 I HAVE the honour to transmit, for your Lordship's information, an extract from the St. John's "Evening Telegram" of the 27th instant, stating that Captain Mackenzie, of the schooner "Minnesota," of Provincetown, Massachusetts, had forwarded to the Washington authorities a report of another case of obstruction alleged to have been offered by the people of Conception Bay.

2. This paragraph was the first intimation I had received of such an occurrence, and I at once directed inquiries to be made into the facts of the case.

3. My Government have directed a magistrate to proceed to Spout's Cove to investigate the matter, and the depositions taken will be forwarded to your Lordship as soon as possible.

4. I inclose a copy of the deposition of Thomas Goss, of Torbay, the pilot referred to, who corroborates to some extent the statement of Captain McKenzie, or McIntyre.

I have, &c.
 (Signed) JOHN H. GLOVER.

Inclosure 2 in No. 64.

Extract from St. John's "Evening Telegram" of September 27, 1880.

MORE FISHERY TROUBLE. CAPTAIN MCKENZIE AND THE SPOUT'S COVE "OUTRAGE."—We are informed that Captain McKenzie, of the schooner "Minnesota," of Provincetown, Massachusetts, has forwarded to the Washington authorities a report of another "outrage" alleged to have been committed by the people of Conception Bay. Captain McKenzie says: "I was prevented from using seine to procure caplin bait at Spout's Cove, near Small Point, on the 21st ultimo. Thomas Goss, of Torbay, was pilot of my vessel, and his seine was hired by me. The people would not allow me to shoot

the seine, telling me that I should purchase bait from them. One man named John Trickett demanded 4 dollars for the privilege of using the seine, which sum was paid." At present we are not in a position to say how far the captain's version of this "outrage" agrees with the facts of the case. It may be true in its entirety, or it may not. We hope, however, to be in a position in a day or two to lay before our readers "the other side of the story," with such comment as the case may warrant.

Inclosure 3 in No. 64.

Deposition of Thomas Goss.

Central District, St. John's, to wit.

THE examination of Thomas Goss, of Torbay, in the said Central District, planter, who saith: On or about the 20th day of June last I hired a boat and seine to one John McIntyre, captain of the United States' schooner "Minnesota," in order to obtain bait for his use to carry on the fishery. I went with him as pilot in his vessel, leaving Torbay at 11 o'clock in the morning, and anchored at 4 o'clock the same evening at Upper Small Point, on the north shore of Conception Bay. We put the seine in boat, went into the beach, where there was abundance of caplin, shot the seine, and hauled a big lot of caplin, and were in the act of dipping them in from the seine into the boat, when five or six big boys attacked us with stones from the cliff, and we had to throw away the caplin in the seine and leave the place. A boat came from the bay as we were going off, and came alongside of our boat. I asked the man in the boat, who appeared to have charge of her, "What was up that we would not be allowed to haul caplin?" He said "There was no one allowed to haul caplin here unless they bought them from the people."

Captain McIntyre said to me, "What are we going to do now for bait?" I asked the man in the boat what was his name. He said "Trickett," and he said he would go with us in our boat and try and prevent them from throwing stones, and further would go with us to Spout's Cove, about a quarter of a mile distant, to obtain bait, we agreeing to give him 9 dollars. Captain McIntyre took him into his boat, and we hauled bait, and had sufficient on board at 4 o'clock. Paid Cricket and he went off, and we returned to Torbay the next morning early.

(Signed) THOMAS GOSS.

Sworn before me, at St. John's, this 13th day of September, 1880.

(Signed) J. G. CONROY, *Justice of the Peace for Newfoundland.*

No. 65.

Earl Granville to Mr. Lowell.

Sir,

Foreign Office, October 27, 1880.

HER Majesty's Government have carefully considered the correspondence which has taken place between their predecessors and the Government of the United States respecting the disturbance which occurred at Fortune Bay on the 6th January, 1878, and they have approached this subject with the most earnest desire to arrive at an amicable solution of the differences which have unfortunately arisen between the two Governments on the construction of the provisions of the Treaties which regulate the rights of United States' fishermen on the coast of Newfoundland.

In the first place, I desire that there should be no possibility of misconception as to the views entertained by Her Majesty's Government respecting the conduct of the Newfoundland fishermen in violently interfering with the United States' fishermen, and destroying or damaging some of their nets. Her Majesty's Government have no hesitation in admitting that this proceeding was quite indefensible, and is much to be regretted. No sense of injury to their rights, however well founded, could, under the circumstances, justify the British fishermen in taking the law into their own hands, and committing acts of violence; but I will revert by and by to this feature in the case, and will now proceed to the important question raised in this controversy, whether, under the Treaty of Washington, the United States' fishermen are bound to observe the fishery regulations of Newfoundland in common with British subjects.

Without entering into any lengthy discussion on this point, I feel bound to state that, in the opinion of Her Majesty's Government, the clause in the Treaty of Washington which provides that the citizens of the United States shall be entitled, "in common with British subjects," to fish in Newfoundland waters within the limits

of British sovereignty, means that the American and the British fishermen shall fish in these waters upon terms of equality; and not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject.

Her Majesty's Government entirely concur in Mr. Marcy's Circular of the 28th March, 1856. The principle therein laid down appears to them perfectly sound, and as applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view. They cannot, therefore, admit the accuracy of the opinion expressed in Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878, "that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland," if by that opinion anything inconsistent with Mr. Marcy's principle is really intended. Her Majesty's Government, however, fully admit that, if any such local Statutes could be shown to be inconsistent with the express stipulations, or even with the spirit of the Treaty, they would not be within the category of those reasonable regulations by which American (in common with British) fishermen ought to be bound; and they observe, on the other hand, with much satisfaction, that Mr. Evarts, at the close of his letter to Mr. Welsh of the 1st August, 1879, after expressing regret at "the conflict of interests which the exercise of the Treaty privileges enjoyed by the United States appears to have developed," expressed himself as follows:—

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

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

Her Majesty's Government do not interpret these expressions in any sense derogatory to the sovereign authority of Great Britain in the territorial waters of Newfoundland, by which only regulations having the force of law within these waters can be made. So regarding the proposal, they are pleased not only to recognize in it an indication that the desire of Her Majesty's Government to arrive at a friendly and speedy settlement of this question is fully reciprocated by the Government of the United States, but also to discern in it the basis of a practical settlement of the difficulty; and I have the honour to request that you will inform Mr. Evarts that Her Majesty's Government, with a view to avoiding further discussion and future misunderstandings, are quite willing to confer with the Government of the United States respecting the establishment of regulations under which the subjects of both parties to the Treaty of Washington shall have the full and equal enjoyment of any fishery which under that Treaty is to be used in common. The duty of enacting and enforcing such regulations, when agreed upon, would, of course, rest with the Power having the sovereignty of the shore and waters in each case.

As regards the claim of the United States' fishermen to compensation for the injuries and losses which they are alleged to have sustained in consequence of the violent obstruction which they encountered from British fishermen at Fortune Bay on the occasion referred to, I have to state that Her Majesty's Government are quite willing that they should be indemnified for any injuries and losses which upon a joint inquiry may be found to have been sustained by them, and in respect of which they are reasonably entitled to compensation; but on this point I have to observe that a claim is put forward by them for the loss of fish which had been caught, or which, but for the interference of the British fishermen, might have been caught by means of strand fishing, a mode of fishing to which, under the Treaty of Washington, they were not entitled to resort.

The prosecution by them of the strand fishery being clearly in excess of their Treaty privileges, Her Majesty's Government cannot doubt that, on further consideration, the United States' Government will not be disposed to support a claim in respect of the loss of the fish which they had caught, or might have caught, by that process.

I am, &c.

(Signed) GRANVILLE.

No. 66.

Earl Granville to Mr. Drummond.

(No. 183.)

Sir,

Foreign Office, October 28, 1880.

I TRANSMIT to you herewith, for your information, a copy of a letter which I have addressed to the United States Minister at this Court in regard to the Fortune Bay question.*

I have, &c.

(Signed) GRANVILLE.

No. 67.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, October 28, 1880.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a letter which his Lordship has addressed to the United States' Minister at this Court in regard to the Fortune Bay question.*

I am, &c.

(Signed) TENTERDEN.

No. 68

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

My Lord,

Legation of the United States, London, October 28, 1880.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of yesterday, in relation to the disturbance which occurred at Fortune Bay on the 6th January, 1878, and to acquaint you that I shall forward a copy of the same to Mr. Evarts by the earliest opportunity.

I have, &c.

(Signed) J. R. LOWELL.

No. 69.

Mr. Drummond to Earl Granville.—(Received October 31.)

(No. 289.)

My Lord,

Washington, October 18, 1880.

WITH reference to my despatch No. 270 of the 20th ultimo, bringing to your Lordship's attention extracts from certain American papers, mentioning complaints made by United States' fishermen of the treatment which they had received from Newfoundland fishermen, I have the honour to inclose herewith an extract from the "New York Herald," which shows that the Governor of Newfoundland has taken notice of these complaints, and that the deposition of the pilot on board one of the United States' fishing vessels which suffered has been taken. The "New York Herald" has a leading article on this occurrence, herewith inclosed, which I consider shows that later, when Congress meets, the soreness still continuing on account of the Fortune Bay difficulty, the question will again be brought forward with a view to the greater protection of United States' fishermen from the apparent lawlessness of the Newfoundland fishermen.

I have, &c.

(Signed) VICTOR DRUMMOND.

Inclosure 1 in No. 69.

Extract from the "New York Herald" of October 5, 1880.

AMERICAN FISHERMEN ATTACKED.—The notice of the Newfoundland authorities has been directed to some complaints made by Gloucester fishermen of ill-treatment at the hands of Newfoundland fishermen and an interference with the just rights of United States' fishermen in British waters. The Governor of Newfoundland accordingly sent for Mr. Thomas Goss, of Torbay, the only trustworthy witness that so far can be procured. Goss acted as pilot in Conception Bay for Captain MacEntyre, of the Gloucester schooner "Minnesota." Before Judge Conroy Goss deposed that he started from Torbay on Monday, the 20th June, in the capacity of pilot on the "Minnesota." They reached Upper Small Point, where they had discovered that bait was plentiful; here they commenced to operate, and while taking the caplin on board their boats they were attacked by the people on shore and furiously pelted with showers of stones. Men, women, and children were engaged in the assault. The Americans immediately withdrew to their vessel, their lives being every moment imperilled. A man named Trickett offered his services to Captain MacEntyre to procure bait if paid the sum of 4 dollars. Trickett brought him to Spout Cove, near his own home, and for half the sum first asked the "Minnesota" obtained all her required bait, and then, having landed the pilot, proceeded to the banks. The deposition of Goss has been transmitted by the Governor of Newfoundland to the Secretary of State for the Colonies, and the other cases will be investigated and brought under imperial notice as soon as evidence can be obtained.

 Inclosure 2 in No. 69.

Extract from the "New York Herald" of October 5, 1880.

THE FISHERY OUTRAGES.—At last, after a great deal of delay, the Newfoundland authorities have felt compelled to take some notice of the outrageous misconduct of their people toward our American fishermen. The "Herald" correspondent at St. John's relates that the Governor recently sent for a Newfoundland pilot, Thomas Goss, "the only reliable witness who can so far be procured," he adds, and took his testimony. Goss, it seems, was engaged as pilot by the master of the American schooner "Minnesota," and while he was so acting the schooner came upon the ground where, under the Treaty, Americans are allowed to take bait. Our people began to catch bait, whereupon Goss—a Newfoundland man himself—testifies that the Americans were set upon by a furious crowd from the shore, men and women, who pelted them with "showers of stones," so that our people had difficulty in reaching their vessel alive. They had gone out in boats to take the bait.

Having been thus prevented from exercising their rights under the Treaty, and violently driven off, a Newfoundland man came along and offered to procure what bait the "Minnesota" needed near his own home for the sum of 4 dollars, and the captain of the "Minnesota," being a practical as well as a peaceable man, accordingly paid for his bait and went on his way to the fishing banks.

This incident tells the whole story of these Newfoundland outrages. The coasting people, without the colour or even pretence of law, violently attack and drive off our fishermen because they want to force them to buy bait and fish from them, instead of taking it themselves. But the Treaty gives us the right to catch for ourselves, and the exactions of the Newfoundland men are simply blackmail. The shameful point in the matter is, that the Newfoundland authorities, though they have known for two years that this goes on, have not interfered for the protection of our people or the prevention of utterly lawless acts by their own. The authorities have not in any case, so far as we remember, officially interfered with our fishermen; but they have tolerated on their own coasts and by their own people a degree of lawlessness which amounts to little better than piracy, and which, they ought to see, not merely injures and wrongs our people, but demoralizes their own.

If our fishermen overstep their Treaty rights, the Colonial authorities may properly step in to check them and prevent them. If the Treaty is liable to two interpretations, the lawful authorities of Newfoundland may properly protest against our view. But that an organized Government should encourage, by persistent tolera-

tion, lawless violence on the part of its own people, is surely singular as well as shameful. We hope Secretary Evarts will be able presently to spare enough time from the composition of political speeches and their delivery to attend to the protection of our fishermen. We understand perfectly that great bodies, like a Department of State, move slowly; but the American fishermen who suffered at Fortune Bay are getting grey, and they would, we are confident, rather see themselves righted and protected in their rights than to hear the severest of Mr. Evarts' jokes.

No. 70.

Mr. Meade to Sir J. Pauncefote.—(Received November 5.)

Sir, *Downing Street, November 4, 1880.*
 WITH reference to the letter from this Department of the 23rd ultimo, respecting a case of obstruction alleged to have been offered to an American vessel at Spout's Cove, Conception Bay, Newfoundland, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further despatch from the Governor of the Colony on the subject, together with one of a despatch which Lord Kimberley has addressed to Sir J. Glover in reply.

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

Inclosure 1 in No. 70.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, October 13, 1880.*
 IN reference to my despatch of the 30th ultimo, on the subject of an alleged case of obstruction offered to American fishermen from the schooner "Minnesota," of Provincetown, Massachusetts, at Spout's Cove, Conception Bay, I have the honour to inform your Lordship that the depositions taken by the local magistrate are of so illusory a character as to be quite worthless, and I trust I may induce my Government to undertake legal proceedings against the offenders.

2. Had one of Her Majesty's vessels been available, as in the case of obstruction at Job's Cove, Conception Bay, referred to in my despatch of the 2nd September, I am of opinion that sufficient evidence would have been obtained by the officer commanding, in his judicial capacity, as would have led to the conviction of the people who threw stones at the Americans, and I am hoping that such result may yet be obtained.

3. I would respectfully suggest that one of Her Majesty's vessels of the fishery squadron be detailed especially to visit the coast between Cape Bonavista and Fortune Bay. The bays, harbours, and coves comprised between the above-named points being those visited by the Americans during the bait season, such vessel need never be for more than three or four days without being in telegraphic communication with St. John's, as there are various telegraph stations between the points mentioned.

4. I have represented to my Government that they should cause the people of the parts of the coast visited by the Americans to be made aware of the rights which the Americans have paid for, and that we are bound to secure them in the exercise of a right for which we have received from them a money award.

I have, &c.
 (Signed) JOHN H. GLOVER.

Inclosure 2 in No. 70.

The Earl of Kimberley to Governor Sir J. Glover.

Sir, *Downing Street, November 1, 1880.*
 I HAVE the honour to acknowledge the receipt of your despatch of the 13th ultimo, containing observations on the alleged case of obstruction offered to American fishermen at Spout's Cove, Conception Bay.

I have to convey to you my approval of the representation you have made to your Government with regard to the desirability of acquainting the people on the parts of the coast visited by the Americans with the rights which the Americans possess.

With respect to your suggestion that one of Her Majesty's vessels of the fishery squadron should be detailed especially to visit the coast between Cape Bonavista and Fortune Bay, I should be glad to be informed of the exact time of the year at which it is desired that the vessel should visit this particular locality.

I have, &c.
(Signed) KIMBERLEY.

No. 71.

Mr. Meade to Lord Tenterden.—(Received November 8.)

My Lord,

Downing Street, November 8, 1880.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 28th ultimo, inclosing printed copies of the letter which Earl Granville has addressed to the United States' Minister at this Court in regard to the Fortune Bay question.

Lord Kimberley would be glad to be informed whether, in the opinion of Lord Granville, the letter in question may be communicated confidentially to the Governor-General of Canada and to the Governor of Newfoundland, for the information of their Ministers, and also confidentially to the High Commissioner for the Dominion.

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

No. 72.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, November 8, 1880.

WITH reference to the letter from this Office of the 12th, I am directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying copy of a further despatch from Her Majesty's Chargé d'Affaires at Washington, together with its inclosures, relative to fishery disputes on the coast of Newfoundland.*

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

No. 73.

Earl Granville to Mr. Drummond.

(No. 193.)

Sir,

Foreign Office, November 9, 1880.

I TRANSMIT to you herewith, for your information, a copy of a letter from the Colonial Office respecting the Spout's Cove obstruction case.†

I am, &c.
(Signed) GRANVILLE.

No. 74.

Mr. Drummond to Earl Granville.—(Received November 14.)

(No. 302. Confidential.)

My Lord,

Washington, November 2, 1880.

IN a conversation I had yesterday with Aristarchi Bey, the Turkish Minister, he informed me confidentially of Mr. Evarts' anxiety lest the Fortune Bay controversy

* No. 69.

† No. 70.

should not be arranged before the delivery of the President's Message to Congress next month.

I have, &c.
(Signed) VICTOR DRUMMOND.

No. 75.

Sir J. Pauncefote to Mr. Wingfield.

Sir, *Foreign Office, November 17, 1880.*
I AM directed by Earl Granville to acknowledge the receipt of your letters of the 23rd ultimo relative to fishery disturbances on the coast of Newfoundland.

I am now to state that, as the fresh case of alleged obstruction to the fishery rights of American subjects which has arisen would seem to be established by the evidence, his Lordship is of opinion that it would be undesirable to raise a discussion respecting the first case, in which there is considerable conflict of testimony, especially in view of the proposal made for joint Regulations for the suppression of these differences; and I am to express the hope that the Earl of Kimberley will concur in this course.

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

No. 76.

Sir J. Pauncefote to Mr. Meade.

Sir, *Foreign Office, November 17, 1880.*
I AM directed by Earl Granville to acknowledge the receipt of your letter of the 8th instant, and I am to state to you, with reference to the concluding paragraph thereof, that his Lordship sees no objection to the communication, confidentially, to the officials named by you, of the letter addressed by him to the United States' Minister at this Court upon the Fortune Bay case.

I am accordingly to inclose further printed copies of the letter for that purpose.

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

No. 77.

Mr. Bramston to Sir J. Pauncefote.—(Received November 29.)

Sir, *Downing Street, November 27, 1880.*
I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 17th instant, relative to two recent fishery disturbances at Job's Cove and Spout's Cove, on the coast of Newfoundland.

In reply, Lord Kimberley desires me to express his concurrence in Earl Granville's proposal that no discussion should be raised respecting the first case at the present time.

I am, at the same time, to transmit to you, for the information of Lord Granville, the accompanying copy of a despatch from the Governor of Newfoundland, inclosing a Report of a second magisterial inquiry into the case of stone-throwing at Americans at Spout's Cove, together with Mr. Justice Pinsent's address to the Grand Jury at Harbour Grace.

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

Inclosure 1 in No. 77.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, November 9, 1880.

IN reference to my despatch dated the 13th October last, I have the honour to transmit, for your Lordship's information, a copy of the Report of a second magisterial inquiry into the case of stone-throwing at Americans at Spout's Cove, Conception Bay.

This, together with Mr. Justice Pinsent's address to the Grand Jury at Harbour Grace, a copy of which is inclosed herewith, will, I trust, have a salutary effect in checking, for the future, attempted interruptions to Americans when in search of bait.

I trust this will meet with your Lordship's approval.

I have, &c.

(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 77.

Mr. McNeill to Sir W. V. Whiteway.

Sir,

Carbonear, October 28, 1880.

I HAVE the honour to report that Inspector Canty, accompanied by one of the police force from this station, proceeded to Spout Cove and Small Point, distant 10 miles from here in the Bay de Verde district, on Wednesday, the 26th instant, and succeeded in finding the boys (four in number) charged with having thrown stones at the crew of the United States' schooner "Minnesota," McIntyre master, while engaged hauling caplin at Small Point in June last.

The four boys were brought before me yesterday. The youngest, Stephen Hayden, being a mere child 8 years of age, I dismissed; and after a careful inquiry into the case, in presence of Thomas Goss, who was pilot of the "Minnesota" at the time the affair took place, and having the evidence of Edward Trickett, of Spout Cove, fisherman, who was employed by the master of the "Minnesota" in hauling bait for that vessel, the three boys were convicted of rolling and throwing stones down the cliff at Small Point, where the men of the "Minnesota" were engaged hauling caplin, but they all maintained they were ignorant of the presence of men on the beach under them until they noticed some boats going off from the beach.

From the evidence taken in the case, I am satisfied the boys had no malicious intention in the act; and, further, I find it is a common practice with the boys along the shore, after school hours, to amuse themselves in throwing or rolling stones over the steep cliffs (at places some hundreds of feet in height from the beach), and often to the annoyance and danger of their own neighbours who may happen to be on the beach under.

In order to put a stop to such practices, I sentenced the eldest boy, John Hayden, who is 14 years of age, to pay a fine of 5 dollars and costs; and the other two, John King and William Short, who are about 12 years of age, to a fine of 3 dollars each. The mothers of the boys Hayden and King were present in Court during the trial, and paid the fines. The widowed mother of the boy Short, being a pauper, I shall not exact the fine in his case. I reprimanded the boys severely, and pointed out to them that the possible consequence of the habit of rolling stones down the cliff might, if continued, at some time cause the loss of life or limb.

I believe the result of the punishment inflicted in this case will have a salutary effect in putting a stop to such practices, not only in the neighbourhood of Small Point and Spout Cove, but also on the whole range of shore between here and Island Cove, at the entrance of the bay.

I beg to transmit herewith copy of proceedings in the case; also the examination of the pilot, Thomas Goss.

I have, &c.

(Signed) ISRAEL L. McNEILL, J.P.

Inclosure 3 in No. 77.

Deposition of Thomas Goss.

Northern District, Carbonear, to wit.

THE examination of Thomas Goss, of Torbay, in the Central District, planter, taken upon oath before Israel L. McNeill, Esq., one of Her Majesty's Justices of the Peace for the said northern district, the 27th October, in the year of our Lord 1880, who saith:—That on or about the 20th June last I hired a boat and seine to one John McIntyre, master of the United States' fishing schooner "Minnesota," for the purpose of procuring bait for his use at the fishery. I also went with him as pilot in his vessel. We left Torbay at 11 o'clock on the morning of that day, and anchored at 4 o'clock the same evening at Upper Small Point, on the north shore of Conception Bay, we put our seine in the boat and went to the beach, where there was abundance of caplin; we shot out the seine and hauled a quantity of caplin, and were in the act of dipping them in from the seine into our boat, when five or six big boys attacked us with stones from the cliff, and we had to throw away the caplin we had hauled and leave the place. A boat from the bay came up as we were going off, and when alongside of our boat I asked a man in the boat, who appeared to have charge of her, "What was up that we would not be allowed to haul caplin?" He made answer that no one was allowed to get bait there unless they bought it from the people. I said to him, "This is my own vessel, and I think it hard not to be allowed to get bait for her, and that I had got bait in that place forty years ago, and that my mother was born at Broad Cove, near Small Point." I also said I had plenty of friends on the north shore. Captain McIntyre then said to me, "What are we going to do for bait now?" I asked the man in the boat to whom I had been talking what was his name. He answered "Trickett," and he said he would go with us in our boat and try and prevent the boys throwing stones at us, and further, if we wished, he would go with us to Spout Cove (about a quarter of a mile distant) and assist us in getting bait, having agreed to give him 4 dollars for his services. Captain McIntyre took him into his boat and we hauled bait, and having taken sufficient on board by 9 o'clock that night paid Trickett, who went off, and we returned to Torbay early the following morning. The interference of the boys throwing stones at us did not cause a delay to us of more than an hour at furthest. We met with no further annoyance while the vessel remained at Spout Cove. We were very fortunate in procuring our bait that evening at Spout Cove; otherwise we should have been obliged to proceed to Carbonear for that purpose.

Taken and sworn at Carbonear aforesaid, the day and year within written.

Before me,

(Signed) ISRAEL L. McNEILL, J.P.

Inclosure 4 in No. 77.

Police Office, Carbonear, October 28, 1880.

Before ISRAEL L. McNEILL, Esq., J.P., Stipendiary Magistrate.

Thomas Goss, Complainant, *v.* John Hayden, William Short, John King, and Stephen Hayden, Defendants.

Complaint: Assault.

Defendants severally plead not guilty.

EDWARD TRICKETT, sworn and examined, saith:—I was on the bank at Spout Cove, where I reside, one afternoon last summer, during the caplin school; cannot remember the exact date. I noticed a vessel come in and anchor at Small Point. I went off to her in my boat, but before I got alongside I noticed some boats had left her and gone to the beach. I saw some boys on the cliff over the beach where the boats had gone; among them I recognized Stephen Hayden and William Short (two of the boys now at the bar). The boys were throwing stones over the cliff, or, rather, rolling stones down. I noticed one or two of them throwing stones at times. I heard the men who were on the beach sing out to the boys to cease throwing stones; there were four boys on the cliff; I did not know the other two. I also called out to them to knock off throwing stones. The men left the beach in their boats and came off to the vessel. Thomas Goss, now present in Court, was with the crew of the vessel; I did not know where the vessel belonged. Goss agreed to give me 4 dollars to go with them and help

them haul bait for the vessel. I consented, and went with them in their boat to Spout Cove, where we hauled sufficient caplin for their use; they then paid me the 4 dollars agreed upon between us, and I got into my boat and went to my bultows, and some time during the same night the schooner left Spout Cove.

For the defence :—

John Hayden (a boy about 14 years of age), sworn, saith :—I was in company with my brother Stephen, John King, and William Short one afternoon in June last, on the bank near Small Point; we were rolling stones down the cliff to the beach; did not see any boat or men on the beach. There was a schooner at anchor in the bight. I saw some men go off in two boats from the shore or beach, and when we saw them we stopped rolling stones down the cliff. From the top of the cliff to the beach is about 100 fathoms, and it is very steep, so that I would not venture out to the edge of the cliff to look down. Cannot say whether any of the stones struck the men who were going off in the boats. They went over to Spout Cove when they left the beach. No person told us to throw stones at the men or down the cliff. I may have thrown two or three stones, but not with the intention of hurting any one. There were no other boys present at the time but us four, whom I have named and who are now present. We were not rolling stones down the cliff. There was no man or men near us on the cliff, and no one told us to throw stones.

William Short and John King each admitted they were with John Hayden and Stephen Hayden rolling and throwing stones on the occasion. Stephen Hayden, being a boy under 10 years of age, was admonished and discharged.

Judgment.

John Hayden, convicted of assault upon complainant and others by throwing stones at them, and being the oldest boy of the four, was sentenced to pay a fine of 5 dollars and costs; and John King and William Short, being convicted of the same offence, were each sentenced to pay a fine of 3 dollars and costs.

(Signed)

ISRAEL L. McNEILL, J.P.

No. 78.

Sir E. Thornton to Earl Granville.—(Received December 4.)

(Telegraphic.)

Washington, December 4, 1880.

I HAVE reason to believe that your Lordship's note of the 27th October on the Fortune Bay affair will be sent to Congress on Monday with the President's Message, which will comment upon it and will express satisfaction with its contents.

No. 79.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, December 8, 1880.

WITH reference to previous correspondence, I am directed by Earl Granville to acquaint you, for the information of Her Majesty's Secretary of State for the Colonies, that a telegraphic despatch has been received from Her Majesty's Minister at Washington stating that he has reason to believe that the letter addressed to the United States' Minister at this Court relative to the Fortune Bay case, under date of the 27th October, a copy of which was transmitted to you in my letter of the 11th October, will be presented to Congress with the President's Message, which will comment upon it, and, at the same time, express satisfaction at its contents.

I am, &c.

(Signed)

JULIAN PAUNCEFOTE.

No. 80.

Mr. Herbert to Sir J. Pouncefote.—(Received December 9.)

Sir, *Downing Street, December 8, 1880.*
 WITH reference to the letter from this Department of the 4th ultimo, inclosing a copy of a despatch from the Governor of Newfoundland, in which it was suggested that one of Her Majesty's vessels of the fishing squadron should be detailed especially to visit the coast between Cape Bonavista and Fortune Bay, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further despatch from Sir J. Glover on the subject, together with one of a letter which his Lordship has caused to be addressed to the Admiralty in connection with it.

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

Inclosure 1 in No. 80.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord, *Government House, Newfoundland, November 24, 1880.*
 WITH reference to your Lordship's despatch of the 1st instant, requesting to be informed of the exact time of the year at which it is desired that one of Her Majesty's ships of the fishery squadron should be detailed especially to visit the coast of Newfoundland between Cape Bonavista and Fortune Bay, I have the honour to state that as French and American vessels usually visit the latter district about the 25th April, when the bait season commences, I consider it desirable that the ship detailed should arrive at Fortune Bay by that date, and that it should be employed on that part of the coast previously referred to until the 25th September.

This does not imply that the remainder of Her Majesty's ships forming the fishery squadron are required before the usual time, viz., on or about the 24th May.

I have, &c.
 (Signed) JOHN H. GLOVER.

Inclosure 2 in No. 80.

Mr. Herbert to the Secretary to the Admiralty.

Sir, *Downing Street, December 8, 1880.*
 I AM directed by the Earl of Kimberley to transmit to you, to be laid before the Lords Commissioners of the Admiralty, copies of two despatches from the Governor of Newfoundland,* suggesting that one of Her Majesty's vessels of the fishing squadron should be detailed especially to visit the coast between Cape Bonavista and Fortune Bay annually during the fishing season during the period specified.

Lord Kimberley would be glad if the other requirements of the service should admit of their Lordships giving instructions for a compliance with Sir J. Glover's application.

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

No. 81.

Earl Granville to Sir E. Thornton.

(No. 215.)

Sir, *Foreign Office, December 11, 1880.*
 WITH reference to my despatch No. 193 of the 9th November, I inclose, for your information, copies of despatches, as marked in the margin,† on the subject of Newfoundland fisheries.

I am, &c.
 (Signed) GRANVILLE.

* Inclosure 1 in No. 70; Inclosure 1 in No. 80.

† Nos. 77 and 80.

Sir E. Thornton to Earl Granville.—(Received December 21.)

(No. 364.)

My Lord,

Washington, December 7, 1880.

WITH reference to that part of the President's Message which speaks of the Fortune Bay affair, I have the honour to inform your Lordship that Mr. Evarts tells me that the correspondence relating to that matter does not accompany the President's Message, but that in all probability it will be called for by Congress, in which case he will transmit it to that body, including your Lordship's note of the 27th October last.

I have, &c.

(Signed) EDWD. THORNTON

No. 83.

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

(No. 379.)

My Lord,

Washington, December 13, 1880.

YOUR Lordship's note to Mr. Lowell of the 27th October last, relating to the Fortune Bay affair, was published in several of the American newspapers on the 10th instant. I take it for granted that a copy of it was furnished by Mr. Evarts. I presume that he had believed, and even hoped, that Congress would call for it, but as it did not do so he determined to make it public.

Mr. Evarts has not informed me whether he has yet instructed Mr. Lowell to return an answer to your Lordship's note; indeed, he has been somewhat reticent upon its contents. He has, however, expressed his general satisfaction at the proposals made in it, and his hope that the settlement of the indemnity due to American fishermen in the Fortune Bay affair may soon be carried out, and that no time will be lost in coming to an arrangement as to the rules and regulations which are hereafter to govern the fisheries.

Few of the newspapers have commented upon the note. I inclose, however, two short articles, one from the "New York Herald" of the 11th instant, and the other from the "Evening Post" of the same day. The former qualifies the note as amicable, and gives a short précis of its contents.

With regard to your Lordship's statement that American fishermen must, in common with British fishermen, be subject to reasonable local regulations, the "Herald" says that this is a point upon which the argument of Mr. Evarts never seemed to them as irresistible as his arguments usually are.

The article in the "Evening Post" is still more friendly, and states that the perusal of your Lordship's note leaves little doubt that existing differences may be subjected to a pacific and honourable adjustment.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 1 in No. 83.

Extract from the "New York Herald" of December 11, 1880.

THE FISHERY DIFFICULTY.—Earl Granville's despatch on the subject of the Fortune Bay outrage and the disputed interpretation of the Washington Treaty is given in the news to-day. It does not abandon the position hitherto held by the British Government on this theme, but it does what seems to us of more consequence, it discusses the topic in an amicable tone, and with fair argument, and does not indulge in that offensively arrogant style which characterized the consideration of this topic by the Marquis of Salisbury. Lord Granville declares the readiness of his Government to indemnify the American fishermen whose nets were destroyed at Fortune Bay for all their real losses, and presents distinctly and simply the opinion of the Ministry that the Treaty of Washington gave to American fisherman only the same rights as are enjoyed by the colonial fishermen, and that as the colonial fishermen are always subject to reasonable local regulations, Americans must be subject to them also. This is

a point upon which the argument of Mr. Evarts never seemed to us as irresistible as his arguments usually are, and upon which the language of the Treaty certainly affords some colour to the English argument.

Inclosure 2 in No. 83.

Extract from the "New York Evening Post" of December 11, 1880.

LORD GRANVILLE'S LETTER.—Lord Granville's letter to Mr. Lowell concerning the Newfoundland fisheries, and setting forth in particular the disposition of the present British Government with regard to the Fortune Bay affair, was yesterday published in the "London Gazette," and its text, having been transmitted hither by cable, is now before us.

It may be said at once that the letter of Lord Granville is direct, reasonable, and conciliatory, and that its perusal leaves little doubt that existing differences may be subjected to a pacific and honourable adjustment. "Her Majesty's Government," writes its Representative at the Foreign Office, "have no hesitation in admitting that this proceeding"—the conduct of the Newfoundland fishermen at Fortune Bay, toward the United States' fishermen, on the 6th January, 1878—"was quite indefensible, and is much to be regretted." Touching the delicate question whether, and how far, under the Treaty of Washington, citizens of the United States are bound to observe the local Fishery Regulations of Newfoundland in the same way that English subjects are bound, Lord Granville says that, in the opinion of Her Majesty's Government, the clause in the Treaty of Washington which provides that the citizens of the United States shall be entitled, "in common with British subjects," to fish in Newfoundland waters within the limits of British sovereignty, "means that American and British fishermen should fish in those waters on terms of equality, and not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject."

If, however, it can be shown that any local statutes or regulations are "inconsistent with the express stipulations, or even with the spirit, of the Treaty," Lord Granville frankly admits that they "would not be within the category of those reasonable regulations by which American (in common with British) fishermen ought to be bound." The letter, after going on to express the satisfaction of the English Government with certain clauses in Mr. Evarts' letter to Mr. Welsh, dated the 1st August, 1879, which are construed to aim at a friendly and speedy settlement that shall be just to all parties, declares the readiness of England to meet the United States on such a basis. As to the claim of the United States' fishermen to compensation for damages sustained at Fortune Bay, "Her Majesty's Government are quite willing that they should be indemnified for any injuries or losses which, upon a joint inquiry, may be found to have been sustained by them, and in respect of which they are reasonably entitled to compensation."

Lord Granville then interposes an exception as regards a claim made for the loss of fish which had been caught, or which, but for the interference of the British fishermen, might have been caught, by means of strand fishing—"a mode of fishing to which, under the Treaty of Washington, they were not entitled to resort;" and, with the courteous expression of an assurance that the United States' Government will not on further consideration be disposed to support a claim in respect of the loss of fish caught in clear violation of Treaty privileges, the letter is closed.

This communication opens the door to a purely amicable settlement, and puts aside any risk of unpleasant complications. The British Government could hardly assume a more friendly and liberal attitude than that in which it is placed by Lord Granville's letter; and if we purpose to observe the Treaty of Washington—and until its abrogation this, in honour, we must do—there can be no just complaint at being asked to comply with its terms. Our original suggestion, that of referring the whole matter to a Commission, will now probably be adopted. We should wish to see such a body give full and generous consideration to the English side of the case; and should hope, on the other hand, that it would accord, nothing less to the nicest point at issue, that which is founded on the impracticability, because of the difference between shore and ship fishery, in methods as well as interests, of making the regulations of one precisely applicable to the other. Certain rational modifications are attainable here, and these we trust a competent Commission will determine and apply.

No. 84.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, December 31, 1880.*
 WITH reference to previous correspondence, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of further despatches, as noted in the margin,* relative to the Fortune Bay affair.

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

No. 85.

Mr. Bramston to Sir J. Pauncefote.—(Received January 10.)

Sir, *Downing Street, January 7, 1881.*
 WITH reference to the letters from this Department of the 4th November and the 8th December last respecting the suggestion of the Governor of Newfoundland that one of Her Majesty's vessels of the fishing squadron should be detailed especially to visit the coast between Cape Bonavista and Fortune Bay for a certain time of the year, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a letter from the Admiralty upon the subject.

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

Inclosure in No. 85.

The Secretary to the Admiralty to Mr. Herbert.

Sir, *Admiralty, December 14, 1880.*
 I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 8th instant, inclosing copies of two despatches from the Governor of Newfoundland, suggesting that one of Her Majesty's vessels employed on the Newfoundland fisheries should be detailed to visit the coast between Cape Bonavista and Fortune Bay from the 25th April to the 25th September.

2. In reply, my Lords desire me to acquaint you, for the information of the Earl of Kimberley, that they concur in the opinion of Sir John Glover, that it is important one of Her Majesty's ships should be on the part of Newfoundland indicated at the commencement of the bait season, viz., 25th April, when practicable. With regard, however, to the proposal to station a man-of-war within the limits mentioned during the whole of the fishing season, my Lords consider that the Senior Officer employed in the protection of these fisheries must be left to direct the movements of vessels under his orders. He will be ordered to arrange that frequent visits are to be made to those ports where American fishermen procure bait, especially Fortune Bay, and out-of-the-way ports where there are no resident magistrates or any Government officials.

3. I am to add that it would seem to be the duty of the Colonial Government, by the location of magistrates or otherwise, to endeavour to prevent the breaches of the peace and of the fishery laws, which appear to be only too frequent in the localities mentioned, and not to rely entirely upon Her Majesty's ships for that purpose.

I am, &c.
 (Signed) E. N. SWAINSON.

No. 86.

Earl Granville to Sir E. Thornton.

(No. 11.)

Sir,

Foreign Office, January 15, 1881.

WITH reference to my despatch No. 215 of the 11th ultimo, I inclose, for your information, copy of a despatch, as marked in the margin,* on the subject of Newfoundland fisheries.

I am, &c.

(Signed) GRANVILLE.

No. 87.

Mr. Wingfield to Sir J. Pauncefote.—(Received January 15.)

Sir,

Downing Street, January 14, 1881.

WITH reference to the letter from this Department of the 23rd October last, and to previous correspondence respecting the alleged case of obstruction offered to American bait vessels at Job's Cove, Conception Bay, Newfoundland, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch from the Governor of the Colony, stating that his Government are prepared to take steps to notify to the inhabitants of outlying settlements frequented by the Americans the rights which the latter have under the Treaty of Washington.

The Governor has been requested to furnish the Secretary of State with copies of any notice which may be issued pursuant to this decision.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure in No. 87.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, December 21, 1880.

WITH reference to your Lordship's despatch of the 20th October, requesting me to move my Government to carry into effect, with as little delay as possible, the suggestions made by Commander Hall, R.N., Her Majesty's ship "Flamingo," in paragraphs 38 and 39 of his Report, dated the 23rd August last, I have the honour to inform your Lordship that, in order to prevent as far as possible a recurrence of disputes between Newfoundland and American fishermen, my Government are prepared to take steps to notify to the inhabitants of outlying settlements frequented by the Americans the rights which the latter have under the Treaty of Washington.

I trust these measures will meet with your Lordship's approval, and have the effect of preventing for the future any further disputes of this nature.

I have, &c.

(Signed) JOHN H. GLOVER.

No. 88.

Mr. Herbert to Sir J. Pauncefote —(Received January 28.)

Sir,

Downing Street, January 27, 1881.

WITH reference to previous correspondence respecting the claims of the United States' fishermen for compensation in respect of injuries and losses sustained by them on the occasion of the disturbances at Fortune Bay in January 1878, I am directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that his Lordship has informed the Governor of Newfoundland, by telegraph, that it is proposed that an inquiry should be held by Mr. Archibald, Her Majesty's Consul at New York, and a Representative of the United States, with a view to the assessment of compensation to which American fishermen may be reasonably entitled on account of such

injuries and losses. The Governor has been asked to ascertain as soon as possible whether his Government will abide by the decision which may be arrived at in the matter by Her Majesty's Government and that of the United States.

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

No. 89.

Mr. Herbert to Sir J. Poncefote.—(Received January 28.)

Sir, *Downing Street, January 27, 1881.*

WITH reference to your letter of the 17th November last, and to previous correspondence respecting the Fortune Bay case, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the accompanying copy of a despatch from the Governor of Newfoundland, inclosing extracts from the "Royal Gazette" and other Newfoundland newspapers relative to Earl Granville's letter upon the subject, addressed to Mr. Lowell on the 27th October last.

I am to request that in laying this despatch before Lord Granville you will draw attention to the point raised by Sir J. Glover in paragraphs 3 and 4 of his despatch, and that you will state that Lord Kimberley will be prepared, should his Lordship think this course desirable, to instruct Sir J. Glover by telegram to obtain from his Government a statement of the counter-claim of the British fishermen on account of the destruction of their nets by the Americans on the occasion of the Fortune Bay dispute.

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

Inclosure in No. 89.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, Newfoundland, January 10, 1881.

I HAVE the honour to acknowledge the receipt on the 29th ultimo of your Lordship's Confidential despatch of the 1st December, 1880, transmitting a printed copy of a letter addressed by Earl Granville to Mr. Lowell upon the subject of the Fortune Bay Fishery disputes.

2. Your Lordship will observe by the inclosed extracts from the "Royal Gazette" and other newspapers that the letter in question had, previously to the above date, viz., 29th December, been published in the local papers, and, I may add, was read with very general satisfaction.

3. In placing your Lordship's despatch before my Ministers, I suggested to them that it would be desirable to obtain all the evidence possible in support of the statement made on oath by John Saunders, viz., that the Americans had, in revenge for the obstruction offered to them, destroyed by their anchors the herring-nets of our fishermen (see p. 19, printed Correspondence respecting Occurrences at Fortune Bay, Newfoundland, in January 1878, also the evidence of John Cluett at p. 24).

4. Should your Lordship desire this information upon which it is the intention of my Ministers to frame a counter-claim for damages sustained by our fishermen through the destruction of their herring-nets by the American schooners in Fortune Bay in 1878, as against that portion of the American claim acquiesced in by Earl Granville, I would propose that no time be lost in urging the attention of my Government to the subject, as it is probable that on the meeting of the Legislature on the 17th February my Ministers may find themselves necessitated to resign in consequence of a deficiency in the revenue and an expenditure beyond the Estimates, coupled with an increasing general dissatisfaction at their measures in connection with the contemplated building of a railway.

5. Under these circumstances, I think it advisable that any information or opinion desired by your Lordship from the present Attorney-General should be obtained from him with as little delay as possible.

I have, &c.
(Signed) JOHN H. GLOVER.

No. 85*.

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

THE Under-Secretary of State presents his compliments to Lord Tenterden, and is directed by the Earl of Kimberley to transmit to him, for the information of Earl Granville, copies of despatches addressed to the Governor of Newfoundland on the 10th October, 1880, the 4th and 10th January, 1881, on matters connected with the rights of fishery of United States' citizens under the Treaty of Washington and the Fortune Bay question.

Colonial Office, January 15, 1881.

Inclosure 1 in No. 85*.

The Earl of Kimberley to Governor Sir J. Glover.

Sir, *Downing Street, October 20, 1880.*
 I HAVE the honour to acknowledge the receipt of your despatches of the 2nd, 15th, and 28th September respectively, respecting an alleged case of obstruction offered to certain American bait-vessels at Job's Cove, Conception Bay.
 With the view of preventing, if possible, the recurrence of disputes of this nature, I request that you will move your Government to carry into effect, with as little delay as possible, the suggestions made by Commander Hall, R.N., in paragraphs 38 and 39 of his Report, copies of which were inclosed in your despatch of the 2nd ultimo.
 I have, &c.
 (Signed) **KIMBERLEY.**

Inclosure 2 in No. 85*.

The Earl of Kimberley to Governor Sir J. Glover.

Sir, *Downing Street, January 4, 1881.*
 WITH reference to your despatch of the 24th November last, and to previous correspondence respecting the proposal that one of Her Majesty's vessels of the fishing squadron should be detailed especially to visit the coast between Cape Bonavista and Fortune Bay for a certain time of the year, I have the honour to transmit to you, for the information of your Government, a copy of a letter from the Admiralty on the subject.*

I have, &c.
 (Signed) **KIMBERLEY.**

Inclosure 3 in No. 85*.

The Earl of Kimberley to Governor Sir J. Glover.

Sir, *Downing Street, January 10, 1881.*
 I HAVE the honour to acknowledge the receipt of your despatch of the 21st ultimo, informing me that your Government are prepared to take steps to notify to the inhabitants of outlying settlements, frequented by the Americans, the rights which the latter have under the Treaty of Washington.
 I have learnt with satisfaction this intention on the part of your Government, and I should be glad if you would be so good as to furnish me with copies of any notice which may be issued by them pursuant to this decision.

I have, &c.
 (Signed) **KIMBERLEY.**

Inclosure 2 in No. 89.

Extract from the "Royal Gazette" of December 28, 1880.

Full Text of Earl Granville's Reply to Secretary Evarts.

Washington, December 10, 1880.

THE following is the text of the letter written by Earl Granville to United States Minister Lowell at London, on the subject of the Newfoundland fisheries :—

"Sir,

"Foreign Office, October 27, 1880.

Her Majesty's Government have carefully considered the correspondence which has taken place between their predecessors and the Government of the United States respecting the disturbance which occurred at Fortune Bay on the 5th January, 1878, and have approached this subject with the most earnest desire to arrive at an amicable solution of the differences which have unfortunately arisen between the two Governments on the construction of the provisions of the Treaties which regulate the rights of the United States' fishermen on the coast of Newfoundland."

The Conduct of the Fishermen.

"In the first place I desire that there should be no possibility of misconception as to our views respecting the conduct of the Newfoundland fishermen in violently interfering with the United States' fishermen, and in destroying or damaging some of their nets. Her Majesty's Government has no hesitation in admitting that this proceeding was quite indefensible, and is much to be regretted. No sense of injury to their rights, however well-founded, could, under the circumstances, justify the British fishermen in taking the law into their own hands and committing acts of violence; but I will revert by-and-by to this feature in the case, and will now proceed to the important question raised in the controversy—whether, under the Treaty of Washington, the United States' fishermen are bound to observe the Fishery Regulations of Newfoundland in common with British subjects. Without entering into any lengthy discussion on this point, I feel bound to state that, in the opinion of Her Majesty's Government, the clause of the Treaty of Washington which provides that the citizens of the United States shall be entitled, 'in common with British subjects,' to fish in Newfoundland waters within the limits of British sovereignty, means that the American and British fishermen shall fish in these waters on terms of equality, and not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject. Her Majesty's Government entirely concur in Mr. Marcy's Circular of the 28th March, 1856. The principle therein laid down appears to them perfectly sound and as applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view. They cannot, therefore, admit the accuracy of the opinion expressed in Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878, 'that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland,' if by that opinion anything inconsistent with Mr. Marcy's principle is really intended. Her Majesty's Government, however, fully admit that if any such local Statutes could be shown to be inconsistent with the express stipulations, or even with the spirit of the Treaty, they would not be within the category of those reasonable regulations by which American (in common with British) fishermen ought to be bound; and they observe, on the other hand, that Mr. Evarts, at the close of his letter to Mr. Welsh of the 1st August, 1879, after expressing his regret at the conflict of interests which the exercise of the Treaty privileges enjoyed by the United States appears to have developed, expressed himself as follows:—'There is no intention on the part of this (United States) Government that these privileges should be abused, and no desire that their full and free enjoyment should harm the colonial fishermen. While the differing interests and methods of the shore fishery and vessel fishery make it impracticable that the regulations of the one should be entirely given to the other, yet if the mutual obligations of the Treaty of 1871 are to be maintained, the Government of the United States would gladly co-operate with the Government of Her Britannic Majesty in any effort to make those regulations a matter of reciprocal convenience and rights, and a means of preserving the fisheries at their highest point of production, and conciliating their community of interest by a just proportion of advantages to profits.' Her Majesty's Government do not interpret these expressions in any sense derogatory to

the sovereign authority of Great Britain in the territorial waters of Newfoundland, by which the only regulations having the force of law within those waters can be made. So regarding the proposal, they are pleased not only to recognize in it an indication that the desire of Her Majesty's Government to arrive at a friendly and speedy settlement of this question is fully reciprocated by the Government of the United States, but also to discern in it the basis of a practical settlement of the difficulty; and I have the honour to request that you will inform Mr. Evarts that Her Majesty's Government, with a view to avoiding future discussion and future misunderstandings, are quite willing to confer with the Government of the United States respecting the establishment of regulations under which the subjects of both parties to the Treaty of Washington shall have a full and equal enjoyment of any fishery which, under that Treaty, is to be used in common. The duty of enacting and enforcing such regulations, when agreed upon, would of course rest with the Power having the sovereignty of the shore and waters in each case."

The Claim for Compensation.

"As regards the claim of the United States' fishermen to compensation for injuries and losses which they are alleged to have sustained in consequence of the violent obstruction which they encountered from the British fishermen at Fortune Bay on the occasion referred to, I have to state that Her Majesty's Government are quite willing that they should be indemnified for any injuries and losses which, upon a joint inquiry, may be found to have been sustained by them, and in respect of which they are reasonably entitled to compensation. But on this point I have to observe that the claim is pushed forward by them for the loss of fish which had been caught, or which, but for the interference of the British fishermen, might have been caught, by means of strand fishing, a mode of fishing to which, under the Treaty of Washington, they were not entitled. Resort to the prosecution by them of strand fishing being clearly in excess of their Treaty privileges, Her Majesty's Government cannot doubt that on further consideration the United States' Government will not be disposed to support the claim in respect of loss of fish which they had caught, or might have caught, by that process.

"J. R. Lowell, Esq.,
" &c. &c. &c."

"I am, &c.
(Signed) "GRANVILLE.

New York, December 11.—The "Herald's" Washington despatch says there is not any immediate intention to call up for action the House Bill reimposing duties on Canadian fish and fish-oil. Lord Granville's despatch in reference to the Fortune Bay affair is believed to show a disposition on the part of the British Government to do justice and pay up, but if the negotiations should appear to halt, Congress may on any day pass the Bill and thus end the whole matter.

London, December 11.—The London "Times" this morning, commenting editorially on Earl Granville's letter of the 27th October to the United States' Minister Lowell on the Fisheries question, says: "The settlement thus on the point of being accomplished can be looked upon only with feelings of contentment and relief. It is needless to insist upon the importance of a good understanding between England and the United States; but even for this too high a price might be paid if it were necessary to admit all the claims advanced from time to time by the adventurous and somewhat irregular diplomacy of American statemen."

The "Times" on Lord Granville's Despatch to Minister Lowell.

London, December 13.—The "Times," commenting editorially on Lord Granville's despatch to Minister Lowell on the Fishery question, says: "Earl Granville has now dealt in a simple, straightforward way with the original matter of the contest. He admits that the conduct of the Canadian fishermen was quite indefensible, and does not persist in refusing an indemnity. The Canadians who have already protested against Lord Granville's concessions are crying out before they are hurt. In the Fortune Bay case an acknowledgment in principle that damages are due does not

carry with it an admission that the interpretation on which the American fishermen acted was the right one, but simply accepts the consequences of the undisputed fact that the Newfoundland rioters were in the wrong. Lord Salisbury did not contest that fact, though he refused to admit that Government lay under any responsibility for it. Lord Granville withdraws the technical objection on which this denial of responsibility was founded, and it will be generally allowed that he has done wisely. It is true that, according to the English views, the American fishermen were acting in contravention of the Treaty, but according to the American view, they were within their right. But even if they were proceeding on an ill-founded claim, asserting in practice what their Government maintained in theory, it does not appear that the best way of rebutting their pretension is to declare that those who advance it shall have no remedy against lawless violence. The Government of this country is willing that the American fishermen should be compensated for the damage they suffered in the Fortune Bay riot, which was certainly not a justifiable method of vindicating local law and protecting Canadians against trespass or unfair competition. After Lord Granville's despatch and the tacit adoption of it by the American Government, the Local Government of Newfoundland will be able to insist upon the execution of its fishery laws by all who fish in British waters, without calling in the dangerous aid of mob violence."

Inclosure 3 in No. 89.

Extract from the "North Star" of January 1, 1881.

THE FORTUNE BAY FISHERY DISPUTE.—A despatch from Lord Granville, written in October last, on the subject of the Fortune Bay Fishery dispute, has brought the matter again before the public. It may be remembered that early in the past year some Newfoundland fishermen attacked and destroyed the nets of some others following the same calling at Fortune Bay, who were citizens of the United States. The Government of Washington brought the affair under the notice of our own authorities, and, in addition to demanding compensation for the loss sustained by the Americans in the destruction of their property, contended that, by the Treaty which gave them the right of fishing in certain colonial waters, "in common with British subjects," there was no power to prevent them fishing at times when regulations framed by the Newfoundland Government forbade its own people to fish. Had such a claim been well founded, and a Treaty given such special privileges to American citizens, it would have been a manifest injustice to our own countrymen; and no Ministry, however anxious to please a foreign Power, would ever have consented to anything of the kind. Our trans-Atlantic cousins are not, however, backward in putting in claims, if there is the slightest probability of their being recognized. We do not blame them for this; they are acute people and always have an eye to the main chance, and past experience has told them that, by asking more than they are likely to obtain, they have a fair probability of getting more than they would do were their demands confined to what they really believed that they were entitled to. We are willing to presume that they believed they were in the right, and were under the impression, if made aware on proper authority that fishing was prohibited on the Sunday, that the Colonial Government had no right to place such a restriction upon free trade in fishing. Our Colonial fishermen were not justified in taking the law into their own hands; but there is this excuse, that they probably saw no other means of preventing the Americans from carrying out their purpose. The Americans must understand once and for all that they cannot ride rough-shod over even Colonial laws and regulations on plea of ignorance. There can be no question that the rights given by Treaty to American fishermen were intended to be the same as those enjoyed by British subjects generally; but certainly they were not intended to have any extra privileges. A point has been raised as to the power of the Colonial Government to place, upon rights given by Treaty to another Power, restrictions that were non-existent at the time of such Treaty; and no doubt at first sight there may seem something in the claim that they should not be bound by them, but a little consideration soon disposes of the argument. Were unnecessary and extraordinary restrictions placed upon a trade that foreigners were entitled to embark in on an equality with British subjects, a demand upon the part of such foreign Governments for the removal of such restrictions might have some show of reason; but when such restrictions are placed upon a particular trade or pursuit for the purpose of improving

it and enabling it the more satisfactorily to be followed by all parties, it is quite another matter. And then as regards the right of a Colonial Government to pass laws and enactments interfering with Treaty rights, we have had examples of late years in the Australian Colonies, where special laws restricting the influx of Chinese or "Asiatics" into the Colonies have been passed, and received the Royal assent.

There is another question, however, involved in the Fortune Bay Fishery dispute, which is really of more immediate importance than a discussion as to the right of American citizens to fish when the privilege is denied to our own subjects. We say it is of more importance, as it is not likely that the American Government will seek to push forward its demand for special privileges, as it must see that this is untenable. This question relates to a fishery police. We hear occasionally of a gun-boat being sent to some place or other where foreign fishermen are interfering with our own men, and then the complaints that have led to this show of force are at an end for the time being, until another collision or complaint leads to a similar display, with a like result. It appears to us that it would be more satisfactory if there were a permanent fishery police, whose duty it would be to look after the fishing, to see that the regulations were observed, and to take steps for the punishment of those who broke them, or who transgressed the laws in operation amongst civilized nations generally. Only within the last few days a British fishing-boat came into one of our harbours after having been in collision with a Belgian smack. The result of such a collision was that the British vessel bore away from the Belgian a contrivance which is termed a "devil," for destroying nets, and which had been utilized for the destruction of those belonging to our own countrymen's vessels. A year or two ago, also, there was a collision of a more serious kind, when firearms were used by those on board a foreign boat against some English fishermen, and the matter was made the subject of international correspondence. All such affairs ought to be summarily settled, and no Government ought to, or would, we believe, attempt to screen the offenders. We drew attention to this question in our leading columns on the 22nd May last, and the course we then recommended—of joint national action to secure the due observance of suitable regulations for the fishery—is one that seems likely now to be carried out. A permanent police of the seas should be stationed on every large fishery ground during the fishing season, and offenders be prosecuted to conviction in the regular Courts. The rules for the conduct of the fisheries should be of such a character that there should be no reasonable way of misunderstanding them, and the use of force, except by those authorized to use it, should be met by severe punishment. If a foreign vessel broke the rules, appeal to the sea police should result in its being punished for its act. Had a sea police been present to warn off the American citizens at Fortune Bay there would have been no collision with our own fishermen; and had the Americans persisted in their action, undeterred by the opposition of the police, they must have put up with the consequences. Unfortunately the Newfoundland fishermen, being unable otherwise to make their remonstrances felt, took the law into their own hands, and thus afforded a handle to the American Government, which it has not been slow to avail itself of. Prevention is better than cure, and if outrages can be obviated by the presence of police, as they ought to be, care should be taken to have them at hand. Unless something of the kind be done, fishing disputes may at any time arise, and collisions occur resulting in something far more serious than the destruction of even a number of valuable nets.

Inclosure 4 in No. 89.

Extract from the St. John's "Newfoundlander" of January 4, 1881.

IT is hardly probable that Lord Granville's despatch on the fishery dispute has proved to be a very acceptable presentation at Washington. If we are to credit the rumoured anticipations there of the views of the Foreign Minister on this subject, there must now be an impression that little has been gained from the change of Government in England. The reply is phrased in terms amply courteous, and in large degree conciliatory; while they cleverly combine a firm enough adherence to those principles and lines which had been previously laid down by Lord Salisbury for the protection of British fishery rights.

There can, of course, be no dissent from the proposition that if local laws could be shown to be inconsistent with Treaty rights they would so far cease to be operative. This was Mr. Marcy's doctrine in relation to the Reciprocity Treaty, though he also

maintained the applicability of the Colonial Statutes which were in harmony with that Treaty. But if there be the alleged conflict between those instruments, this must be shown by something more than mere assumption on the part of the Americans, and to this day we are without anything stronger than such assumption in the most ingenious representations put forward to stabilitate their position. If local law obstructed the fair working of the Fishery Treaty, we should rescind the faulty provisions in the interest of our own fishermen. What we contend is, that our laws, being made for the conservation of the fishery, should govern not our own people alone, but those also who, having only rights "in common" with them, cannot therefore claim exemptions which are denied to the natural proprietors of the fishing grounds.

The Foreign Secretary deals in very felicitous manner with the American demand for indemnity for loss sustained by the Fortune Bay disturbance. His first words regarding this pretension would induce expectants of damages to begin to realize the sweet fulfilment of long-deferred hopes. He is "willing that they should be indemnified," and "they are reasonably entitled to compensation;" these are cheery words, but for what are the Americans entitled to this compensation which his Lordship is so willing to yield? For such losses or injuries as, upon a joint inquiry, may be found to have been sustained within the operation of the Treaty of Washington. It happens, however, that the strand fishing of the American fishermen in Fortune Bay was, according to Lord Granville, "clearly in excess of their Treaty privileges," and he administers a polite rebuke to the presumption that would seek compensation for not having been permitted to work out the "excess" to still more extensive bounds.

It has never been denied that our fishermen in Fortune Bay were legally wrong in destroying the property of the Americans, and we presume that to the extent of the wrong so committed the law would compel payment. And this comes to be about the sum total of the trumpety squabble which during the last three years has been blown out to dimensions seeming sometimes to threaten international embroilment. Is this absurdity at last all played out?

No. 90.

Mr. Herbert to Sir J. Pauncefote.—(Received February 1.)

(Confidential.)

Sir,

Downing Street, January 31, 1881.

WITH reference to the letter from this Department of the 27th instant, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a paraphrase of a telegram which has been received from the Governor of Newfoundland in reply to that addressed to him on the 26th instant respecting the proposed appointment of a Commission for the assessment of compensation to which American fishermen may be entitled in connection with the Fortune Bay dispute.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 90.

Paraphrase of a Telegram from Governor Sir J. Glover to the Earl of Kimberley.

January 30, 1881.

FORTUNE BAY question. My Government contend that Newfoundland fishermen were justified in offering resistance to Americans unlawfully fishing; but they will abide by decision which may be arrived at provided that proposed inquiry is limited to question whether excess of force was used; and if so, what damage was done by such excess to fishing gear of Americans, in conformity with despatches of the Marquis of Salisbury and Earl Granville; and provided also that damages be assessed for losses to our fishermen from injuries to our fishing property and from Americans contravening the Treaty.

No. 91.

Sir J. Pouncefote to Mr. Herbert.

Sir, *Foreign Office, February 3, 1881.*
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 27th ultimo, together with its inclosures, upon the subject of certain counter-claims which the Government of Newfoundland propose to set up as against those of the United States' fishermen in respect of damages alleged to have been sustained by the Colonial fishermen on the occasion of the disturbances at Fortune Bay in January 1878.

I am, in reply, to request that you will state to the Earl of Kimberley that Lord Granville is in doubt whether, at this stage of the negotiations for the settlement of this matter, it would be desirable to advance the counter-claims in question, in view of the fact that no mention was made of them at the time when Her Majesty's Government agreed to afford compensation to the American claimants.

Lord Granville is, however, of opinion that it would be well to instruct Sir John Glover to cause these counter-claims to be carefully prepared and transmitted, in case it should be deemed advisable to present them; but his Excellency should be informed at the same time, that Her Majesty's Government reserve for further consideration the question whether they can, with propriety, be pressed upon the United States' Government.

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

No. 92.

Mr. Herbert to Sir Pouncefote.—(Received February 4.)

Sir, *Downing Street, February 3, 1881.*
 WITH reference to the letter from this Department of the 27th January, in which you were informed that the Governor of Newfoundland had been asked to ascertain whether his Government would abide by the decision which might be arrived at between Her Majesty's Government and that of the United States relating to the claim of the United States' fishermen to compensation for losses sustained on the occasion of the Fortune Bay dispute, I am directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that the Governor of Newfoundland has reported by telegraph that his Government contend that the Newfoundland fishermen were justified in offering resistance to the Americans unlawfully fishing, but that they will abide by the decision which may be arrived at, provided that the proposed inquiry is limited to the question whether excess of force was used, and, if so, what damage was done by such excess to the fishing gear of the Americans, in conformity with the despatches of the Marquis of Salisbury and Earl Granville; and provided also that damage be assessed for losses to the Newfoundland fishermen from injuries to fishing property and from the Americans contravening the Treaty.

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

No. 93.

Mr. Bramston to Sir J. Pouncefote.—(Received February 9.)

Sir, *Downing Street, February 8, 1881.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 3rd instant, which has crossed the letter from this Department of the same date, upon the subject of certain counter-claims which the Government of Newfoundland propose to set up, as against those of the United States' fishermen, in respect of damages alleged to have been sustained by the colonial fishermen on the occasion of the disturbances at Fortune Bay in January 1878.

Upon the receipt of your letter, Lord Kimberley informed the Governor of Newfoundland by telegram to the effect that Earl Granville's letter to Mr. Lowell of the 27th October, which must be considered the point of departure for the present nego-

tiations, admitted an excess of force on the part of Newfoundland fishermen, and that the question now to be decided is the amount of damages; that Her Majesty's Government could not undertake to include counter-claims in the inquiry now pending, but that they would not lose sight of them, and would be glad to have full particulars as to their nature and amount.

A copy has now been received from the Governor of Newfoundland by telegram, dated the 6th instant, saying that he has communicated the substance of the above telegram to the Premier; that the mail would leave Newfoundland on the following day, and that his Ministers would require time for consideration; that three months would be requisite for the preparation of the counter-claims; and that it seemed to him (the Governor) doubtful whether the counter-claims would be prepared unless judicial inquiry were conceded and witnesses cross-examined by counsel, as it was considered that the United States' affidavits were fictitious.

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

No. 94.

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

(No. 4.)

(Telegraphic.)

Washington, February 10, 1881.

SECRETARY of State to-day read to me two despatches of 4th instant to the United States' Minister in London.

One presents a new claim of American fishermen for being prevented from fishing for bait in November last on the coast of Newfoundland. The other regards the Fortune Bay affair, and suggests that the matter of indemnity should be summarily settled by the United States' Secretary of State and myself, or by persons delegated by us.

The despatches are to be communicated or read to your Lordship. The tone of neither of them is very agreeable.

No. 95.

Sir J. Pauncefote to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, February 11, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch from Her Majesty's Minister at Washington respecting the Fortune Bay question.*

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

No. 96.

Mr. Herbert to Sir J. Pauncefote.—(Received February 12.)

Sir,

Downing Street, February 12, 1881.

WITH reference to the letters from this Department of the 8th instant, and to previous correspondence respecting the Fortune Bay case, I am directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that he has received a telegram from the Governor of Newfoundland, dated the 11th instant, in which it is stated that the Government of the Colony respectfully contend that no American claims can be regarded as admissible except those for damages to fishing gear from the use of excessive force, supposing that such excessive force was used. The Colonial Government consider that the inquiry should be limited to that basis, and also claim the right of Newfoundland to be represented at the proposed inquiry, with full power to investigate, cross-examine, and produce witnesses.

Sir J. Glover adds that his opinion on this point is stated in a Confidential despatch which he has addressed to Lord Kimberley, and which is due in London about the 22nd of this month.

Lord Kimberley proposes, with Lord Granville's concurrence, to address a telegram to Sir J. Glover in reply, stating that it will be impossible to limit the inquiry to the basis suggested, but that every opportunity will be given to his Government to state their case, and that the fullest care will be taken by Her Majesty's Government to guard the interests of the Colony, more particularly as it will be necessary that the Colony should be held ultimately responsible for any damages which, upon a friendly investigation, or, if necessary, an arbitration, may be found due to the United States, as his Government will at once perceive.

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

No. 97.

Sir J. Pouncefote to Mr. Herbert.

Sir, *Foreign Office, February 12, 1881.*
IN reply to your letter of this day's date, I am directed by Earl Granville to request that you will inform the Earl of Kimberley that his Lordship concurs in the terms of the telegraphic despatch which it is proposed to address to the Governor of Newfoundland in regard to the proposed Commission for the assessment of the claims connected with the Fortune Bay question.

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

No. 98.

Mr. Herbert to Sir J. Pouncefote.—(Received February 14.)

(Secret.)

Sir, *Downing Street, February 12, 1881.*
WITH reference to previous correspondence respecting the Fortune Bay question, I am directed by the Earl of Kimberley to transmit to you, for communication to Earl Granville, a copy of a telegram received to-day from the Governor of Newfoundland, stating the views of his Government with respect to the proposed inquiry.

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

Inclosure in No. 98.

Governor Sir J. Glover to the Earl of Kimberley.

(Secret.)

(Telegraphic.)

Newfoundland, February 11, 1881.

MY Government respectfully contend that the American claims are entirely inadmissible beyond damages to fishing gear from excess of force, if any, and that inquiry be limited to that basis. They claim the right of Newfoundland to be represented at the proposed inquiry, with full investigation, cross-examination, and production of testimony. My opinion on this point is stated in the latter part of paragraph 5 of my Confidential despatch of the 7th instant, which is due in London about the 22nd instant.

No. 99.

Mr. Everts to Mr. Lowell.—(Communicated to Earl Granville by Mr. Lowell, February 16.)

Sir, *Department of State, Washington, February 4, 1881.*
THE communication from Her Britannic Majesty's Secretary of State for Foreign Affairs, Lord Granville, of the 27th October, 1880, respecting the disturbance which occurred at Fortune Bay on the 6th January, 1878, was duly received in your despatch No. 81 of the 28th October, 1880.

As the separation of the questions raised by that occurrence and the method of their solution were general suggestions on the part of Her Britannic Majesty's Government, I had naturally supposed that this despatch would have been followed by such definite propositions as this Government could either accept or decline; the more so, as I had (on the 12th June, 1880), in reply to your telegraphic Report of a conversation with Lord Granville, authorized you to say that "the President will be quite ready to entertain any considerations which may be presented to the Secretary of State to relieve the question of the fisheries from its present difficulties."

If, however, as circumstances would seem to indicate, I am to consider this communication as a preliminary inquiry from Lord Granville for the purpose of learning whether such suggestion would be so favourably received by this Government as to justify the opening of direct negotiation, it becomes my duty to put you in possession of the impressions which this inquiry has made upon the Government of the United States.

As I understand the purport of Lord Granville's communication, Her Britannic Majesty's Government desires to arrange the compensation due to the United States' fishermen for the disturbances at Fortune Bay, without the formal consideration or decision of any questions of Treaty construction which the facts of that disturbance might seem to raise, resting the right of compensation solely upon the unlawful violence exercised by British subjects in Newfoundland.

The facts in this case are not complicated, and the calculations are simple. The United States' Government does not see in its present condition or character sufficient grounds to require any very elaborate method of decision such as a Commission or the necessity for any protracted inquiry. If Her Britannic Majesty's Government will propose the submission of the computation of damages to the summary award of the Secretary of State of the United States and Her Britannic Majesty's Representative at Washington (this function to be exercised either directly or by such delegation as may seem to them judicious), the Government of the United States will accept the proposition and close this controversy on the basis of that award.

But in signifying to Her Britannic Majesty's Government the willingness of the United States to accede to such a proposition, you will carefully guard against any admission of the correctness of those views of our Treaty rights which are expressed either explicitly or by implication in Lord Granville's communication of the 29th October, 1880.

The views of this Government upon the proper construction of the rights of fishery guaranteed by the Treaty of Washington have been fully expressed in my former despatches, and no reasons have been furnished to induce a change of opinion. The delay in the settlement of the Fortune Bay case has been already too long protracted. It has provoked a not unnatural feeling of irritation among the fishermen of the United States at what they conceive to be a persistent denial of their Treaty rights, while it is to be feared that it has encouraged among the provincial fishermen the idea that their forcible resistance to the exercise of these rights is not without justification in their local law and the construction which Her Britannic Majesty's Government is supposed to have placed upon the provisions of the Treaty.

It is now three years since twenty-two vessels belonging to the United States, and engaged in what by them and their Government was considered a lawful industry, were forcibly driven from Fortune Bay under circumstances of great provocation, and at very serious pecuniary loss. And this occurred at the very time when, under the award of the Halifax Commission, the Government of the United States were about paying to Her Britannic Majesty's Government a very large amount for the privilege of the exercise of this industry by these fishermen. In March of the same year, 1878, this very grave occurrence of January was brought to the attention of the British Government, in the confident hope that compensation would be promptly made for the losses caused by what the United States' Government was willing to believe was a local misconstruction of the Treaty, or a temporary, and from ignorance, perhaps, an excusable, popular excitement.

It is unnecessary to do more than recall to your attention the long and unsatisfactory discussion which followed the presentation of this claim, and especially the fact that, in its progress, the Government of the United States was compelled to express, with emphatic distinctness, the impossibility of accepting the subordination of its Treaty rights to the provisions of local legislation, which was apparently put forward by Her Majesty's Government as a sufficient ground for the rejection of the claim. And it was not until April 1880 (a delay of two years, during which the

importance of an early settlement was urged upon Her Majesty's Government), that, after what this Government understood and accepted, at least as a satisfactory modification of the assumption, we were informed by Lord Salisbury that "Her Majesty's Government are of opinion that, under the circumstances of the case, as at present within their knowledge, the claim advanced by the United States' fishermen for compensation on account of the losses stated to have been sustained by them on the occasion in question is one which should not be entertained."

This decision of Her Majesty's Government terminated any further discussion, and the Government of the United States found itself compelled to protect the interests of its citizens by such methods as might commend themselves to its judgment. In addition to the Halifax Award which we had paid for the privileges and rights, the exercise of which is now denied our citizens, we were also continuously paying, in the shape of a remission of duties, some 300,000 dollars per annum for this abortive right. Thus forced into position of antagonism, which it profoundly regretted, the Government of the United States was about to take such action as would at least suspend this annual payment until the two Governments were in accord upon the construction of the Treaty, when Her Majesty's Government, through the United States' Minister in London, suggested, June 9, 1880, that the consideration of the subject be resumed between the two Governments, and that, in such consideration, the two questions of the interpretation of the Treaty and the attack upon the American fishermen be separated. To that suggestion I replied, June 12, 1880, communicating my great gratification at the friendly disposition of the British Cabinet, and saying that, "the President would be quite ready to entertain any consideration which may be presented to the Secretary of State to relieve the question of the fisheries from its present difficulties."

On October 27, 1880, Lord Granville addressed you the communication which is the subject of this despatch. I regret to find in this communication a disposition to restrict a liberal compensation for an acknowledged wrong by limitations of the fishing rights accorded by the Treaty to which this Government cannot consent. The use of the strand, not as a basis of independent fishing, but as auxiliary to the use of the seine in these waters, where seine fishing is the only possible mode of taking herring, has been maintained by this Government in my former despatches, and would seem to be justified by the explicit declaration of Her Majesty's Government in the "case" submitted by them to the Halifax Commission, in which, referring to the use of the shores, it is affirmed, "without such permission the practical use of the inshore fisheries was impossible." But as Lord Granville distinctly refers the propriety and justice of these limitations to further negotiations I will not now discuss them, reserving what I deem it right to say for a future despatch in reference to the second of his Lordship's suggestions.

I have recalled to your attention the history of the Fortune Bay outrage, in order that you may express to Her Britannic Majesty's Government the great disappointment which this long delay in its settlement has occasioned. The circumstances under which it occurred were such as to induce this Government to anticipate prompt satisfaction, and it is impossible not to feel that the course which the British Government has thought fit to pursue has seriously affected public opinion as to the worth of the Treaty, which it was hoped by both countries had promoted an amicable solution of long-standing difficulties.

The United States' Government cannot feel that justice has been done its citizens in the protracted discussion which this occurrence has provoked, and while perfectly willing to endeavour, in concert with Her Britannic Majesty's Government, to find some practical and friendly solution of the differences of construction as to the Treaty provisions which their application seems to have developed, this Government cannot consent that, pending such discussion, its citizens shall be exposed to the indignity and loss which have been imposed upon them by these and like occurrences.

You will intimate courteously but firmly to Lord Granville that in accepting what we understand to be the proposition of Her Majesty's Government, it is understood as carrying the idea that the settlement suggested will be put in course of immediate execution, and that the determination of the amount of compensation will not be formally confined by any limitation arising from any construction of the Treaty which may be matter of difference between the two Governments.

So useful to the great interests involved do I regard the prompt settlement of this incident in our fishery relations, that I should be glad to hear by telegraph that Lord Granville concurs in the simple form of award which I have proposed.

In imparting to the British Government these views, you may, in your discretion, read this despatch to Lord Granville, and, if he desires it, leave him a copy.

I am, &c.
(Signed) WM. M. EVARTS.

No. 100.

Earl Granville to Sir E. Thornton.

(No. 29.)

Sir, *Foreign Office, February 18, 1881.*
THE United States' Minister at this Court called upon me here on the 16th instant.

Mr. Lowell read to me the despatch addressed to him by the United States' Secretary of State, dated the 4th of this month, to which you refer in your telegram of the 10th instant, relative to the occurrences at Fortune Bay; when he had finished reading it, I observed that I could only reply to it officially after having considered the despatch, a copy of which he communicated to me, for a day or two, in consultation with my colleagues, but I added that its tone was one of complaint, and hardly in unison with the conciliatory course which Her Majesty's Government have taken in the matter.

Mr. Lowell, however, assured me that he did not believe that it was intended to convey this impression, but that inasmuch as public opinion in the United States had been somewhat excited upon the subject, his Government had deemed it necessary to place once more their views upon record.

I went on to say that in any case I did not wish to dwell on a matter of form, but that as to the substance of the despatch, there seemed to be propositions in it with which I believed that Her Majesty's Government would be disposed to agree; that there would be no objection to the reservation by each Government of their opinion as to their respective rights, but it might be hoped that such questions would be set at rest both by the agreement which would be come to as to the amount of damages to be paid to the United States' fishermen, as well as by the Regulations which might be established in the future.

I added that the proposal of the United States' Government, that the question of damages should be arranged by negotiation between the Secretary of State and yourself, or by parties delegated by each of you respectively for that purpose, appeared to me to be good.

Mr. Lowell said that whilst unwilling to precipitate the discussion, he was desirous of impressing upon me the great importance of the right to the strand fishery, and of the bait question.

But I suggested that we should not go further into these matters at present.

I am, &c.
(Signed) GRANVILLE.

No. 101.

Earl Granville to Sir E. Thornton.

(No. 30. Confidential.)

Sir, *Foreign Office, February 18, 1881.*
I TRANSMIT to you herewith, for your information, copies of two letters from the Colonial Office, in regard to the Fortune Bay question.*

I am, &c.
(Signed) GRANVILLE.

No. 102.

Mr. Herbert to Sir J. Pauncefote.—(Received February 18.)

Sir,

Downing Street, February 17, 1881.

I AM directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that he has received a telegram from the Governor of Newfoundland, in which he acknowledges the receipt of the telegram respecting the Fortune Bay inquiry, the substance of which was communicated to you in my letter of the 12th instant, and requests to be informed whether, in accordance with the wish of his Government, the telegraphic despatches which have passed on this subject may be communicated to the Colonial Legislature which was to meet to day.

Lord Kimberley has informed Sir J. Glover, in reply, that this correspondence being at present confidential cannot be communicated as proposed.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 103.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, February 18, 1881.

I AM directed by Earl Granville to state to you, for the information of Her Majesty's Secretary of State for the Colonies, that the United States' Minister at this Court called upon his Lordship at the Foreign Office on the 16th instant to read to him a despatch which he had received from his Government, a copy of which is inclosed herewith,* relative to the Fortune Bay case.

This despatch is a reply to the communication addressed by Lord Granville to Mr. Lowell on the 27th October, a copy of which was transmitted to you in my letter of the 28th of that month.

I am further to transmit the accompanying copy of a despatch addressed to Her Majesty's Minister at Washington,† embodying the substance of the conversation which ensued between Lord Granville and Mr. Lowell; and I am to request, that in laying these papers before the Earl of Kimberley, you will move his Lordship to favour Lord Granville with his observations thereon.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 104.

*Lord Tenterden to the Lord Chancellor.**Foreign Office, February 19, 1881.*

LORD TENTERDEN presents his compliments to the Lord Chancellor, and has the honour to transmit to him, by direction of Earl Granville, the accompanying copy of a despatch received by the United States' Minister at this Court from his Government, on the subject of the Fortune Bay dispute, and which Mr. Lowell, in accordance with his instructions, left with Lord Granville on the 16th instant.*

In this despatch the United States' Government renew their complaints of the delay which has taken place in the settlement of this matter, and express the hope that the amount of compensation may be fixed without entering into any discussion of Treaty rights.

Lord Granville is disposed to adopt this suggestion by the immediate offer of a moderate and reasonable sum, without any joint inquiry, and without going into the particular items of claim set out in the original demand of the United States' Government.

His Lordship apprehends that this course could be followed without prejudice to the Treaty rights of this country, which would be expressly reserved, but before taking any action he would be glad to be favoured with the Lord Chancellor's views.

Lord Kimberley has seen the papers, and is disposed to concur in the mode of solution proposed by Lord Granville.

Further Memorandum by the Lord Chancellor.

THE course which commends itself to Lord Granville, of offering "a moderate and reasonable sum," without any joint inquiry, and without going into the particular items of the claim made by the United States' Government, would certainly not involve any prejudice to the Treaty rights of this country, if those rights were (as is proposed) expressly reserved; and I should think it a very good course to take, if it is likely to be accepted, and assuming no great importance to be attached to the question, whether what may be so paid can or cannot afterwards be recovered from the Newfoundland Treasury.

But I am far from sanguine as to the chance of an agreement on this footing. The tone of Mr. Evarts' despatch of the 4th February seems to me very unpromising. It is full of the spirit which (I regret to say) seems to me to be characteristic of American diplomacy when international claims (especially money claims) are in question. There is never any "give and take" with them. Whatever is conceded is accepted; and everything beyond is then pressed more tenaciously (if possible) than before. It is inconceivable to me that the writer of that despatch should accept in this case, as sufficient, any amount which we could possibly offer as "moderate and reasonable."

I see no reason to modify any part of the opinions which I expressed in my two memoranda of the 21st July and 7th October, 1880.

With respect to the "strand fishing" in particular, the terms of the Convention of 1818, and of the Articles XVIII and XXXII of the Treaty of Washington (quoted in Lord Salisbury's despatch of the 3rd April), seem to me to define the *land* rights granted by the Treaty in a manner which distinctly *excludes* it; and the *decision* of the Halifax Commission (in accordance with the argument maintained at the time by the United States' Agent) proceeded upon a principle which, though the strand fishing may not have been then principally or immediately in question, clearly covered it. The importance of this point is, that when the Americans fish (as they have done, not only without objection, but with aid from the Newfoundlanders) with seines, or otherwise, *from the shore*, they do so not in exercise of the *rights* which they have acquired by Treaty, but by the courtesy and hospitality of the people of Newfoundland voluntarily admitting them to a participation in their own use of the shore. In this the American fishermen neither do, nor suffer wrong; but it appears to me, on very plain principles, that in what they do, *without Treaty right* upon and from the *terra firma* of Newfoundland, they are subject, and out to be obedient, to the local law.

I cannot close this memorandum without saying that, however desirable a speedy settlement of this matter may be, I should not think it expedient to purchase such a settlement upon any terms which would either compromise the permanent rights and interests of the Colony of Newfoundland and its fishermen, without giving the Government of that Colony the fullest opportunity of being heard in support of their own rights and interests, or concede (even in appearance) the principles contended for in Lord Granville's despatch of the 27th October. If the amount of compensation insisted upon by the United States' Government should be such as cannot reasonably be entertained on these principles, it would, I think, be more satisfactory to have it settled by an arbitrator on each side, with an impartial umpire (if an impartial umpire is possible), than to rely on any solution being come to by the two Governments, after appointing a referee on each side, and finding that the referees cannot agree.

(Signed) SELBORNE.

February 21, 1881.

Earl Granville to Sir E. Thornton.

(No. 33.)

Sir, *Foreign Office, February 21, 1881.*

MR. LOWELL informed me to-day that, in addition to the despatch from Mr. Evarts of the 4th instant, he had received another on the subject of the occurrences at Fortune Bay, of which he communicated to me the substance, to the following effect:—

There had been, Mr. Evarts stated, more than one attack upon American fishermen, and the President was of opinion that the long delay which had arisen in coming to a settlement of the Fortune Bay case had encouraged the fishermen there to these acts of violence, which the Government of the United States saw with dissatisfaction.

There could be no question between the two Governments as to the illegality of these further outrages to which he had referred, and he was desirous to call the immediate attention of Her Majesty's Government to these complaints. The President could not suppose that Her Majesty's Government would prefer any display of force for the protection of the American fishermen to an intervention on the part of Her Majesty's Government to prevent the repetition of this violence.

I asked Mr. Lowell whether I was to consider this as any intimation of a menace. He assured me that he had not the least reason to suppose so.

I then said that on this assurance I would tell him what had occurred to me with regard to the previous despatch from Mr. Evarts. I had not much to add to what I stated to him as my first impression of that despatch. The two propositions contained in it appeared to me to be acceptable, viz., that each Government should reserve their respective Treaty rights, and that, in accordance with the proposal of Mr. Evarts, the amount of damages should be settled by him and by yourself, or by Delegates appointed by either, but I thought that it was desirable, in case there was a difference, which I hoped would not occur, that there should be a previous agreement to refer it to a third person.

It had, however, occurred to me that it would be a still shorter and more satisfactory mode of procedure, that I should at once propose a fair and reasonable sum to settle the matter. If Mr. Lowell would telegraph to ascertain whether this suggestion commended itself to Mr. Evarts, I would in the meanwhile inquire, from the best authority obtainable, what would be an equitable calculation of the amount, in order to make a fair and liberal offer of a round sum. The calculations of the fishermen themselves were obviously such as were likely to be put forward by the parties interested.

I am, &c.
(Signed) GRANVILLE.

No. 107.

Mr. Lowell to Earl Granville.—(Received February 22.)

My Lord,

Legation of the United States, London, February 22, 1881.

I HAVE the honour to inclose herewith copies of the affidavits of the masters of two United States' fishing-vessels, detailing the acts of violence by which they have been prevented from exercising their rights of fishing in certain Newfoundland waters, and which are mentioned in the instruction from Mr. Evarts which I had the honour of communicating to your Lordship yesterday.

I have, &c.
(Signed) J. R. LOWELL.

Inclosure 1 in No. 107.

Affidavits of Joseph Bowie and Charles G. Ferguson.

I, JOSEPH BOWIE, master of the American schooner "Victor," of Gloucester, Massachusetts, do on oath depose and say that I sailed from Gloucester on or about the 7th June, 1880, for a trip to the Grand Banks for codfish. I went into Musquito, Newfoundland, three times for bait, and bought capelin from the local fishermen, which they had taken in seines of their own. I paid for bait (and ice to preserve it) 66 dollars for the three baitings.

The next time, I went to a place called Devil's Cove on the chart, but it is called Job's Cove by the people. This was on the 4th August, and the only bait to be obtained was squid. I anchored in the cove about a quarter of a mile from the shore, and commenced to catch squid with the common hooks or jigs used for that purpose. I had no nets or seines on my vessel. I had been fishing about fifteen

minutes when some sixty boats that had been fishing inshore from us, manned by at least 150 men, rowed up alongside of us, and forbade our taking any squid. I was not interfering in any way with their fishing, they being a long distance inside of us; in fact, we were outside of the cove, in open water. I had intended to buy my squid, but finding them plenty, I found I could catch them, and save the expense of buying. I was acting in perfect accordance with my Treaty rights, and knew what my rights were. I tried to reason with these people, and told them that I had a right to take bait or other fish without being restricted to any distance from shore, and that I should not interfere with them, and they had no right to molest me. I told them the United States had paid a large sum for this privilege; but they declared they knew nothing about it, and cared nothing about it. They told me I should not catch my bait, but should buy it of them. I kept on fishing, and they then attempted to board my vessel; they threatened to cut my cable, and threatened other violence. Finding myself powerless against so many, I told my crew to haul in their lines and stop fishing, which they did. This pacified the mob, and they then left me.

The next morning I determined to fish, and not submit to this violence.

I manned my lines and commenced to fish. The boats came off in larger numbers, and the men were very violent. They said, "We warned you not to fish yesterday, and we will cut your cable and drive you on shore if you don't stop;" they came alongside, struck at my men with their oars, and some ten men leaped on the vessel and gathered around the windlass.

I went forward and asked them if they were aware what they were doing; they told me they were, and that I should not fish there. At the same time I saw a heavy oar lifted over my head, and jumped one side to avoid the blow, which, if it had struck me, would have struck me down.

In the meanwhile the mob had entirely destroyed our lines and jigs, leaving me no means of fishing.

The boats being around my bow at the cable, and knowing if it was cut my vessel would be likely to go on shore, as the wind blowed directly on, I had to submit again to mob violence, and agreed not to fish any more. They then left my vessel, and went for the American schooner "Moro Castle," which had come in, and was trying to catch bait. The wind blowed so hard that I was obliged to get under weigh, and leave without my bait; as my trip depended on my getting bait speedily, I returned there and bought my bait the next day, paying 120 dollars for squid; I was obliged to do this, as there was no squid at any other place.

It is universal in the baiting-places at Newfoundland to experience the same feeling and action, and it is impossible for American vessels to take their own bait, as the local fishermen will not allow it, but compel us to purchase it of them.

We are thus compelled to pay at least 100,000 dollars yearly, although the Treaty of Washington gives us a perfect right to take these fish, and I am satisfied that the United States receives absolutely nothing for the immense sum paid for the privilege of fishing on the coast of British North America.

(Signed) JOSEPH BOWIE,
Master of Schooner "Victor."

I, Charles G. Ferguson, one of the crew of the schooner "Victor," of Gloucester, Massachusetts, do on oath depose and say that I was on board the schooner, and know that all the facts stated by Captain Bowie are true.

(Signed) CHARLES G. FERGUSON,
One of the Crew.

Massachusetts. Essex, ss.

Personally appeared the above-named Joseph Bowie, master, and Charles G. Ferguson, one of the crew of schooner "Victor," and made oath to the truth of the above affidavit.

Before me,
(Signed) AARON PARSONS, *Notary Public.*

Gloucester, November 18, 1880.

Inclosure 2 in No. 107.

Affidavit of John Dago.

I, JOHN DAGO, master of the American schooner "Concord," of Gloucester, Massachusetts, do on oath depose and say that I left Gloucester on the 1st April, 1880, "for a trip to the Grand Banks." Our first baiting was at Freshwater Bay, Newfoundland, buying capelin and ice to the amount of 25 dollars. On the 9th August, 1880, we went into a cove in Conception Bay, called Northard Bay, for squid. I put out four dories and attempted to catch my bait with the squid jigs, or hooks used for that purpose.

My men went in to the immediate vicinity of where the local shore boats were fishing for squid, but in a short time they returned and reported to me that they were not allowed to fish by the men on board the shore boats, and not wishing any trouble they returned on board. I then manned my lines on the vessel and commenced to catch squid. The men in the shore boats seeing us fishing came off to us to the number of sixteen boats with some thirty men. These men demanded that I should stop fishing or leave, or else buy squid from them. They were very violent in their threats, and, to avoid trouble, I bought my squid, paying them 150 dollars for the squid, which I could easily have taken if I had not been interfered with.

Wherever I have been in Newfoundland I find the same spirit exists, and that it is impossible for any American vessel to avail herself of the privileges conferred by the Treaty of Washington, that the Fishery Articles of that Treaty are entirely useless and valueless, and in no sense does the American fisherman receive any benefit from the Treaty.

(Signed) JOHN DAGO, *Master.*

Massachusetts, Essex, ss.

Personally appeared the above John Dago, and made oath to the truth of the above affidavit.

Before me,

(Signed) AARON PARSONS, *Notary Public.*

Gloucester, November 18, 1880.

No. 108.

Earl Granville to Sir E. Thornton.

(No. 6.)

(Telegraphic.)

Foreign Office, February 22, 1881, 5.45 P.M.

UNITED STATES' Minister read to me yesterday second despatch from Mr. Evarts. I asked him whether the allusion to a display of force for protection of American fishermen was intended to intimate a menace. He said he had not the least reason to suppose so. On this assurance I told him the two propositions contained in the first despatch seemed acceptable, viz., that each Government should reserve its Treaty rights, and the amount of damages should be settled by Mr. Evarts and yourself, or by delegates appointed by you, but I thought there should be a previous agreement to refer to a third person in case, which I hoped would not occur, of difference. I then suggested, as still shorter and more satisfactory, that Her Majesty's Government should at once propose a fair and reasonable sum to settle the matter. If he would telegraph to ascertain whether this suggestion commended itself to Mr. Evarts, I would inquire from the best authority obtainable what would be an equitable calculation in order to make a fair and liberal offer of a round sum. The fishermen's calculations were obviously such as might be looked for from parties interested.

No. 109.

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

(No. 49.)

My Lord,

Washington, February 11, 1881.

DURING a visit which I paid to the State Department yesterday, Mr. Evarts read to me two despatches which he had addressed on the 4th instant to Mr. Lowell, the United States' Minister in London.

One of these referred to a claim made by some United States' fishermen on account of having been prevented in November last from catching bait on the coast of Newfoundland.

It stated that Newfoundland fishermen had intimated to the American fishermen that they would not allow them to fish for bait; that this prohibition was the act of the Newfoundland fishermen only without any intervention on the part of the authorities either for or against it; that there was no question as to the legality or otherwise of Americans fishing for bait, or of their mode of fishing, whether as regarded their nets or anything else; but that the Newfoundland fishermen simply forbade the Americans to fish for bait on the ground that it interfered with their rights and profits in selling bait. The despatch was accompanied by affidavits which, however, Mr. Evarts did not show me.

The other despatch related to the Fortune Bay affair, with regard to which it suggested that there should be a summary settlement of the amount of indemnity due to American fishermen on account of the damage done to their nets, &c., on the above occasion, either between him and myself, or by two persons delegated by us for that purpose. I gave to Mr. Evarts my opinion that no two persons, one on each side, could ever come to an agreement upon the subject, and that the assistance of a third and impartial person would always be necessary. But Mr. Evarts replied that it was a small business, that it was not advisable to make a great affair of it, and that he thought any two reasonable persons could come to an agreement upon it. I, however, maintained my opinion, and the more so because, although Mr. Evarts read the despatch very quickly, it appeared to me that it insisted upon the right of American fishermen, in the enjoyment of the permission granted them by the XVIIIth Article of the Treaty of the 8th May, 1871, "To take fish of every kind, except shell-fish, on the sea-coasts and shores, &c." also to make use of the strand for the purpose of carrying on that mode of fishing. As your Lordship's note of the 27th October last states in plain terms that strand fishing is a mode of fishing to which, under the Treaty of Washington, American fishermen are not entitled to resort, here would arise the first point of disagreement between any two persons who might be appointed to agree upon the amount of indemnity.

The tone of the despatch is not very agreeable. It complains rather bitterly of the delay which has taken place in the settlement of the Fortune Bay affair, and charges that by this delay the Newfoundland fishermen had been encouraged in their opposition to the American fishermen. I said very frankly to Mr. Evarts that, considering the sincere spirit of conciliation which had been proved by your Lordship's note above mentioned, the language of his despatch was ungracious, and that the delay could not be attributed entirely to us, although there was much more reason for it on our side on account of the investigations and inquiries which it was necessary to make, and the distance from England of the scene of the occurrences.

Mr. Lowell may, perhaps, have communicated to your Lordship the contents of the two despatches before this can reach the Foreign Office.

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

No. 110.

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

(No. 9. Confidential.)
(Telegraphic.)

Washington, February 23, 1881.

AT Secretary of State's invitation, I had a confidential conversation with him this morning with respect to your Lordship's telegram of yesterday and one from the United States' Minister to him. He begged me to tell you that he should prefer the offer by Her Majesty's Government of a sum, because the matter could thus be settled more promptly and would not be left to his successor. But he thought unless it were a liberal offer it would be more than useless, whereas a generous offer might facilitate future negotiations with regard to the fisheries question. He gave his idea that about 80,000 dollars, including interest, would be a fair settlement, being about two-thirds of the original claim with interest.

As a matter of expediency, though not of strict justice, I think it may be wise

to make such an offer. Secretary of State hopes that you will send an answer as soon as possible.

No. 111.

Earl Granville to Sir E. Thornton.

(No. 33 A.)

Sir, *Foreign Office, February 23, 1881.*

I TRANSMIT to you herewith, for your information, the accompanying copy of a letter from Mr. Lowell, inclosing copies of affidavits respecting the further complaints of American fishermen referred to in his communication to me on the 21st instant, as stated in my despatch to you No. 33 of that day.*

Mr. Lowell, in giving me these papers, suggested that these new claims to which the affidavits relate should be referred to Mr. Evarts and yourself, together with those arising out of the proceedings at Fortune Bay.

There has already been a correspondence with the Colonial Office respecting one of these cases, that which occurred at Jobs Cove, and I have forwarded the papers to Her Majesty's Secretary of State for the Colonies.

I am, &c.
(Signed) GRANVILLE.

No. 112.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, February 23, 1881.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch as marked in the margin, in regard to the Fortune Bay affair.†

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

No. 113.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, February 23, 1881.*

WITH reference to previous correspondence, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of despatches as noted in the margin, in regard to the Fortune Bay affair and other fishery disputes off the coast of Newfoundland.‡

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

No. 114.

Lord Tenterden to Mr. Herbert.

LORD TENTERDEN presents his compliments to the Under-Secretary of State for the Colonies, and, with reference to the other letter of to-day's date from this Office in regard to fishery disturbances off the coast of Newfoundland, is directed by Earl Granville to point out to him, for the information of the Earl of Kimberley, that the occurrences at Devil's (or Job's) Cove, which are treated of in Mr. Lowell's letter of the 22nd instant, have already formed the subject of a correspondence under dates, as shown in the margin,§ between the Foreign and Colonial Offices.

Foreign Office, February 23, 1881.

* No. 107.

† No. 111.

‡ Nos. 106 and 107.

§ Colonial Office, September 17; To Colonial Office, September 24; Colonial Office, October 1; To Colonial Office, October 11; Ditto, October 12; Colonial Office (two), October 23; To Colonial Office, November 8; Ditto, November 17; Colonial Office, November 27, 1880; and Colonial Office, January 14, 1881.

No. 115.

Earl Granville to Sir E. Thornton.

(No. 34.)

Sir,

Foreign Office, February 24, 1881.

WITH reference to my despatch No. 29 of the 18th instant, I transmit to you herewith, for your information, a copy of a despatch as noted in the margin, relative to the Fortune Bay affair.*

I am, &c.

(Signed) GRANVILLE.

No. 116.

Earl Granville to Sir E. Thornton.

(No. 35.)

Sir,

Foreign Office, February 24, 1881.

THE United States' Minister called upon me this afternoon, and informed me that he had received a telegram from Mr. Evarts, in which the latter expressed satisfaction at the suggestion I had made of the offer of a lump sum in compensation for the losses suffered by the United States' fishermen at Fortune Bay.

Mr. Evarts added that he preferred this mode of settlement, and that he considered the total amount of the claims, with interest, amounted to about 120,000 dollars. Mr. Lowell said, however, that he believed Mr. Evarts would be ready to accept a sum of 80,000 dollars in satisfaction of the claims.

I told Mr. Lowell that I had had an opportunity of consulting my colleagues on the question, that we had agreed that it would be best not to look too narrowly at the intrinsic value of the claims put forward by the American fishermen, but to have regard to the more general considerations involved. I said I was not authorized to enter into any process of bargain as to the exact amount which would actually cover the losses, but to offer, on behalf of Her Majesty's Government, the payment of a lump sum of 15,000*l.*, or, say, 75,000 dollars, in full settlement of the question of damages, including interest, and also the two smaller cases which he had been instructed to bring to my notice a few days ago. With regard to these latter, I observed that the only testimony we had was all on one side, and that, if they had to be separately considered, it would be necessary to call for counter-evidence. They were, however, cases in which, *prima facie*, the Newfoundland fishermen appeared not to be in the right. At the same time, it was clear that the amount of pecuniary damage must be very small.

I added that, if our offer was not acceptable, we should be quite ready to adopt the proposal made in Mr. Evarts' despatch, that the matter should be referred to you and him, or to Delegates chosen by each of you. Each party, I observed, were agreed to reserve the question of the rights which they respectively claimed under the Treaty, and to treat this matter separately from the discussion of the pecuniary payment.

I mentioned to Mr. Lowell that I had at first been taken by surprise at an idea put forward in the despatch of which he had told me the substance last Monday, namely, the possibility of the President sending a ship to protect the American fishermen on the coast of Newfoundland; but that, on consideration, it appeared to me that such a course might be taken which might be of great advantage, if each Government sent vessels with Commanders who received identic and conciliatory instructions for the purpose of keeping the peace among the fishermen of their respective countries.

This practice has been in force with good effect for some time on the part of the British and French Governments.

I am, &c.

(Signed) GRANVILLE.

No. 117.

Sir J. Pauncefote to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, February 24, 1881.*
 I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch from Her Majesty's Minister at Washington in regard to the Fortune Bay question.*

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

No. 118.

Mr. Bramston to Sir J. Pauncefote.—(Received February 25.)

Sir, *Downing Street, February 24, 1881.*
 WITH reference to previous correspondence on the subject of the occurrences at Fortune Bay in January 1878, and to the claims of the United States' fishermen connected therewith, I am directed by the Earl of Kimberly to transmit to you, to be laid before Earl Granville, a copy of a Confidential despatch, received from the Governor of Newfoundland, relative to the counter-claims of Newfoundland fishermen.

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

Inclosure in No. 118.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord, *Government House, Newfoundland, February 7, 1881.*
 I HAVE the honour to inform your Lordship that the telegrams of the 26th January and the 5th February were communicated to my Ministers, and their opinions thereon have been telegraphed to your Lordship.

2. The telegram of the 5th instant is, however, receiving further consideration from them, the result of which will probably have been communicated to your Lordship before this despatch reaches London.

3. In my communications with the Premier, I find him so changeable in his views upon the subject of drawing up a Report as to the nature of the occurrences which took place in Fortune Bay, and upon which a counter-claim for damages our fishermen are said to have suffered by the action of the Americans, is to be based, that I am doubtful if the collection of evidence to sustain a claim—the amount of which is not yet ascertained—will be undertaken.

4. The Premier informed me yesterday that three months would elapse before the amount of the claim to be brought forward could be ascertained, and the necessary evidence in support of such claim be completed.

5. I am of opinion that the collection and preparation of such evidence will exceed in cost the amount of damages to be claimed, even if the evidence, when produced, should be found sufficient to sustain the claim, which is very doubtful, but it opens a prospect for Counsel's fees and the expenses of witnesses, similar to that attendant on the Halifax Commission, all of which would be very gratifying to local recipients.

6. Since the Attorney-General, at the request of Sir Michael Hicks Beach (see despatch "Secret" of the 29th August, 1879), furnished his observations upon a correspondence interchanged between the Marquis of Salisbury and the United States' Minister in London, as well as such statements and arguments as he (the Attorney-General) was so well able to supply, the subject of Fortune Bay has not engaged the attention of my Government, in spite of repeated representations and remonstrances on my part.

I have, &c.
 (Signed) JOHN H. GLOVER.

No. 119.

Earl Granville to Sir E. Thornton.

(No. 8.)

(Telegraphic.)

Foreign Office, February 25, 1881, 7 P.M.

UNITED STATES' Minister told me yesterday Mr. Evarts had telegraphed satisfaction at offer of lump sum. He believed 80,000 dollars would be accepted.

I said I could not bargain, but offered 75,000 dollars in settlement of damages and interest, including two cases complained of in Mr. Evarts' second communication.

If this offer was not accepted Her Majesty's Government were ready to adopt Mr. Evarts' previous suggestion, of a reference to yourself and him or Delegates named by you. Both parties, I observed, being agreed to reserve Treaty rights.

With regard to mention by Mr. Evarts of sending a ship of war, I said it might be advantageous to pursue plan adopted with France, and for each Government to send a Commodore to keep police among fishermen of respective countries, provided with identic and conciliatory instructions.

No. 120.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, February 25, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying draft, as noted in the margin,* on the subject of Fortune Bay.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 121.

Earl Granville to Mr. Lowell.

Sir,

Foreign Office, February 25, 1881.

I HAVE the honour to acknowledge the receipt of your communication of the 22nd instant, inclosing copies of the affidavits of the masters of two United States' fishing vessels, detailing the acts of violence by which they have been prevented from exercising their rights of fishing in certain Newfoundland waters, and I have to state to you, in reply, that I have forwarded copies to Her Majesty's Secretary of State for the Colonies.

I have, &c.

(Signed) GRANVILLE.

No. 122.

Mr. Lowell to Earl Granville.—(Received February 26.)

My Lord,

Legation of the United States, London, February 26, 1881.

I HAVE the honour and pleasure to acquaint your Lordship that I received early this morning a cable message from Mr. Evarts, in which he states that although the offer made by Her Majesty's Government for the settlement of the fishery claims is not quite up to his expectations, he nevertheless accepts it, assuming that the amount can presently be at his disposal for immediate distribution.

I have, &c.

(Signed) J. R. LOWELL.

No. 123.

Earl Granville to Mr. Lowell.

Sir, *Foreign Office, February 26, 1881.*
 I HAVE the honour to acknowledge the receipt of your letter of this day, informing me that you have received a telegraphic message from Mr. Evarts in which he states that although the offer made by Her Majesty's Government for the settlement of the fishery claims is not quite up to his expectations, he nevertheless accepts it, assuming that the amount can presently be at his disposal for immediate distribution; and I have to state to you, in reply, that Her Majesty's Government are ready to hold the sum of 15,000*l.* at the disposal of the Government of the United States on receiving your assurance that it is accepted in full of all claims arising out of any interruption of American fishermen on the coast of Newfoundland and its dependencies up to the present time, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

I have, &c.
 (Signed) GRANVILLE.

No. 124.

Earl Granville to Sir E. Thornton.

(No. 9.) *Foreign Office, February 26, 1881, 6 P.M.*
 (Telegraphic.)
 UNITED STATES' Minister tells me Mr. Evarts accepts offer, and I have replied that Her Majesty's Government are ready to hold this sum of 15,000*l.* at the disposal of the Government of the United States on receiving his assurance that it is accepted in full of all claims arising out of any interruption of American fishermen on the coast of Newfoundland and its dependencies up to the present time, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

No. 125.

Sir E. Thornton to Earl Granville.—(Received February 26.)

(No. 10.) *Washington, February 26, 1881.*
 (Telegraphic.)
 WITH reference to your telegram No. 8, Secretary of State tells me that he has accepted the offer of 1,500*l.** hoping, but not making a condition, that the amount may be available at once.

I think it is expedient, if possible, that the matter should be settled and the payment made before the next Administration takes office.

No. 126.

Earl Granville to Sir E. Thornton.

(No. 36.) *Foreign Office, February 26, 1881.*
 Sir,
 I TRANSMIT to you herewith, for your information, a copy of a letter from the Colonial Office respecting the Fortune Bay question.†

I am, &c.
 (Signed) GRANVILLE.

No. 127.

Earl Granville to Sir E. Thornton.

(No. 37.)

Sir,

Foreign Office, February 26, 1881.

I TRANSMIT to you herewith, for your information, copies of a correspondence with Mr. Lowell in regard to the Fortune Bay question.*

I am, &c.

(Signed) GRANVILLE.

No. 128.

Earl Granville to the Lords Commissioners of the Treasury.

My Lords,

Foreign Office, February 26, 1881.

YOUR Lordships are aware that a correspondence has taken place with the Government of the United States with regard to certain claims of American fishermen on account of the interruption of their fishing on the coasts of Newfoundland, amounting to about 120,000 dollars, including interest.

The Government of the United States suggested that these claims should be referred for assessment to the United States' Secretary of State and Her Majesty's Minister at Washington, or to Delegates named by them, but it appeared to Her Majesty's Government that it was, for many reasons, desirable to avoid so dilatory a process of investigation, and I was accordingly authorized by the Cabinet to offer a sum of 15,000*l.*, or 75,000 dollars, in full settlement of the claims.

The United States' Minister has informed me to-day that this offer is accepted, and I have stated to him in reply that Her Majesty's Government are ready to hold this sum of 15,000*l.* at the disposal of the Government of the United States on receiving his assurance that it is accepted in full of all claims arising out of any interruption of American fishermen on the coasts of Newfoundland and its dependencies up to the present time, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

I have now therefore to request that your Lordships will be good enough to give the necessary directions for this amount to be held in readiness.

I have forwarded a copy of this letter to Her Majesty's Secretary of State for the Colonies, with whom it will rest to make application to the Governor of Newfoundland for the ultimate refund of this payment.

I am, &c.

(Signed) GRANVILLE.

No. 129.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, February 26, 1881.

WITH reference to my letter of yesterday, I am directed by Earl Granville to transmit to you herewith, to be laid before the Earl of Kimberley, a copy of a letter from Mr. Lowell, stating that the United States' Government accept the offer of 75,000 dollars, or 15,000*l.*, in settlement of the fishery claims, together with a letter which his Lordship has addressed to him in reply,† stating that Her Majesty's Government are ready to hold this sum at the disposal of the Government of the United States on receiving his assurance that it is accepted in full of all claims arising out of any interruption of American fishermen on the coasts of Newfoundland and its dependencies up to the present time, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

I am also to inclose a copy of a letter to the Lords Commissioners of Her Majesty's Treasury, requesting that this sum may be held in readiness.‡ Lord Kimberley will observe that I have informed their Lordships that a copy of this letter

* No.

† Nos. 122 and 123.

‡ No. 125.

would be forwarded to him, as it will rest with him to make application to the Government of Newfoundland for the ultimate refund of this payment.

I am, &c.
(Signed) TENTERDEN.

No. 130.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, February 26, 1881.*
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a note from Mr. Lowell relating to the Fortune Bay affair.*

I am, &c.
(Signed) TENTERDEN.

No. 131.

Earl Granville to Sir E. Thornton.

(No. 39.)

Sir, *Foreign Office, February 28, 1881.*
I TRANSMIT to you herewith, for your information, a copy of a letter from the Colonial Office respecting the Fortune Bay question.†

I am, &c.
(Signed) GRANVILLE.

No. 132.

Sir E. Thornton to Earl Granville.—(Received February 28.)

(No. 11.)

(Telegraphic.) *Washington, February 28, 1881.*
SECRETARY of State thinks it impossible to give as extensive an assurance as that mentioned in your telegram No. 9, and telegraphed to him last Saturday by United States' Minister in London. He says that your Lordship's offer was for the definite claims described in his two despatches to that Minister. He is willing, however, that the assurance should cover all claims of that nature which have been presented to either Government, and assures me that no others have been entertained by United States Government. This I believe, for such claims are soon heard of. But he adds that we cannot know what is now happening or may have happened within the last few days on the coasts of Newfoundland, and which may not have reached him. I think we should be perfectly safe in accepting such an assurance as he offers. He declares that he has ignored the claim once presented with regard to the "Mist."

No. 133.

Lord Tenterden to Sir R. Lingden.

(Confidential.)

Foreign Office, February 28, 1881.
LORD TENTERDEN presents his compliments to the Secretary of the Treasury, and has the honour to transmit herewith, to be laid before the Lords Commissioners of Her Majesty's Treasury, the accompanying copy of a telegram from Sir E. Thornton relative to the payment to the Government of the United States of 15,000*l.* for the Fortune Bay claim.‡

No. 134.

Earl Granville to Sir E. Thornton.

(No. 10.)

(Telegraphic.)

Foreign Office, March 1, 1881, 7.30 P.M.

IN reply to your telegram No. 11 of yesterday, tell Mr. Evarts that Her Majesty's Government made the offer of payment of a lump sum in the expectation of a final and immediate settlement of all claims up to this date, which could alone justify the amount.

Unless this settlement be secured, Her Majesty's Government prefer to revert to the proposal originally made by Mr. Evarts, and to refer the claims to assessors named by you and by him, with provision for reference to a third person in case of disagreement.

Whichever alternative Mr. Evarts may now prefer to adopt, Her Majesty's Government assume that the United States' Government are willing at once to confer respecting the establishment of Regulations for the fisheries, with a view to obviate future misunderstandings.

No. 135.

Earl Granville to Sir E. Thornton.

(No. 10 A. Extender.)

Sir,

Foreign Office, March 1, 1881.

WITH reference to your telegram No. 11 of the 28th February, I have to instruct you to inform Mr. Evarts that, when Her Majesty's Government offered to pay to the Government of the United States a lump sum, they did so in the expectation of securing a final and immediate settlement of all claims up to the present date, as this result alone would justify them in offering such an amount.

Unless this settlement can be secured, they prefer to revert to Mr. Evarts' original proposal, to the effect that the claims should be referred to assessors named by Mr. Evarts and yourself, with the addition that provision should be made for reference to a third person in case of disagreement.

Whichever alternative Mr. Evarts may now adopt, Her Majesty's Government take it for granted that the Government of the United States are willing at once to confer for the purpose of establishing such Regulations for the fisheries as shall in future prevent misunderstanding.

I am, &c.

(Signed) GRANVILLE.

No. 136.

Mr. Lowell to Earl Granville.—(Received March 2.)

My Lord,

Legation of the United States, London, March 2, 1881.

I HAVE the honour to acquaint your Lordship that, having inquired of Mr. Evarts, by telegraph, of the nature of the assurance that I might give your Lordship upon the receipt of the proposed indemnity in the Newfoundland fishery transactions, I received from him an answer, by cable, late last evening to the following effect:—

The assurance I may give is this: that the sum paid is accepted in full of all claims arising out of any interruption of American fishermen on the coasts of Newfoundland and its dependencies up to this time presented to either Government, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

I am also permitted to say to your Lordship, in giving this assurance, that, as a matter of fact, no other claims than those embraced in the Fortune Bay list and those named in Mr. Evarts' despatch No. 109, which I have shown to your Lordship, are within the knowledge of my Government for presentation or for its own consideration.

I have already communicated to your Lordship orally the substance of this cable message, at the interview which I had the honour of having with you this morning. I understood your Lordship to say, in answer to this communication, that Her

Majesty's Government adhered to the terms they had finally offered: that is to say, that the sum of 15,000*l.* should be considered as received in full of all demands arising out of the interruptions of American fishermen on the coasts of Newfoundland up to date; otherwise, that you would prefer to fall back upon the plan of a reference, already suggested.

I sent a telegram to Mr. Evarts this morning informing him of your views.

I have, &c.

(Signed) J. R. LOWELL.

No. 137.

Sir E. Thornton to Earl Granville.—(Received March 3.)

(No. 12.)

(Telegraphic.)

Washington, March 2, 1881.

I HAVE communicated to Secretary of State substance of your telegram No. 10. He does not see how he can sign the assurance Her Majesty's Government requires, because it would lay him open to the pretensions of other claims; whereas, if he received the 15,000*l.* for all claims presented, he can pay the two named in the despatches to the United States' Minister, and decline to receive any others.

He also observes that the alternative is a reference to assessors named by us, whilst, in the first offer, it was to himself and me, or to assessors.

At parting, he said he would think the matter over.

No. 138.

Earl Granville to Sir E. Thornton.

(No. 11.)

(Telegraphic.)

Foreign Office, March 3, 1881, 3 P.M.

IN reply to your telegram No. 12 of yesterday, Her Majesty's Government had no intention of putting forward a new alternative, and meant only to refer to Mr. Evarts' first offer of a reference to you and himself, or to Delegates named by you both, with the addition of provision for reference to a third person in case of disagreement.

No. 139.

Earl Granville to Sir E. Thornton.

(No. 44. Extender.)

Sir,

Foreign Office, March 3, 1881.

I HAVE received your telegraphic despatch of the 2nd instant, and I have to state to you, in reply, that Her Majesty's Government did not intend to put forward a fresh alternative, but desired only to allude to the original offer made by the United States' Secretary of State to have the matter referred to you and him, or else to Delegates nominated respectively by each of you, with the addition that provision should be made for reference to a third person in the event of disagreement.

I am, &c.

(Signed) GRANVILLE.

No. 140.

Earl Granville to Sir E. Thornton.

(No. 45.)

Sir,

Foreign Office, March 3, 1881.

THE United States Minister called upon me to-day, and communicated to me the substance of a telegraphic despatch from Mr. Evarts, of which a copy is inclosed.* I observed that I shared Mr. Evarts' regret at our being unable so far to arrive at an agreement, as I had looked forward to the great satisfaction of settling the matter with him; but that if it was the fear of new claims which made him hesitate to give the assurance required by Her Majesty's Government, he must remember that they

* Inclosure in No. 143.

ran a similar risk. I was not, however, aware of any claims, excepting those which he had mentioned, though there had been brought to the notice of Her Majesty's Government two cases, of which I furnished him with the particulars, in which complaints had been made of the interruption of American vessels, the "Moro Castle" and "Minnesota" when engaged in collecting bait. It did not appear that either of these cases was of importance.

I am, &c.
(Signed) GRANVILLE.

No. 141.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, March 3, 1881.*
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a telegraphic despatch from Her Majesty's Minister at Washington respecting the Fortune Bay question.*

I am, &c.
(Signed) TENTERDEN.

No. 142.

Lord Tenterden to Mr. Lowell.

Dear Mr. Lowell, *Foreign Office, March 3, 1881.*
I SEND to you the copies of the papers with which Lord Granville said that he would furnish you respecting the cases of the "Moro Castle" and "Minnesota."

Yours sincerely,
(Signed) TENTERDEN.

Inclosure in No. 142.

LIST of papers sent privately to Mr. Lowell by Lord Tenterden on the 3rd March:—

- Deposition of Philip English.
- " Richard English.
- " Patrick Kinsaka.
- " Richard English.
- " Patrick James English.
- Examination of Loren B. Naus (inclosed in Colonial Office letter of the 17th September, 1880).
- Extract of "Evening Telegram" of the 24th September, 1880 (inclosed in Colonial Office letter of the 23rd October, 1880).
- Extract of "Evening Telegram" of St. John's of the 27th September, 1880.
- Deposition of Thomas Goss (inclosed in Colonial Office letter, No. 2, of the 23rd October, 1880).
- Mr. McNeill to Sir W. Whiteway, October 28, 1880.
- Deposition of Thomas Goss.
- " Edward Trickett.
- For defence: deposition of John Hayden (inclosed in Colonial Office letter of the 27th November, 1880).

No. 143.

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

My Lord, *Legation of the United States, London, March 3, 1881.*
REFERRING to our conversation of this afternoon, I have the honour to inclose herewith a copy of the telegram from Mr. Evarts, the substance of which I had the

honour of communicating to your Lordship on that occasion. You will observe that in one or two places the translation from the cypher is conjectural.

I have, &c.
(Signed) J. R. LOWELL.

Inclosure in No. 143.

Mr. Evarts to Mr. Lowell.

(Telegraphic.)

Washington, March 3, 1881.

SECRETARY'S offer, as communicated to me by your telegram of the 24th February, was 15,000*l.* for Fortune Bay, and those mentioned in Number hundred nine.

This I accepted by my telegram of the 25th February. This completed the subject, and the amount as definitely ascertained, and showed no indistinctness or discrepancy of views. All the previous communications either way related to Fortune Bay claims. Claims of Number hundred nine were introduced specifically by Secretary as additional to Fortune Bay, and I accepted the sum offered for both. I cannot consent to any modification of the completed settlement of specific claims. I have at no time treated except of definite pecuniary interests of claimants in my charge. The agreed sum measured these claims and goes to these claimants. I have been willing to give every assurance to cover all claims brought to the knowledge of either [? a] Government, and authorized you to inform Secretary that as a matter of fact no others were entertained by this Government. All this was no part of the offer made and accepted, and came in as new matters [? of controversy]. You will explain to Secretary the impossibility of my changing [? the subject] of negotiation after an agreed valuation of that subject should the offer be retracted after its acceptance, or new conditions be imposed afterwards which would not have been entertained as an original subject. I must regret that the effort to remove a serious obstacle to friendly disposition of the fishery controversy should have increased difficulties [? are] which embarrass it. If the money is paid under the assurance authorized by my last, telegraph me; if it is not, you may say to the Secretary that this Government will await his early attention to Numbers hundred nine and hundred ten, which must stand unaffected [? by] anything which has passed since.

No. 144.

Mr. Lowell to Lord Tenterden.—(Received March 4.)

*Legation of the United States, London,
March 4, 1881.*

Dear Lord Tenterden,

I BEG you to accept my best thanks for the documents you were kind enough to send me last evening.

Very sincerely, &c.
(Signed) J. R. LOWELL.

No. 145.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Foreign Office, March 4, 1881.

LORD TENTERDEN presents his compliments to the Under-Secretary of State for the Colonies, and has the honour to transmit herewith copy of a telegram addressed to Sir F. Thornton, together with one addressed by the United States' Secretary of State to Mr. Lowell relative to the Fortune Bay affair.*

No. 146.

Earl Granville to Sir E. Thornton.

(No. 46.)

Sir,

Foreign Office, March 5, 1881.

I INCLOSE, for your information, a copy of a despatch, as marked in the margin,* respecting the Fortune Bay question.

I am, &c.
(Signed) GRANVILLE.

No. 147.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, March 5, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying copy of a note from the United States' Minister at this Court.† together with a copy of a despatch addressed to Her Majesty's Minister at Washington, on the subject of the Fortune Bay affair.

I am, &c.
(Signed) TENTERDEN.

No. 148.

Sir E. Thornton to Earl Granville.—(Received March 6.)

(No. 13.)

(Telegraphic.)

Washington, March 5, 1881.

SECRETARY OF STATE telegraphs to United States' Minister again urging settlement of Fortune Bay claims, as well as that mentioned in first despatch to United States' Minister, one or both, on the basis of a lump sum.

He repeats the assurance that he knows of no other such claims; and I firmly believe that there are no others. No American fails to make a claim when he thinks he has a grievance, and the newspapers are too ready to publish any such complaint, and till now nothing more has been heard of. Secretary of State argues that if he receives a lump sum for other than definite claims he would be obliged to advertise, and thus invite claims. This would also cause great delay.

No. 149.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Foreign Office, March 7, 1881.

LORD TENTERDEN presents his compliments to the Under-Secretary of State for the Colonies, and has the honour to transmit, to be laid before the Earl of Kimberley, the accompanying copy of a telegram which has been received from Sir E. Thornton relative to the Fortune Bay affair.‡

No. 150.

Mr. Lowell to Earl Granville.—(Received March 8.)

My Lord,

Legation of the United States, London, March 7, 1881.

REFERRING to our conversation this afternoon in regard to the settlement of claims for damages growing out of the interruption of American fishermen on the coasts of Newfoundland, I have the honour, agreeably to your request, to inclose herewith such portions of a telegram received by me yesterday from Mr. Everts as he instructs me therein to communicate to your Lordship.

* No. 136.

† Nos. 136 and 140.‡

‡ No. 148.

Perhaps it may seem superfluous in me, after our late conversation, to endeavour further to impress upon your Lordship my sense of the very great importance of a speedy settlement of these long-standing claims, but I cannot refrain from adding my conviction, that such a settlement would tend to allay a growing irritation, and would remove an obstacle to that understanding between the two Governments as to their respective rights and duties under the Treaty of Washington, which would greatly lessen, if it did not exhaust, the sources from which similar claims would be likely to arise hereafter.

I have, &c.
(Signed) J. R. LOWELL.

Inclosure in No. 150.

Copy of Portions of a Telegram received by Mr. Lowell from Mr. Evarts, March 6, 1881.

"READ my despatch 110, 4th and 5th paragraphs, relating to arbitration, and ask Secretary whether he was, and is, ready to submit the matter there stated to summary award of Secretary of State and British Minister. If so, say to him that, as he has expressed a preference for a lump sum rather than this summary award, and I agree in this preference, that I will receive a proposition from him of a lump sum for the Fortune Bay claims.

* * * * *

"I renew the subject in this way as a last effort to remove the obstacle these claims as heretofore treated by British Government interpose to a liberal disposition of the more permanent interests involved, and to supersede, if possible, the record made by the recent communications between the two Governments, that an explicit offer of a lump sum for the Fortune Bay claims and those named in No. 109 was retracted after its explicit acceptance by this Government.

"You may say to the Secretary that I will also receive a proposition of a lump sum for the claim in 109.

* * * * *

"You will use your own discretion as to the terms in which you will impress upon Secretary my earnest desire to relieve the important discussions on the Fisheries which must soon engage the two Governments from the disturbing influence of the unsatisfied Fortune Bay claims.

* * * * *

"In reference to last part of your last telegram, I have no difficulty in saying that no other claims are at all likely to arise, but I cannot receive money measured by particular claims under any indefinite obligations to reserve or distribute it otherwise."

No. 151.

Earl Granville to Sir E. Thornton.

(No. 12.)

(Telegraphic.)

Foreign Office, March 8, 1881, 5:45 P.M.

UNITED STATES' Minister spoke to me yesterday respecting the fishery claims; I said that it would have been very gratifying to me if I could have settled them with Mr. Evarts. The only answer I could give to his further representations was, that I was ready to fall back upon the proposal for referring the claims to you and to Mr. Evarts, or to Delegates named by you; but that Her Majesty's Government could not modify the form of assurance which they had required.

He had some doubt, which I could not clear up, whether your telegram No. 13 of the 5th was merely a repetition of Mr. Evarts' former arguments, or indicated some modification. He thought, however, that it indicated no change.

I remarked that the argument used by Mr. Evarts, that, if he received a lump sum, he must advertise and thus invite claims, was by no means self-evident.

We should not object to substitute "up to the end of last year" for "up to the present time."

No. 152.

Earl Granville to Sir E. Thornton.

(No. 52. Extender.)

Sir,

Foreign Office, March 8, 1881.

I CONVERSED with Mr. Lowell yesterday upon the subject of the fishery claims. I told him that I should have been very much gratified had I been able to have arranged them with Mr. Evarts. The sole reply I could make to his further representations was, that I was prepared to revert to the proposition for a reference of the claims to Mr. Evarts and to yourself, or to Delegates nominated by you, but that the form of assurance required by Her Majesty's Government could not be modified.

I entertain some doubt, which Mr. Lowell was unable to clear up, as to whether the telegraphic despatch of the 5th instant was a repetition only of the former statement of Mr. Evarts, or whether some modification was intended. He considered, however, that no change was indicated.

I observed that Mr. Evarts' argument to you, that if he accepted a lump sum he was bound to advertise, and by so doing would invite claims, to be by no means self-evident.

I added that Her Majesty's Government would not object to the substitution of the words "up to the end of last year" for "up to the present time."

I have communicated the substance of this despatch to you by telegraph.

I am, &c.

(Signed) GRANVILLE.

No. 153.

Earl Granville to Sir E. Thornton.

(No. 53.)

Sir,

Foreign Office, March 9, 1881.

THE United States' Minister called upon me this afternoon to resume the discussion of the mode of settling the claims of United States' fishermen for interference with their fishing off the coast of Newfoundland.

I thanked Mr. Lowell for his letter of the 8th instant, and told him that I had had an opportunity of consulting my colleagues, who agreed with me in the desire to arrive at a speedy settlement of this part of the question. It had been with this object that I had offered the payment of a lump sum as an alternative to the plan of reference to yourself and Mr. Evarts, or to Delegates to be named severally by you and him. When we were accused of having shifted our ground, I must observe that the offer was originally made under the impression and with the understanding that it would settle off-hand all claims of this nature up to the present date, as we knew of no others that had been made beyond those brought forward by the United States' Government. But when—although the Government of the United States assured me of their belief that there were no other claims—exception was taken to the wording of our offer, on the ground that it would debar them from advancing possible further claims on account of past occurrences, we felt that the objection made it necessary for us to adhere to the form we had adopted.

We now thought the best plan would be to revert to the proposal of reference of the claims to you and Mr. Evarts or his successor, or to persons to be named by you on either side.

I asked Mr. Lowell to inquire what were the views of his Government as to my suggestion of a combined naval force on the coast to keep the police, with identic instructions to the Commanders.

I am, &c.

(Signed) GRANVILLE.

No. 154.

*Lord Tenterden to Mr. Meade.**Foreign Office, March 9, 1881,*

LORD TENTERDEN presents his compliments to Mr. Meade, and is directed by Earl Granville to inclose, for the information of the Earl of Kimberley, copies of correspondence, as marked in the margin,* respecting the Fortune Bay question.

No. 155.

Mr. Herbert to Lord Tenterden.—(Received March 10.)

(Secret.)

My Lord,

Downing Street, March 9, 1881.

WITH reference to previous correspondence respecting the Fortune Bay question, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, the decypher of a telegram which has been received from the Governor of Newfoundland relative to the counter-claims of Newfoundland fishermen.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 155.

Governor Sir J. Glover to the Earl of Kimberley.

(Secret.)

(Telegraphic.)

Newfoundland, March 5, 1881.

HAVE induced my Ministerial Council to consent that statement of their case, with any additional information procurable, will be forwarded to Her Majesty's Government for use of British negotiator at Washington.

This leaves the matter absolutely in the hands of Her Majesty's Government. At what date will statement be required?

The Premier in minority of three at a party meeting on the matter of railway. Will submit final motion on Monday. If not sustained, threatens resignation.

No. 156.

Mr. Herbert to Lord Tenterden.—(Received March 10.)

My Lord,

Downing Street, March 9, 1881.

WITH reference to previous correspondence respecting the Fortune Bay question, I am directed by the Earl of Kimberley to request that you will inform Earl Granville that a telegram has been received from the Governor of Newfoundland reporting that his Ministers have consented to a statement of their case being forwarded to Her Majesty's Government, together with any additional information which may be procurable for the use of the British negotiator at Washington, and that thus the matter will be placed in the hands of Her Majesty's Government.

The Governor requests to be informed at what date the statement will be required.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 157.

*Lord Tenterden to Mr. Meade.**Foreign Office, March 10, 1881.*

LORD TENTERDEN presents his compliments to Mr. Meade, and is directed by Earl Granville to inclose herewith, for the information of the Earl of Kimberley, a copy of a despatch which has been addressed to Sir E. Thornton respecting the Fortune Bay question.*

No. 158.

Lord Tenterden to Mr. Meade.

(Confidential.)

Sir,

Foreign Office, March 11, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton respecting the Fortune Bay question.†

I am, &c.

(Signed) TENTERDEN.

No. 159.

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

(No. 61.)

My Lord,

Washington, February 28, 1881.

ON the morning of the 23rd instant Mr. Evarts wrote to me that he had received a telegram from Mr. Lowell, and begged that I would call upon him at the State Department as soon as I could. On my arriving there he read to me the telegram which related to the Fortune Bay affair. It was much shorter, and contained less detail than your Lordship's telegram of the 22nd instant, which I had had the honour of receiving on the previous evening. It made no mention of the conversation which your Lordship had held with Mr. Lowell regarding the allusion made by Mr. Evarts in one of his despatches to a display of force for the protection of American fishermen. It only stated that Her Majesty's Government was disposed to accept the proposal that the amount of damages caused to American fishermen should be settled by Mr. Evarts and myself, or by Delegates appointed by us, but thought that there should be a previous agreement to refer the matter to a third person, in case the Delegates should fail to agree. The telegram added that Her Majesty's Government would prefer to make an offer of a fair sum to settle the claims of the American fishermen.

I then communicated the substance of your Lordship's telegram, No. 6, to Mr. Evarts, and observed that I had understood it to signify that the question should be referred to a third person, whether it was he and I, or the Delegates named by us who should disagree; but he expressed the opinion that Mr. Lowell had rightly interpreted what your Lordship had said.

He went on to say that the Government of the United States would prefer that Her Majesty's Government should make an offer of a lump sum in satisfaction of the damages caused to American fishermen in the Fortune Bay affair. He hoped, however, that it would be a generous offer; for that an illiberal one would be worse than none. He believed that a liberal view of the matter would create a good feeling and would contribute to the success of, and facilitate, any future negotiation which must come on sooner or later with regard to the fisheries question. The original claim was about 103,000 dollars, and it had arisen about three years ago, the interest upon which at 5 per cent. would raise the amount to nearly 119,000 dollars; and he thought that 80,000 dollars, which would be a little more than two-thirds of the claim, including interest, would be a fair amount as a settlement.

I expressed a good deal of surprise that he should name so large a sum, for I believed that the real loss was very little more than the value of the nets which had been destroyed. The fishermen had not been prevented from fishing after the occurrence, and, if they had not been successful it was because no fish had appeared.

* No. 153.

† No. 109.

But Mr. Evarts argued that, besides the destruction of the nets, a great quantity of fish had been set loose, and that the violence of the Newfoundland fishermen on that occasion had deterred the Americans from returning there.

After further discussion Mr. Evarts said that he should telegraph to Mr. Lowell, accepting the offer of a lump sum, and should give his opinion as to how much that sum ought to be. He then asked me whether I would also telegraph favouring his view of the amount.

I replied that your Lordship's note of the 27th October last and the offer now made was a sufficient proof that Her Majesty's Government wished to deal with the question in a spirit of liberality, and that, although I might think it expedient that there should be no serious difference between the two countries with regard to the amount to be paid, it might be expedient to agree to some such sum, although it would not be in accordance with justice.

On the evening of the 25th instant your Lordship's telegram No. 8 reached me, and on the following day I called upon Mr. Evarts, who read me a telegram which he had received from Mr. Lowell on the evening of the 24th instant, informing him that your Lordship had offered the sum of 15,000*l.* in settlement of the claims comprised in Mr. Evarts' two despatches to Mr. Lowell. He also read me his answer, which he had forwarded on the 24th instant, to the effect that the United States' Government accepted the offer, expressing the hope that the amount would be available at once, though it did not make this a condition of its acceptance. Mr. Evarts said that it would be much better that the distribution of the amount among the claimants should be made by the present Administration than by the new one; and I am also of opinion that this would be advisable; for, although he would not admit it, I have no doubt that he has already come to an arrangement as to the amount which they are respectively to receive. If its distribution were to be left to the next Administration the claimants might pretend to disavow an agreement come to with Mr. Evarts, and might give trouble to the United States' Government, though their complaints could not invalidate the arrangement concluded with Her Majesty's Government.

On the evening of the 26th instant Mr. Evarts told me at a party at his own house that a telegram had arrived from Mr. Lowell, but had not yet been decyphered. I presume that it was of the same tenour as that which I had just before had the honour of receiving from your Lordship, marked No. 9. I have not seen him since then, and I have thought it not expedient to call upon him at the State Department, lest he should imagine that Her Majesty's Government is extremely anxious to settle the matter. But I can have little doubt that he will have telegraphed an answer either yesterday or to-day to Mr. Lowell, for he is evidently very desirous of having a settlement concluded before he leaves office.

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

No. 160.

Earl Granville to Sir E. Thornton.

(No. 56.)

Sir, *Foreign Office, March 12, 1881.*
I INCLOSE for your information copy of a despatch, as marked in the margin, on the subject of the Fortune Bay question.*

I am, &c.
(Signed) GRANVILLE.

No. 161.

Sir E. Thornton to Earl Granville.—(Received March 12, at night.)

(No. 15.)

(Telegraphic.)

Washington, March 12, 1881.
THE new Secretary of State says that, in view of the position taken by his predecessor, he thinks it expedient that he and I should endeavour to come to an

agreement with respect to the Fortune Bay and other claims, and he confidentially expresses the hope that after further inquiries he may yet be able to accept the sum offered by your Lordship, giving at the same time the required assurance.

No. 162.

Earl Granville to Sir E. Thornton.

(No. 13.)

(Telegraphic.)

Foreign Office, March 14, 1881, 6.15 P.M.

WE are not quite sure of the meaning of expression "required assurance." Does it mean receipt in full up to 1st January, 1881?

No. 163.

Earl Granville to Sir E. Thornton.

(No. 58. Extender.)

Sir,

Foreign Office, March 14, 1881.

HER Majesty's Government are in some doubt as to the meaning of the expression "required assurance" which appears in your telegraphic despatch of the 12th instant, and I have to request you to inform me whether it means "receipt in full up to the 1st January, 1881."

I am, &c.

(Signed) GRANVILLE.

No. 164.

Lord Tenterden to Mr. Meade.

LORD TENTERDEN presents his compliments to Mr. Meade, and is directed by Earl Granville to inclose herewith, for the information of the Earl of Kimberley, a copy of a telegraphic despatch from Sir E. Thornton respecting the Fortune Bay question.*

Foreign Office, March 14, 1881.

No. 165.

Sir E. Thornton to Earl Granville.—(Received March 15, 8 P.M.)

(No. 17.)

(Telegraphic.)

Washington, March 15, 1881.

WITH reference to your telegram No. 13, Secretary of State told me, confidentially, on Saturday, that after a thorough inquiry and examination he should hope to be able to give a receipt in full of all claims even up to the present time.

No. 166.

Mr. Lowell to Earl Granville.—(Received March 15.)

My Lord,

Legation of the United States, London, March 15, 1881.

I HAVE the honour to inform your Lordship that I received last evening a cable message from Mr. Blaine, in which he instructs me to say that your Lordship's proposition to refer the question of damages to American fishermen to himself and Sir Edward Thornton is accepted, and further suggesting that the subject of joint-cruizers should be postponed or should also be referred to the same gentlemen. I inclose a copy of this telegram.

I have, &c.

(Signed) J. R. LOWELL

Inclosure in No. 166.

Mr. Blaine to Mr. Lowell.

(Telegraphic.)

Washington, March 14, 1881.

INFORM Minister for Foreign Affairs (Lord Granville) that his proposition to refer the matter to British Minister (Sir Edward Thornton) and myself is accepted. The subject of joint cruisers may be postponed, or if desired may also be referred to British Minister and myself, to be taken up afterwards with power to agree upon a series of regulations under which Treaty rights may be mutually secured.

No. 167.

Lord Tenterden to Mr. Herbert.

Sir,

Foreign Office, March 15, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying copy of a further communication from the United States' Minister at this Court,* inclosing copy of a telegram received by him from the United States' Secretary of State, upon the subject of the compensation claimed by United States' fishermen for damages caused by occurrences on the coasts of Newfoundland; and I am to request that, in laying these papers before Lord Kimberley, you will move his Lordship to cause Lord Granville to be informed what reply should be returned to the latter part of Mr. Blaine's telegram.

I am, &c.

(Signed) TENTERDEN.

No. 168.

Sir J. Pauncefote to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, March 16, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of despatches, as marked in the margin,† respecting the Fortune Bay question.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 169.

Earl Granville to Sir E. Thornton.

(No. 14.)

(Telegraphic.)

Foreign Office, March 17, 1881, 1:30 P.M.

THE United States' Minister gave me yesterday a telegram from Secretary of State in which he says that "my proposition to refer Fortune Bay indemnity to him and yourself is accepted. The subject of joint cruisers may be postponed, or, if desired, may also be referred to him and to you, to be taken up afterwards, with power to agree upon a series of regulations under which Treaty rights may be mutually secured."

Am I to understand that the claims are to be referred for investigation and assessment, or merely that you and he may agree upon the acceptance of a lump sum on his giving the assurance required by Her Majesty's Government?

Mr. Blaine's telegram does not seem to tally with your telegram No. 17 of yesterday.

No. 170.

Earl Granville to Sir E. Thornton.

(No. 58A.)

Sir,

Foreign Office, March 17, 1881.

I INCLOSE herewith, for your information, a copy of a letter from Mr. Lowell respecting the Fortune Bay question.*

I am, &c.

(Signed) GRANVILLE.

No. 171.

Earl Granville to Sir E. Thornton.

(No. 59.)

Sir,

Foreign Office, March 17, 1881.

WITH reference to my despatch No. 58A of this day's date, in which I inclosed a copy of a letter from Mr. Lowell forwarding a copy of a telegram from Mr. Blaine stating that the proposition to refer to him and to yourself the Fortune Bay indemnity is accepted, I should wish to know whether Her Majesty's Government are to understand that the claims in question are to be referred for investigation and assessment, or merely in order that Mr. Blaine and yourself may agree upon the acceptance by the United States' Government of a lump sum upon his giving you the assurance which Her Majesty's Government have required.

You will have seen that the telegram from Mr. Blaine does not tally with the statement made to you by him on Saturday last, as reported in your telegram No. 17 of yesterday.

I am, &c.

(Signed) GRANVILLE.

No. 172.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Foreign Office, March 17, 1881.

LORD TENTERDEN presents his compliments to the Under-Secretary of State for the Colonies, and begs to transmit herewith, to be laid before the Earl of Kimberley, the accompanying copy of a telegram addressed to Sir E. Thornton relative to the Fortune Bay affair.†

No. 173.

Mr. Herbert to Lord Tenterden.—(Received March 18.)

Sir,

Downing Street, March 18, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 15th instant, inclosing a communication from the United States' Minister at this Court, with a telegram received by him from the United States' Secretary of State, upon the subject of the compensation claimed by United States' fishermen for damages caused by the occurrences on the coast of Newfoundland, and requesting Lord Kimberley's opinion as to the reply which should be returned to the latter part of Mr. Blaine's telegram.

Lord Kimberley desires me to state, for the information of Earl Granville, that, in his opinion, no further steps should be taken in regard to the question of the joint American and British cruisers in Newfoundland waters before the Newfoundland Government is consulted on the matter; and that it will be advisable to postpone all other questions until Her Majesty's Government have been able to communicate to

* No. 166.

† No. 169.

the Newfoundland Government the result of the present negotiations respecting the payment of compensation.

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

No. 174.

Mr. Herbert to Lord Tenterden.—(Received March 18.)

Sir, *Downing Street, March 18, 1881.*

WITH reference to my letter of the 9th instant, and to previous correspondence respecting the claims preferred by the United States' Government in connection with the Fortune Bay affair, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Confidential despatch from the Governor of Newfoundland on the subject of the counter-claims of the Newfoundland fishermen.

Sir J. Glover states in this despatch that Mr. Whiteway would leave the Colony for England in the latter end of May, but it appears from his telegram of the 10th instant, the substance of which was communicated to you in the letter from this Department of the 16th, that Mr. Whiteway has decided to start on the 28th proximo.

Lord Kimberley desires me to take this opportunity to observe that if the claims of the United States should not be met by payment of a specific sum, but should be referred to Sir E. Thornton and Mr. Blaine, the consideration of the counter-claims of the Newfoundland Government should be fully provided for in accordance with the promise made to the Newfoundland Government explained in the correspondence noted in the margin.*

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

Inclosure in No. 174.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord, *Government House, Newfoundland, February 21, 1881.*

IN the course of a conversation yesterday with the Premier on the subject of the recent telegraphic despatches having reference to the proposed Fortune Bay inquiry, he informed me that the Government were taking steps to collect evidence in support of the counter-claims and for the defence, which evidence he would take with him to London when he went to consider the French fishery question, and that possibly he might then see Mr. Lowell and effect a compromise by the payment of, say, 20,000 dollars.

2. I am well aware that up to the present date no steps have been taken in this matter, and I reminded him that the preparation of these counter-claims would take three months (see paragraph 4 of Confidential despatch of the 7th February). This he admitted; consequently the date of his proposed departure would correspond with that of 1879, viz., the latter end of May, and by this it would appear to me that he contemplates completing his private practice in the Supreme Court, as was the case on the previous occasion, before leaving.

3. I am, however, not without hope that I shall be enabled to influence his colleagues to induce him to leave this matter absolutely in the hands of Her Majesty's Government, so that all the expenses attendant upon the collection of evidence and its presentation at New York will be saved to the Colony.

4. At the present moment affairs here are in a very unsettled state, and only on Saturday last, at a meeting of the party on the subject of railway matters, the Premier threatened resignation; but even if this occurs, and the remainder of his Government consent not to follow him, no material change in parties need take place until the next general election in the autumn of 1882.

I have, &c.
(Signed) JOHN H. GLOVER.

* Colonial Office, February 8 and 12; to Colonial Office, February 12, 1881.

No. 174*.

Mr. Wingfield to Lord Tenterden.—(Received March .)

My Lord,

Downing Street, March 19, 1881.

WITH reference to the letter from this Department of the 14th January last respecting the rights of the inhabitants of the United States in connection with the Newfoundland fisheries, I am directed by the Earl of Kimberley to transmit to you, for communication to Earl Granville, a copy of a despatch from the Governor of the Colony, inclosing a copy of a notice which his Government intends to issue for the purpose of notifying to the inhabitants of outlying settlements, frequented by the Americans, the right to which the latter are entitled under the Treaty of Washington.

Lord Kimberley proposes, with Lord Granville's concurrence, to approve the terms of the notice, and to instruct the Governor to cause it to be widely circulated on the coasts of the Colony.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 174*.

Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, Newfoundland, February 21, 1881.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 4 of the 10th January, and in compliance with the request contained therein, I now transmit a copy of a notice which it is the intention of my Government to issue for the purpose of notifying to the inhabitants of outlying settlements, frequented by the Americans, the rights which the latter have under the Treaty of Washington.

Printed copies of this notice will be forwarded to your Lordship by the next mail.

I have, &c.

(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 174*.

Notice.

(Signed) JOHN HAWLEY GLOVER. (L.S.)

By his Excellency Sir John Hawley Glover, Knight Grand Cross 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.

To all to whom these presents shall come, greeting:

WHEREAS by Article XVIII of the Treaty of Washington of the 8th May, 1871, it is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States' fishermen by the Convention between Great Britain and the United States, signed at London on the 20th October, 1818, of taking, curing, and drying fish on certain coasts of the British North-American Colonies, therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish. Provided that in so doing they do not interfere with the rights of private property or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

And whereas, by Act of the Local Legislature, 37 Vict., cap. ii., and by the Governor's Proclamation thereunder, dated the 30th May, 1874, the above recited section was made applicable to Newfoundland.

I do therefore enjoin all Her Majesty's subjects in this Colony to respect the fishing privileges granted to American citizens by the said Treaty, and not to hinder or molest them in any way whatsoever in the exercise of the same.

Given under my hand and seal, at the Government House in St. John's, this 21st day of February, A.D. 1881.

By his Excellency's command,

(Signed)

E. D. SHEA, *Colonial Secretary.*

No. 175.

Sir E. Thornton to Earl Granville.—(Received March 19, night.)

(Telegraphic.)

Washington, March 19, 1881.

WITH reference to your telegram No. 14, Secretary of State says that he wishes reference to us to be as broad as negotiation was between you and the United States' Minister, that is to say, to embrace either assessment or acceptance of a lump sum, coupled with an assurance for all claims up to a certain date. He is now making inquiries, and thinks he will be able to agree that this date shall be the 4th instant. Of course I shall not agree to anything without your instructions, but he thinks that misapprehensions have arisen from the telegraphic correspondence between his Department and the United States' Minister in London.

No. 176.

Sir E. Thornton to Earl Granville.—(Received March 21.)

(No. 67.)

My Lord,

Washington, March 7, 1881.

AFTER I had written my despatch No. 61 of the 28th ultimo, Mr. Evarts requested me to call at the State Department, when he repeated that he had received another telegram from Mr. Lowell with regard to the Fortune Bay and other claims. This telegram he read to me; it was similar to that which I had had the honour to receive from your Lordship on the 26th ultimo marked No. 9.

Commenting upon it, Mr. Evarts said that it appeared to him impossible to give such an assurance as was desired by your Lordship, to the effect that the sum offered by Her Majesty's Government should be accepted in full of all claims arising out of any interruption of American fishermen on the coast of Newfoundland and its dependencies up to the present time. He had understood that the offer had been made for definite claims, viz., those arising out of the Fortune Bay affair and the further claim mentioned in his despatch No. 109 to Mr. Lowell.

Mr. Evarts argued that if he accepted the lump sum as for all claims up to the present time, he would be under the necessity of advertising, in order to ascertain whether any other claimants existed, and that he would thus encourage the presentation of new claims which might have no foundation whatever, but which would have to be examined. Nor could the sum mentioned be distributed amongst the Fortune Bay claimants until it had been proved that there were no others.

Mr. Evarts stated, however, that he had caused an examination to be made, and had found that the Fortune Bay claims, and those mentioned in his despatch No. 109 to Mr. Lowell, were the only claims which had been presented to the State Department, except one concerning the American fishing-vessel "Mist," with respect to which a communication had been made to your Lordship some time ago. The claimant in this case, he said, had been informed that, as the claim was then presented, it could not be entertained by the United States' Government, and nothing further had been heard from him.

Mr. Evarts added that, at this moment, something might be occurring on the coasts of Newfoundland of which we must necessarily be ignorant. The United States' Government would, however, be willing to give an assurance that the sum offered would be accepted in satisfaction of all claims which had been presented to either Government. Mr. Evarts expressed the strongest conviction that there were none besides those mentioned above.

I am myself of opinion that this conviction is well-founded, for there is no master of an American vessel, or even American citizen, who does not make the most of any grievance, real or imaginary, which he may have against Her Majesty's Government. Everything of such a nature is immediately taken up by greedy newspaper correspondents, who make a mountain of a mole-hill, and blazon it forth to the world in all the public journals of the United States. It is almost impossible that such occurrences should not come to our knowledge.

I communicated to Mr. Evarts the contents of your Lordship's telegram No. 10 of the 1st instant. He repeated the same arguments which I have reported above, and observed further that although it had been at first proposed that a summary settlement of the matter should be made by him and myself, it was now said that the alternative should be a reference to assessors named by us.

Your Lordship's telegram No. 11 of the 3rd instant, the contents of which I communicated to Mr. Evarts, satisfied him upon that point.

In more than one of my interviews with him he has assured me that his Government was ready, and thought it would be expedient to proceed as soon as possible with the negotiation of an arrangement concerning the regulations which were to govern the fisheries hereafter.

On the evening of the 5th instant Mr. Evarts called at the Legation and read me a telegram which he was then sending to Mr. Lowell, referring to the two despatches which had been read to your Lordship, and instructing him to inquire whether Her Majesty's Government would offer a separate sum for the claims mentioned in each of those despatches, and repeating his assurance that he knew of no others. He asked me at the same time to telegraph, if I thought proper, to your Lordship, giving the reasons he had put forward for not being able to give so comprehensive an assurance as your Lordship desired to have. To this I assented in the hope that my communication might possibly contribute in some small degree to the settlement of this long vexed question.

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

No. 177.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, March 21, 1881.*
I HAVE laid before Earl Granville your letter of the 18th instant, inclosing a copy of a Confidential despatch from the Governor of Newfoundland respecting the Fortune Bay inquiry, and observing that if the claims of the United States should not be met by the payment of a specific sum, but should be referred to Sir E. Thornton and Mr. Blaine, the consideration of the counter-claims of the Newfoundland Government should be fully provided for in accordance with the promise made to the Newfoundland Government.

I am, in reply, to request that you will remind Lord Kimberley that in the letter from this Office of the 3rd February it was expressly stated that Her Majesty's Government must reserve for further consideration the question whether they can with propriety press these counter-claims upon the United States' Government; and I am to add that this cannot be determined until a statement of the nature of the counter-claims has been received and examined by Her Majesty's Government.

I am also to call Lord Kimberley's attention to the dilatory and unsatisfactory manner in which this question is being dealt with by the Government of Newfoundland, as shown by the despatch from the Governor.

I am, &c.
(Signed) TENTERDEN.

No. 178.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, March 21, 1881.*
I AM directed by Earl Granville to transmit to you herewith, for the information of the Secretary of State for the Colonies, a copy of a further telegraphic despatch from Her Majesty's Minister at Washington relative to the claims asserted by American fishermen on account of occurrences at Fortune Bay and elsewhere on the coast of Newfoundland;* and I am to request that, in laying the same before Lord Kimberley, you will state to his Lordship that, should he see no objection, Lord Granville is disposed to concur in the form of proceeding proposed.

I am, &c.
(Signed) TENTERDEN.

No. 179.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, March 21, 1881.*
 I AM directed by Earl Granville to acknowledge the receipt of your letter of the 18th instant, upon the subject of the compensation claimed by United States' fishermen for damages caused through the occurrences on the coast of Newfoundland; and I am to transmit to you, in reply, to be laid before Her Majesty's Secretary of State for the Colonies for his Lordship's concurrence, the accompanying draft of a telegram which Lord Granville proposes to address to Her Majesty's Minister at Washington; and I am at the same time to observe that his Lordship is of opinion that, before communicating with the Newfoundland Government, it would be better to await Sir E. Thornton's reply to the telegram sent to him on the 17th instant, a copy of which was communicated to you in my letter of the same date.

I am, &c.
 (Signed) TENTERDEN.

No. 180.

Mr. Herbert to Lord Tenterden.—(Received March 24.)

My Lord, *Downing Street, March 23, 1881.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 21st instant, inclosing the draft of a telegram which Earl Granville proposes to address to Sir E. Thornton upon the subject of the proposal that United States' vessels should cruise jointly with Her Majesty's ships in Newfoundland waters during the fishery season.

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

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

No. 181.

Mr. Herbert to Lord Tenterden.—(Received March 24.)

My Lord, *Downing Street, March 23, 1881.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 21st instant, inclosing a copy of a telegram from Sir E. Thornton, in which he explains the proposal of the Secretary of State of the United States with regard to the reference to be made to him and Sir E. Thornton as to the claims of American fishermen arising out of the occurrences at Fortune Bay and elsewhere on the Coast of Newfoundland.

As Mr. Blaine appears to be ready to agree that the settlement to be made with the United States should be by way of an inquiry into and assessment of the claims of the American fishermen, Lord Kimberley is disposed to think that it is desirable, if no insuperable impediment exists, to adopt that course instead of the proposed composition of all claims for compensation up to a fixed date by the payment of a sum down.

The circumstances under which that arrangement appeared especially convenient have ceased to exist, and as there is, therefore, no longer the same reason for pressing the matter to an immediate settlement, it would, in his Lordship's opinion, be preferable to adopt a procedure which would leave time for obtaining the previous concurrence and co-operation of the Newfoundland Government.

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

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

Sir,

Downing Street, March 25, 1881.

WITH reference to the letter from this Department of the 7th January last,* upon the subject of the proposal that one of Her Majesty's ships on the Newfoundland Station should be detailed to visit especially the coast of Newfoundland between Cape Bonavista and Fortune Bay during the bait season, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a letter from the Admiralty, inclosing one from the Commander-in-chief on the North American Station, from which it will be seen that Sir Leopold McClintock has arranged that Her Majesty's ship "Druid" shall be on the part of the coast in question by the 25th April, the commencement of the bait season.

It will be observed that Sir Leopold McClintock raises certain points connected with the exercise, on the part of naval officers, of magisterial functions on the coast of Newfoundland, and adverts to certain inconsistencies which he considers to exist in the Instructions issued to the naval officers engaged in the protection of the fisheries.

These Instructions will be found at pp. 160-162 of the Foreign Office Confidential printed paper relating to the Newfoundland Fisheries, 1879-80 (3949).

With regard to the alleged divergence in the views expressed by the Governor of Newfoundland with respect to the exercise by the naval officers of magisterial functions to which Sir Leopold McClintock calls attention, I am desired to inclose copies of the despatches. Sir John Glover's letter of the 1st December, 1880, which is quoted by Sir Leopold McClintock, forms the second inclosure to the despatch of the 18th December. Considering the circumstances in which this letter was written, as explained in the Governor's despatches, Lord Kimberley is of opinion that no notice need be taken of Sir Leopold McClintock's observations on this point, and that this matter may be allowed to drop.

For convenience of reference, the points in the naval officers' Instructions referred to by Sir Leopold McClintock are marked (A), (B), (C), and (D) in the Admiral's letter and in the Instructions in the printed paper; and Lord Kimberley desires me to offer the following observations in regard to them:—

Clause 2, Article 4 (A):

The magisterial functions of the naval officers visiting the coast of Newfoundland are exercised to the great advantage and benefit of the inhabitants in the numerous harbours and places along the coast at which Her Majesty's ships call, and many disputes between British subjects are settled by the naval officers in places where there are no local magistrates. The officers act in such matters with great judgment and tact, and Lord Kimberley is of opinion that clause 2, Article 4, should be retained.

Clause 3, Article 11 (B):

This clause relates to questions arising out of the rights on shore claimed by foreigners, and the settlement of such questions by the Colonial authorities does not in any degree conflict with or diminish the advantages derived from the exercise of general magisterial powers by the naval officers in the outlying parts of the Colony.

Clause 2, Article 9 (C):

It will be apparent, on reading the context, that the words "Your mission is to be confined to ascertaining facts," &c., have reference to the duties of the naval officers in connection with the rights claimed by the French, and not to their general magisterial functions. To avoid all misunderstanding, however, Lord Kimberley would not object to the amendment of this clause by the addition of a few words so as to run thus, "Your mission so far as regards the French is to be confined," &c.

Clause 2, Article 11 (D):

In dealing with the objection of Sir Leopold McClintock, it seems necessary that this clause and the succeeding one (3) of Article 11 should be considered together, and Lord Kimberley thinks that there are strong reasons in favour of not withdrawing them from the Instructions, unless Her Majesty's Government were prepared to abandon the position that foreigners who exercise the right of fishing in British waters, in common with Her Majesty's subjects, are bound, in common with them, to obey the law of the country; it is, in his Lordship's opinion, right that this position, so far as is consistent with Treaties, should be maintained in the Instructions to the naval

* See *ante*, No. 85.

officers. And it is not impossible that their omission might be misunderstood by the French Government, whose Instructions to their own officers habitually contain an assertion of rights in Newfoundland which Her Majesty's Government have never admitted.*

This matter is, however, one especially for the consideration of the Secretary of State for Foreign Affairs, and, in connection with it, I am to refer to the letter from this Department of the 22nd June last,† in which it was proposed that the Instructions to the naval officers should be so far modified as to include a direction not to enforce against American fishermen the provisions of any local Act passed subsequently to the Treaty of Washington. The Lords Commissioners of the Admiralty instructed Commander Hall, who was then proceeding to Fortune Bay in Her Majesty's ship "Flamingo," not to act on certain instructions which he had received from Captain Kennedy, "but to refer any breach of Colonial law on the part of Americans for consideration."

No reply appears to have been returned by the Foreign Office to the letter of the 22nd June, as it was probably considered that the instruction given to Commander Hall sufficiently met the case; but Lord Kimberley would be glad if Lord Granville would consider that letter in conjunction with the present one, and favour his Lordship at his earliest convenience with his views upon the various points raised.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 182.

The Secretary to the Admiralty to Mr. Herbert.

Sir,

Admiralty, February 14, 1881.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the consideration of the Earl of Kimberley, copy of a letter from the Commander-in-chief on the North American Station, dated the 25th January, written in reply to Admiralty letter of the 14th December last, the purport of which was communicated to you in my letter of the same date relative to the desirability of one of the ships employed in protecting the Newfoundland fisheries being sent specially to the part of the coast between Fortune Bay and Cape Bonavista.

2. It will be seen that Sir L. McClintock has arranged that Her Majesty's ship "Druid" shall be on the part of the coast in question by the 25th April, the commencement of the bait season, to prevent breaches of the peace and fishery laws.

3. I am to observe that the references made by the Commander-in-chief will be found at pp. 1 and 4 of the Instructions issued to the Senior Officer employed on the Newfoundland fisheries, a copy of which was transmitted to you in my letter of the 23rd April, 1880.

4. My Lords will be glad to be favoured with an early intimation of Lord Kimberley's views, in order that the same may be communicated to Sir L. McClintock for the guidance of the Captain of Her Majesty's ship "Druid" on his arrival off the Newfoundland coast.

I am, &c.

(Signed) ROBERT HALL.

Inclosure 2 in No. 182.

Vice-Admiral Sir F. McClintock to the Secretary to the Admiralty.

Sir,

"Northampton," at Dominica, January 25, 1881.

WITH reference to your letter of the 14th ultimo, I request you will be pleased to inform the Lords Commissioners of the Admiralty that, in compliance with the instructions therein contained, I propose to dispatch the "Druid" from Bermuda to Fortune Bay, Newfoundland, early in April, in order that she may be there at the commencement of the bait season, viz., the 25th April.

2. Adverting to the copies of the correspondence which has passed between their Lordships and the Colonial Office, sent to me in the above-quoted letter for my infor-

* See "Further Correspondence respecting Newfoundland Fisheries," Confidential Paper No. 3949, pp. 168-171, Nos. 189 and 196.

† See ante, No. 38.

mation and guidance, containing the suggestions of the Governor of Newfoundland, "that one of Her Majesty's ships of the fishery squadron should be detailed specially to visit the coast of Newfoundland between Cape Bonavista and Fortune Bay;" the bays, harbours, and coves comprised between the above points being those visited by Americans during the bait season;" also "that the ship detailed should arrive at Fortune Bay by 25th April, and be employed on that part of the coast previously referred to until the 25th September"—I beg to remark that—

1. The shortest distance by sea between the two points mentioned is 325 miles, and the number of bays, harbours, and coves named upon the large plan of the coast between them to which fishing-vessels can repair is eighty-four.

2. Last year the fishery ships were unable to start from St. John's, in consequence of the unusual prevalence of ice, gales, and fogs, until the 12th June, on which day the "Flamingo" put to sea, but was quickly enveloped in fog and damaged by collision with an iceberg.

3. I mention these facts to illustrate what is asked for, what difficulties may arise, and how very little supervision can be exercised by one ship upon such a line of coast.

4. Although last season commenced so late, the number of days spent upon this part of the coast by the fishery ships, exclusive of their visits to St. John's, numbered seventy-six, showing that it received its full share of their attention.

5. The opinion of the Governor relative to the exercise of judicial functions by naval officers appears to have undergone a change since the date of his letter to the Secretary of State, and I therefore quote from his letters the following :—

To Secretary of State, October 13, 1880.

"The depositions taken by the local magistrate are of so illusory a character as to be quite worthless.

"Had one of Her Majesty's vessels been available, as in the case of obstruction at Job's Cove, Conception Bay, referred to in my despatch of the 2nd September, I am of opinion that sufficient evidence would have been obtained by the officer commanding, in his judicial capacity, as would have led to the conviction of the people who threw stones at the Americans."

To Commander-in-chief, December 1, 1880.

"In conclusion, I would suggest whether it might not be desirable that, as a rule, naval officers having Commissions as Justices of the Peace should confine their judicial acts to that part of the coast of Newfoundland where the French have certain fishery privileges under existing Treaties, and where my Government have no resident magistrates."

6. It would seem, from paragraph 4 of the Governor's letter of the 13th October, 1880, that the Government of Newfoundland is aware that, having received from the Americans a money award, it should take some steps to secure for them the rights which they have paid for. I would venture to suggest the employment of reliable local magistrates.

7. The cost of maintaining a ship of war, which carries at most only two Justices of the Peace, falls exclusively on the Imperial Exchequer.

8. It is scarcely necessary for me to point out that the present Instructions under which the officers employed on the Newfoundland fisheries carry out their duties are somewhat conflicting; but it appears to me that in the following particulars modifications are requisite, with a view to clearly defining the limits of their authority as magistrates, and responsibilities as naval officers, of those concerned.

9. Clause 2, Article 4 (A), of the printed Instructions to the Senior Officer employed on the coast of Newfoundland, copies of which are in Office, commences: "In the exercise of these magisterial functions," &c. . . . implying that such functions are to be exercised; but clause 3, Article 11 (B) enjoins that "the enforcement of the Colonial laws to be left . . . to the Colonial authorities;" and clause 2, Article 9 (C), "Your mission is to be confined to ascertaining facts."

10. Clause 2, Article 11 (D), appears to me to be scarcely applicable in the present stage of the discussion of the fishery rights; neither the French nor Americans admit the principle therein laid down, and as it also conflicts with the foregoing clauses, I am of opinion that, if it is not to be acted up to, it should be omitted from the Senior Officer's Instructions.

11. I shall be glad to be favoured, at an early date, with any special instructions for Captain Kennedy's guidance that their Lordships may deem it expedient, in the present aspect of the fishery question, to furnish him with.

I have, &c.
(Signed) F. L. McCLINTOCK.

Inclosure 3 in No. 182.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, Newfoundland, December 18, 1880.

I HAVE the honour to forward, for your Lordship's information, a copy of a letter addressed to me by the Naval Commander-in-chief of this station, in connection with the visit of Her Majesty's ship "Flamingo" to Hamilton Inlet, Labrador, during the recent fishery season, and calling my attention to an opinion expressed by Commander Hall, R.N., that as numerous disputes respecting land or water rights may arise in that district, he (Commander Hall) submits it is desirable that early next year a member of the Supreme Court, or other person invested with the necessary authority to settle land and fishery disputes, should visit Hamilton Inlet.

2. I also inclose a copy of my letter to the Commander-in-chief in reply, together with copies of various documents relating to this subject.

3. I would observe that up to this moment neither myself nor my Government have received any information in regard to disputed rights of land or fishery on the coast of Labrador which would necessitate the holding of the Supreme Court in that portion of my Government, and the Collector of Customs who visited the district referred to in the Revenue cruiser in the course of last summer, and who remained at Rigolet from the 5th to the 18th August, reports that the only dispute brought to his notice was between one Rich and a man named Flowers, who were fishing the Jordan Brook; Flowers had a fleet of three salmon-nets, Rich had two, and the latter lifted Flowers' third net as being set contrary to custom.

4. The Collector of Customs further states that Mr. Fortescue, Justice of the Peace at Rigolet, made no observations to him in regard to any disputes or disturbances in Hamilton Inlet, and the Honourable S. Rendell, the agent for Messrs Job, Brothers, in St. John's, when handing to my Private Secretary the original letters he had received from Mr. Fortescue (see Inclosures 7 and 8), remarked that he did not consider the question as mooted by Mr. Fortescue in these letters as of sufficient importance, to trouble either the Governor or the Government with it.

5. The question of an exclusive right to a sea fishery, as put forward by Mr. Fortescue, is contrary to the law of Newfoundland, and the statement that a case of this nature was decided by the Supreme Court in 1874 is incorrect, inasmuch as the Attorney-General in his letter to me on this subject (see Inclosure 3) states that he is unable to discover, nor does he believe, that any claim to an exclusive right of fishery in Jordan's Tickle has ever been preferred in the Supreme Court.

6. The Coast Fishery Act, cap. 102 of the Consolidated Statutes of 1872, amended in Act 38 Vict., cap. 7, recognizes no exclusive or private rights of fishery, but provides only as to distance between nets (see section 10 of the Consolidated Statutes).

7. It would appear that the letters from Mr. Fortescue to the Honourable S. Rendell previously referred to (Inclosures 7 and 8) were given by the latter gentleman to the Paymaster of Her Majesty's ship "Druid," and through that officer reached Captain Kennedy, R.N., who subsequently called upon me, and after reading certain extracts from them stated that he was prepared to send a ship to Hamilton Inlet to put things right.

8. I am at a loss to conceive why the whole of the information obtained by Captain Kennedy through his Paymaster was withheld, when it was unreservedly given to me some time afterwards by Mr. Rendell, or why Captain Kennedy should be desirous of interfering in a matter upon which I had previously expressed an opinion, without being desired to do so by me at the request of my Government.

9. I at once placed before my Council such information as Captain Kennedy could be induced to give me, and with a view to minimize any injury or injustice that might arise through the hasty action of any officer sent to Hamilton Inlet, a Minute (see Inclosure 9) was framed pointing out that no Justice of the Peace had any authority whatever to interfere between the occupants and the claimants of land or water privileges. A copy of this Minute was transmitted to Captain Kennedy, with

a request (see Inclosure 10) that in the event of his sending a ship to Labrador it might be notified to the officer commanding for his guidance, and also to Mr. Fortescue, Justice of the Peace at Rigolet.

10. My Government called upon Mr. Fortescue for an explanation of the statements put forward by him in his letters to Mr. Rendell, and I now inclose a copy of this correspondence (see Inclosures 12, 13, and 14).

12. The opinion relative to rights of property referred to by Mr. Fortescue as having been expressed by me was not contrary to the Colonial Statutes, to which neither Captain Kennedy nor Commander Hall appear to have given any of their attention, but to have confined themselves to the statements of Mr. Fortescue, the agent of the Hudson's Bay Company, who was naturally interested in obtaining the exclusive right to a fishery that he was about to purchase on behalf of the Company which he represents.

12. If, however, any expression or action of mine, supported by a Minute of my Executive Council, shall have prevented the perpetration of a grave wrong against ignorant and struggling fishermen, and that the free use of an open run of the sea between Jordan Island and the mainland shall have been secured for the enjoyment of rich and poor alike, subject only to the proviso laid down in cap. 102, section 10, of the Consolidated Statutes, I may be well content to pass without further comment the injudicious attempt on the part of the officer commanding the fishery squadron to support, at the expense of poor fishermen, a large and influential Company in their endeavour to obtain the exclusive right to a fishery within my jurisdiction and common to all.

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 4 in No. 182.

Vice-Admiral Sir F. McClintock to Governor Sir J. Glover.

Sir, "Northampton," at Bermuda, November 10, 1880.
REFERRING to a suggestion contained in a Minute of the Executive Council of the Government of Newfoundland under date the 4th September, 1880, to the effect that, as one of Her Majesty's ships may call at Hamilton Inlet in the course of her Labrador cruize, the Captain should be specially instructed in such cases to impress upon the people of the locality that all disputes respecting land or water rights must be tried before the Supreme Court, and that neither he (the Captain) nor any other Justice of the Peace has any authority whatever to interfere between the occupants and claimants of land or water privileges, Commander Hall, of Her Majesty's ship "Flamingo," in accordance therewith, informed the people in the vicinity of Rigolet that all disputes respecting land or water rights must be tried by the Supreme Court; upon which they remarked that the disputes could never be settled, as it was utterly impossible for them to go to St. John's, as they could neither afford the time nor the money.

2. Commander Hall is of opinion that numerous disputes may arise, and he submits that for the peace and well-being of the community some means of arriving at a legal decision should be brought within their reach early next year, either by Assize or Circuit Court, as is the practice at home; or, if this would be unsuitable, by entrusting the necessary authority to some responsible person, and sending him to the place.

I have, &c.
(Signed) F. L. McCLINTOCK.

Inclosure 5 in No. 182.

Governor Sir J. Glover to Vice-Admiral Sir F. McClintock.

Sir, Government House, Newfoundland, December 1, 1880.
I HAVE the honour to acknowledge the receipt of your letter of the 10th ultimo, informing me that Commander Hall, R.N., of Her Majesty's ship "Flamingo," had, in accordance with the Minute of my Executive Council, dated 4th September, 1880,

notified to the people in the vicinity of Rigolet, Labrador, that all disputes respecting land or water rights must be tried by the Supreme Court.

2. With reference to the suggestion of Commander Hall that some measures for settling disputes of this nature should be brought within the reach of the people of that district early next year, I would remark that this question has already engaged the consideration of my Government.

3. In directing your attention to the Minute of Council previously alluded to, I would point out that in the present instance neither myself nor my Government had any desire that one of Her Majesty's ships should visit the locality referred to; but it having come to my knowledge that Captain Kennedy was anxious to interfere in the matter, and to dispatch one of the ships under his command to the spot, it then became necessary to protect the fishermen against two influential Companies, and to minimize as far as possible the injury or injustice which might arise from too hasty action. It was for this reason, therefore, that at my request, when framing the Minute, my Ministers were careful to impress upon the commanding officer of any ship visiting Hamilton Inlet that neither he nor any Justice of the Peace had any authority whatever to interfere between the occupants and claimants of land or water privileges; and in order that this Minute might be communicated to Mr. Fortescue, I requested that the ship detailed might call at Rigolet.

4. I have submitted the various documents relating to the disputes referred to in Commander Hall's Report to the Attorney-General of this Colony, and I now inclose a copy of that officer's opinion in regard to the judgment of the Supreme Court in 1874.

5. In conclusion, I would suggest whether it might not be desirable that, as a rule, naval officers having Commissions as Justices of the Peace should confine their judicial acts to that part of the coast of Newfoundland where the French have certain fishery privileges under existing Treaties, and where my Government have no resident magistrate.

I have, &c.
(Signed) JOHN H. GLOVER,

Inclosure 6 in No. 182.

Mr. Whiteway to Governor Sir J. Glover.

Sir, *Attorney-General's Office, Newfoundland, November 30, 1880.*
I HAVE the honour to report that in the case of *Pottle v. Norman* and others, tried in the Supreme Court, to which your Excellency has referred, the only questions involved were: (1) the right of possession as regards a store which each party claimed; (2) the right of possession as respects certain ring-bolts, or salmon-posts, used for the purpose of fastening or securing nets.

There was no question as to any exclusive right of fishery involved in the suit.

I cannot discover, nor do I believe, that any claim to an exclusive right of fishery in Jordan's Tickle has ever been preferred in the Supreme Court.

I have, &c.
(Signed) W. V. WHITEWAY, *Attorney-General.*

Inclosure 7 in No. 182.

Mr. Fortescue to Mr. Rendell.

My dear Sir,

Rigolet, July 12, 1880.

YOUR favour of the 7th ultimo reached me on the 4th instant.

With regard to the salmon-posts, I was authorized by Mr. Armit, the Secretary of our Company, to make arrangements with you, but it is with great regret that I have to inform you that the Tickle, the best place of the lot, is again in dispute. It was seized upon early in the spring by George Pottle, the same party who contested the claim of Captain Norman to that place.

It is much to be regretted that his Excellency Sir John Glover, when here last autumn, entered into such a subject as right of occupation of fisheries with the people here, as the results even yet are not known.

It is currently reported that he said, in reference to, I believe, the Hudson's Bay Company's posts, "What! claim the water? No man can do that, and if any one has nets to fish they have a right to fish any place, as good a right as the Company." This has been the cause of the seizure of the Tickle, and besides, I have been warned about some of our own places. Now, though I have been appointed a magistrate, owing to their never having given me a copy of the Statutes; I am at a loss to know how to act. One thing is certain, the Bay is all in confusion at present, and I would suggest that one of the ships of war should come; the "Druid" would do well, as she is coming down so far as Sandwich Bay, and the Captain should have full powers assigned to him to put everything on a satisfactory and firm basis.

When everything is arranged so that the rights of fishing are protected, I shall be able to take over the places as agreed upon in your letter of the 7th ultimo.

Trust that everything will shortly be satisfactorily settled, I remain, &c.

(Signed) M. FORTESCUE.

Inclosure 8 in No. 182.

Mr. Fortescue to Mr. Rendell.

(Private.)

(Extract.)

Rigolet, July 15, 1880.

I WAS very sorry to have to inform you of the state of affairs at the fishing stations, and I cannot but think that Sir John Glover's words must have been misunderstood, or else wilfully perverted. The case of George Pottle is an old one, it having been tried in the Supreme Court in Newfoundland, and then found against him. Mr. Knight, who came down afterwards in place of Judge McNeil, and as Judge as well as Customs officer, informed us that our rights and every one's were secure, but we must have buildings and not abandon our stations for more than twelve months; and I have gone to considerable expense in erecting new buildings at our different posts in order to fully comply with the law, and I hope that things will be put in proper trim this summer. I was prepared to accept your offer this spring, but I am sure you will at once perceive that I could not conclude an arrangement on behalf of our Company, with affairs in the present loose state. I find that I could not purchase on my own behalf as it is contrary to my deed of partnership. I am fully aware of the kindness I have experienced from you on several occasions, and it has annoyed me greatly to have to inform you of such proceedings, but I do hope that you will see that order will be restored in the Bay, and it will take a "man-of-war" to do that now. This case has caused several others to enroach on the rights of others, and I can do nothing when applied to. They made me a magistrate last year, but never gave me the Statutes, and to tell you the real truth, I feel half doubtful whether there really is any law to meet such a case, and to protect individuals in the case of salmon fisheries, as it appears from what I can remember the protection is more given to the cod fishery than anything else; however, I trust the "Druid" will come down and put everything right. I had intended asking for a few medicines, but I really cannot ask you to use your influence on behalf of the people at present. I am rather of opinion that Joseph Oliver is at the bottom of a good deal of this trouble, as he has been wanting to get Mullins Cove for himself for some time. I wish you could come down in the "Druid" yourself, and see that everything is properly and fairly adjusted for all parties, as unless something is done at once matters will get worse, and in a year or two the whole Bay will be fighting. The people here are at present very docile and willing to obey the law when fully and properly pointed out to them—at least I have hitherto found them so—but if little breaches are allowed to go on without any attempt to check them, and with bad advice from parties who in some cases come here simply for their own interests, and without regarding the general welfare of the inhabitants, I can readily imagine in a very short time the people would become a lawless turbulent lot, and which state would very probably cause more trouble to the Government and to others coming on the coast than could be rectified in a long time.

Inclosure 9 in No. 182.

Extract from Minutes of Council of September 4, 1880.

HIS Excellency the Governor referred to the Council information he had received regarding disturbances relative to rights of property that were likely to arise in Hamilton Inlet, in consequence of certain expressions of his Excellency during his visit there last year; and that the presence of a man-of-war was required in that locality.

If the above information be correct, the Council consider that Mr. Fortescue, as Justice of Peace, has been guilty of dereliction of duty in having failed to acquaint the Government of the circumstances. Mr. Fortescue should be requested to report on the matter referred to.

The Council are of opinion that the information is not sufficiently authenticated to warrant their advising that a ship of war should be sent to Hamilton Inlet, but as, in the course of her Labrador cruize, one of the ships of war may call there, the Captain should be specially instructed in such case to impress upon the people of the locality that all disputes respecting land or water rights must be tried before the Supreme Court; and that neither he (the Captain) nor any other Justice of Peace has any authority whatever to interfere between the occupants and the claimants of land or water privileges.

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

Inclosure 10 in No. 182.

Governor Sir J. Glover to Captain Kennedy.

Sir, *Government House, Newfoundland, September 9, 1880.*

SHOULD it be your intention to direct any of Her Majesty's ships under your command to visit the coast of Labrador, I would request, if it be not inconsistent with any instructions you may have received from the Commander-in-chief, that you will authorize the commanding officer to call at Rigolet, Hamilton Inlet.

I have the honour to inclose, for your information, an extract from the Minutes of my Executive Council, and I would be glad if you will notify the same for the guidance of the officer commanding any ship visiting Rigolet.

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 11 in No. 182.

Captain Kennedy to Governor Sir J. Glover.

Sir, *"Druid," St. John's, September 9, 1880.*

I HAVE the honour to acknowledge the receipt of your letter inclosing an extract from the Minutes of your Executive Council, and I have the honour to inform your Excellency that, agreeably to your wishes, I have directed Commander Hall, of Her Majesty's ship "Flamingo," to touch at Rigolet, and I have furnished him with a copy of the Minutes for his information and guidance. On the "Flamingo's" return to St. John's, I will furnish your Excellency with a copy of Commander Hall's Report.

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

Inclosure 12 in No. 182.

Mr. Shea to Mr. Fortescue.

*Colonial Secretary's Office, St. John's, Newfoundland.
September 9, 1880.*

Sir, HIS Excellency the Governor is informed that a letter has been received from you, stating that disturbances regarding rights of property were likely to arise in

Hamilton Inlet, from certain expressions alleged to have been used by the Governor during his visit to that locality last year, and that you thought that the presence of a ship of war would be required there.

I am to acquaint you that his Excellency holds you guilty of dereliction of duty, as a Justice of the Peace, in having failed to communicate the information to the Government, instead of to others, and I am to request you to forward me, by first mail, your Report on all the circumstances of the case.

I have, &c.
(Signed) E. D. SHEA.

Inclosure 13 in No. 182.

Mr. Fortescue to Mr. Shea.

Sir,

Rigolet, September 14, 1880.

I HAVE the honour to acknowledge receipt of your favour of the 9th instant, per Her Majesty's ship "Flamingo."

I regret to learn that his Excellency, for whom I have the greatest respect, should hold me as deficient in my duty as Justice of the Peace in not reporting to the Government alleged words of his respecting rights of fishery.

The facts of the case are these: decision was given by the Supreme Court of Newfoundland regarding one of these places in 1874, I believe, which has been seized upon this summer.

Although appointed a magistrate in 1879, the Statutes were not sent to me, and I could not act till I knew what was authorized by the law, and besides the particular case above referred to, another complaint was entered early, regarding one man taking up a portion of another man's net. Any dispute about distance from one net to another I could not decide. I, on that account, thought it advisable that one of Her Majesty's ships should be here to decide on points which may, perhaps, appear trivial, but, at the same time, are important to the residents here and peaceable order of the bay.

Trusting that this explanation will suffice, I have, &c.
(Signed)

M. FORTESCUE.

Inclosure 14 in No. 182.

Mr. Fortescue to Mr. Shea.

Sir,

Rigolet, September 23, 1880.

I HAVE to acknowledge receipt, per Captain Hall, of Her Majesty's ship "Flamingo," of extracts from Minutes of Council held on the 4th September, 1880, and in which you wish me to report on certain infringements of rights of fisheries, &c.

I have now the honour to inform you that in or about the year 1871 a man named George Pottle fished salmon for Captain, or I should perhaps say Mr., Nathan Norman, of Brigus, Newfoundland, at Jordan's Tickle, in this inlet. Some people told Pottle to fish it on his own account. Norman came up from Indian Harbour, broke into the man's house, and threw his nets ashore, &c. The case was tried in the Supreme Court of Newfoundland, and judgment given in favour of Norman.

This decision in 1874 was reported here by Judge McNeil, who at the same time said that people owning salmon fisheries could not be disturbed in their rights so long as they regularly fished their different places. Subsequently, Mr. M. T. Knight, who acted also as Collector of Customs, informed me personally that all salmon-fishery rights would be recognized by the Newfoundland law, but that it would be advisable to have buildings at the different stations; and, in consequence of that suggestion, the Hudson's Bay Company have been to considerable expense in erecting buildings at each and all of their different posts.

In July 1876 the representative of Messrs. Job, Brothers, was at Rigolet, and then informed the acting agent for the Hudson's Bay Company that Job, Brothers, had purchased all of Mr. Norman's interests on this coast. |

In July 1879 Job, Brothers, offered to me for sale their salmon stations in this inlet, viz., Mullin's Cove (fished by Joseph Oliver), Jordan's Tickle (fished by George Flowers, jun.), and Jordan's Brook (fished by Charles Flowers). I myself, representing

the Hudson's Bay Company here, had to refer the matter to the Board in England before making any final arrangements; and as there is no possibility of communication for, say, nine months out of the twelve, I received no answer till the spring.

I must now say that during the winter flying reports reached me that George Flowers, jun., intended fishing the place on his own account, and Charles Flowers his place also, on account of, as some said, his Excellency, while here in 1879, having mentioned that the water was free to all; but these being only flying reports, I paid no attention to them.

This spring George Pottle, the man referred to before, who conceives that he has a better and prior right to the place than Flowers, said that if the water was free he should go there, which he accordingly did.

I then informed Job, Brothers, per first mail, of my being prepared to purchase, but that, in consequence of these places being seized, I required proof that they had rights to sell, and that those rights could be and would be enforced by law. I, as a private individual, could not lay a complaint before myself as Justice; and, besides, I conceived that it was the part of Job, Brothers, to lay that complaint; and, in my opinion, I thought it better that a man-of-war should be present to enforce, if necessary, the decision of the Supreme Court already referred to.

Captain Hall will no doubt inform you also on this subject.

Herewith I forward a list of marriages performed by me, in accordance with chapter 105, section 8, Consolidated Statutes, and inclose the sum of 1 dollar for registration fees for the five marriages.

I have to inform you that I received per last mail only a copy of the Consolidated Statutes, together with some medicines, for which latter I must thank you on behalf of the people here, for whose benefit it is intended. At the same time, I would observe no printed forms have been sent for magisterial purposes.

I have the honour to inform you that, on the 13th July, 1880, I addressed you, inclosing account of disbursement of flour, &c., left by Her Majesty's ship "Druid," in September, 1879, for the relief of the poor, for which I have received no acknowledgment.

I have, &c.
(Signed) M. FORTESCUE.

Inclosure 15 in No. 182.

Commander Hall to Governor Sir J. Glover.

Sir,

"Flamingo," St. John's, October 14, 1880.

IN compliance with orders from Captain W. R. Kennedy, Senior Officer, I have the honour to inclose herewith, for your Excellency's information, a copy of my Report to him relative to alleged disturbances at Rigolet.

I have, &c.
(Signed) W. H. HALL.

Inclosure 16 in No. 182.

Commander Hall to Captain Kennedy.

Sir,

"Flamingo," St. John's, October 14, 1880.

I HAVE the honour to inform you that, in accordance with your orders of the 8th ultimo, I proceeded to Rigolet, Labrador, to inquire into the disturbances reported to be likely between the Hudson's Bay Company and the salmon-fishers in the neighbourhood, and beg to submit the inclosed Report.

I have, &c.
(Signed) W. H. HALL.

Inclosure 17 in No. 182.

Report.

Second Fishery Cruise: Alleged Disturbances at Rigolet, Hamilton Inlet, Labrador, September 1880.

THE chief cause of dispute here is the right of fishing for salmon in Jordan's Tickle, a passage between an island and the mainland on the south shore of the inlet, about miles to the eastward of Rigolet.

The case as explained by Mr. Fortescue, Hudson's Bay Company's agent at Rigolet, is as follows:—

Formerly a Captain Norman claimed the sole right of fishing in the Tickle, and employed a man named G. Pottle to fish it for him. Pottle, about 1871, claimed the right to fish this place on his account, in right of his wife, a daughter of the occupant of the place before Captain Norman.

Shortly afterwards he (G. Pottle) was turned off the place by force by Captain Norman, and his nets were removed.

Pottle then sued Captain Norman for damages in the Supreme Court of Newfoundland, who, in 1874, gave judgment against him, and upon being informed of this adverse decision by Judge McNeil, he (Pottle) left the place.

A man named G. Flowers, jun., was then employed by Captain Norman to fish this Tickle for him in Pottle's place.

In 1876 Captain Norman sold all his rights of salmon-fishing on the Labrador coast to Job, Brothers, who continued to employ Flowers to fish this Tickle for them.

In July 1879 Job, Brothers, offered to sell their salmon-fishery rights to the Hudson's Bay Company.

Whilst the negotiations were pending, Job, Brothers', agent at Indian Harbour, Hamilton Inlet, seems to have led Flowers to believe that in future he might fish this Tickle for his own benefit: (1) by giving him possession again of all the nets he had been using, which, in accordance with the usual custom, had been returned into Job, Brothers', store at the end of the season; and (2) by refusing to supply him with any provisions for the coming winter, as had hitherto been the custom.

Flowers then obtained provisions for the winter from Mr. Fortescue, to whom he sold the salmon he caught in the Tickle this year.

This year (1880) Pottle returned to the Tickle and fished there for his own benefit, and assigned to me, as a reason for doing so, that on the "Druid's" visit to Rigolet last year with his Excellency the Governor and some members of the Council, he understood that the waters were free, and that any one had a right to fish wherever he pleased, and others said they understood the same.

It appears that no one this year has claimed, or attempted to exercise, the right of ownership in the fishing in this Tickle, and the action of Job, Brothers', agent last fall was certainly calculated to convey the impression that this firm would, for the future, cease to exercise any such rights there, and the Hudson's Bay Company not assuming any rights tended to confirm this belief, that for the future the fishing there was free to any one and every one.

Two other cases of a minor nature of disputed rights, one a water and the other a land right, were brought to my notice.

In accordance with the Minute of the Council, dated the 4th September, 1880 (a copy of which is inclosed), I informed the people of the locality that all disputes respecting land or water rights must be tried by the Supreme Court, upon which they remarked, that being so, the disputes could never be settled, as it was utterly impossible for them to go to St. John's, as they could neither afford the time nor the money.

The belief seems now generally prevalent there that there is no such thing as an "exclusive right" to fish in any particular part of the waters, and seeing that this, when acted on, may cause numerous disputes which it is impossible can be settled in the ordinary course, *i.e.*, by action in the Supreme Court, I would submit it is desirable for the peace and well-being of the community, who appear quiet and orderly, and well-disposed to obey the law when made known to them, that as early as possible next year a member of the Supreme Court, or some one with the necessary authority, should visit Hamilton to hear and settle all disputes relative to land or water rights.

In accordance with your instructions, I furnished Mr. Fortescue with a copy of the Minute of Council of the 4th September, 1880.

(Signed)

W. E. HALL, *Commander.*

"*Flamingo,*" *St. John's, October 14, 1880.*

Inclosure 18 in No. 182.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, December 20, 1880.

WITH reference to my despatch of the 18th instant, transmitting copies of various documents relative to alleged disputes respecting land or water rights at Hamilton Inlet, Labrador, I have the honour to state that I would not have brought this matter to your Lordship's notice had it not been for the letter (see Inclosure 4) addressed to me by the Naval Commander-in-chief of this Station directing my attention to an opinion expressed by Commander Hall, R.N., of Her Majesty's ship "*Flamingo,*" and also to certain suggestions submitted by that officer.

2. The subject is one which I would have been content to leave in the hands of my Government, and to have passed over without comment, but as it has resulted in a correspondence between the Commander-in-chief and myself, and will doubtless eventually reach the Admiralty, I consider it necessary to lay before your Lordship a statement of what appear to me to be the real facts of the case.

3. I deem it advisable to submit the matter to your Lordship in a confidential form, as, although I have no objection to my opinion being known, I think it undesirable that my views on what seems to me to be an attempt to use Her Majesty's ships for private purposes should be published in the Legislative papers of this Colony.

4. So far as I have been enabled to ascertain from the limited information afforded, the following appears to me to be a correct account of the state of affairs at Hamilton Inlet, and of the action of the representatives of two large and influential Companies. At the end of June, or beginning of July 1879, when communication was opened, the Honourable S. Rendell, as agent for Messrs. Job, Brothers, at St. John's, proceeded to Labrador to visit the stations there that are under the control of the firm which he represents. As matters there were found to be in anything but a satisfactory condition in consequence of the almost complete failure of the salmon fishery, the question of abandoning the agency seems to have been considered. It was probably ascertained that the Hudson's Bay Company, who have an agency in that district, would take over the business provided they could enter into it without incurring any opposition from the people of the district, who might possibly object to the transfer. Negotiations having been opened with Mr. Fortescue, the agent for the Hudson's Bay Company at Rigolet, and things having been arranged to the satisfaction of the representatives of the two influential Companies, it became necessary that the purchasers should be guaranteed against any opposition from the people, and also against any loss likely to arise from having to support them during the coming winter of 1879-80. As a means of checking in an apparently legal manner any opposition, Mr. Fortescue was to be made a magistrate of the district, so that if any question about land or water rights should arise, the fact of his being a Justice of the Peace would confirm his decision against the ignorant fishermen, and thus the Hudson's Bay Company would be able to take quiet possession. To obviate the danger of the Hudson's Bay Company having to support the people during the winter then approaching, it was probably arranged that as soon as Mr. Fortescue was made a Justice of the Peace he was to write the letter he did (see Inclosure 19) asking for assistance for the people, it being supposed that his position as Justice of the Peace would carry weight with the Government, and that they would be induced upon his representations to supply the necessary provisions for the winter, and thus all risk of the Hudson's Bay Company having to keep the people would be removed. This was probably the arrangement between Messrs. Rendell and Fortescue when the former left to return to St. John's at the end of July.

As a preliminary step in the matter, as soon as Mr. Rendell returned he brought matters to the notice of the Government, and about the 2nd August Mr. Fortescue was appointed a Justice of the Peace. The Commission was sent by mail soon after-

wards, and by the return steamer I received a letter from Mr. Fortescue, written perhaps in terms previously arranged, and supported by one from the Rev. W. C. Shears (copy inclosed), who may have been induced by the representations of Mr. Fortescue to bring the matter forward.

The representations were acted upon, but instead of the provisions being sent to be distributed entirely according to the plans of Messrs. Rendell and Fortescue, I proceeded to the locality in Her Majesty's ship "Druid," accompanied by one of my Ministers.

It is probable that during this visit the people ascertained that their rights of sea-fishing were common to every one, and that these could not be transferred by Mr. Rendell to any one else; consequently, the people, having obtained sufficient supplies from the Government to carry them through the winter, were quite independent of either Mr. Rendell or the Hudson's Bay Company, and upon the termination of the salmon fishery in 1880, they not being in debt to any one for their supplies during the preceding winter, were in a position to make the most of their season's catch, instead of having to turn it over to one of the merchants at a comparatively nominal price.

As a natural consequence of this, the Hudson's Bay Company found the bargain entered into anything but profitable, and doubtless declined to carry it out until the conditions made by Mr. Rendell with Mr. Fortescue had been fulfilled, and they were able to obtain full possession of all the fisheries in the district. This was duly represented by Mr. Fortescue to Mr. Rendell in the course of the summer of 1880 (see Inclosure 7), and it then became necessary for the latter to devise some plan for forcing the people to give up their claim to the fisheries. As a means of doing this, the letters of Mr. Fortescue (see Inclosures 7 and 8) representing that disturbances were likely to arise, and that the presence of a man-of-war was necessary to put things right, were placed by Mr. Rendell in the hands of the Paymaster of Her Majesty's ship "Druid," for the information of Captain Kennedy, who it was probably hoped would at once dispatch a ship, and that the commanding officer, being a Justice of the Peace, would, in conjunction with, and acting under the guidance of, Mr. Fortescue, interfere and put everything in a satisfactory state for the transfer of the property from Mr. Rendell to the Hudson's Bay Company. As anticipated, the letters upon reaching Captain Kennedy produced the desired effect, and he soon after called and informed me that he was prepared to dispatch a vessel to Hamilton Inlet, in consequence of his having received information of a private nature, the whole of which he was not at liberty to divulge.

As matters affecting land or water privileges have to be referred to the Supreme Court, it became necessary when a ship of war was to be dispatched to protect the people of the place against any hasty or illegal action on the part of any officer acting under the influence of Mr. Fortescue. Hence a carefully-worded Minute of Council was framed, pointing out that no Justice of the Peace had any authority whatever to interfere in matters of this nature. This was duly communicated to the commanding officer of the ship, to be sent for his information and for that of Mr. Fortescue; consequently, the object hoped for by dispatching the ship was not attained, and the whole scheme was frustrated.

5. It would appear from the Report of Commander Hall, R.N., of Her Majesty's ship "Flamingo" (see Inclosure 17), the ship ordered by Captain Kennedy to Hamilton Inlet, that this officer upon reaching Rigolet placed himself in communication with Mr. Fortescue, and that his account of the disturbances reported to be likely to arise seems to have been almost entirely derived from the statements made by that magistrate. It will be observed from this Report that Mr. Fortescue states the question in dispute was settled by the Supreme Court in 1874, whereas the Attorney-General in his letter to me (see Inclosure 3), shows that on the occasion referred to no question of an exclusive right of fishery was then decided.

6. In the foregoing I have endeavoured to place before your Lordship as clearly as possible my opinion as to the circumstances which led to the dispatch of one of Her Majesty's ships this year to Hamilton Inlet for the alleged purpose of settling disturbances reported as likely to arise in consequence of certain expressions of mine when visiting that district in the autumn of 1879.

7. The information afforded me on this subject has been very limited, and is based almost entirely upon the statements of Mr. Fortescue; but should the matter be brought to your Lordship's notice through the Admiralty, I believe the views I have expressed as to the action and motives of the representatives of the two Companies to be correct, as I consider that in this instance an attempt has been made to obtain the

services of one of Her Majesty's ships for the purpose of supporting the interests of private individuals on the plea of alleged disturbances.

8. I inclose, for your Lordship's information, a tracing from the Admiralty Chart No. 375, showing the district of Hamilton Inlet, and the locality of the fisheries alleged to be in dispute.

I have, &c.
(Signed) JOHN H. GLOVER.

Inclosure 19 in No. 182.

Mr. Fortescue to Governor Sir J. Glover.

Sir, *Rigolet, August 14, 1879.*

THE inhabitants of the inlet within your jurisdiction having requested me to lay their case before you, I have now taken the liberty of addressing you.

This I trust you will excuse, when I recall to your notice that the dependency of Labrador, covering an extent of sea-coast of over 1,000 miles, I believe that is from Blane Sablon to Cape Chudleigh, has no representative in Parliament, consequently the residents here are unable to bring before you from time to time such subjects as might be worthy of attention, and thus presenting rather an anomaly in the British Constitution, viz., a large proportion of your subjects being governed without having any voice in the matter at all.

Owing to the entire failure of the salmon fishery this year, there is great destitution in this vicinity, and the people all find that the additional impost of 15 per cent. on the amount of duties presses too hard upon them, and they would humbly submit to your consideration that as all the money collected here has been expended in Newfoundland proper, that any deficiency in the revenue required to be met should be by taxation on the Island of Newfoundland, but not including the dependencies. Referring to the Honourable the Receiver-General's speech on Ways and Means of the 12th March 1879, he says that to meet the increased demand, &c., the sum of 912,953 dols. 21 c. will be required, whilst he gives a condensed statement of how the money will be expended, and that is entirely in the Island of Newfoundland. Take, for instance, the relief of the poor: the amount stated by him is 143,705 dollars. How much of this sum will be expended on this coast? There are many people here, widows, orphans, old people incapable of work, and cripples, who have equal claims for relief, but receive none.

The real state of the case is this, that for years we have paid duties and never received any benefit, not even protection, from the Government. The fishing population of Newfoundland who annually resort to this coast are a very lawless class of people in general, and do more damage to the regular residents than assist them in any way. They burn the country in every direction, regardless whether houses or property are destroyed, steal salmon out of the nets, and in stealing them destroy the nets by cutting the fish out; and what can the people do here? There is not a magistrate about here to apply to, and even if there was one he would be powerless to act amongst fifty or sixty vessels manned by such a class of people as those referred to.

We hear that there is a ship of war for keeping order on the coast, but if such is the case it must be only a small portion that she looks after, as I myself have been at this post for many years but have never seen any Government vessel beyond the Revenue cruiser, which I may add is very punctual on her rounds.

Since 1874 we have contributed to the Revenue, including this present summer, 2,750l. 1s. 8d. from this post only, and would wish to have the same benefits as others in Newfoundland.

The Honourable Receiver-General states a sum of 12,000 dollars for ship-building. Schooners are built here, but we can get no bounty. The collector is not authorized to measure vessels.

Again, Judicial Department, sum required, 132,318 dollars. There is no Court here for recovery of a simple debt, and such cases would have to go to St. John's, I suppose; and at the same time there are some disputes about the right of salmon fisheries, and no one here invested with power to settle such small matters of dispute.

One great source of annoyance to us is the Halifax traders and others on this coast bringing intoxicating liquors amongst the people, leading, of course, to breaches

of the peace. By obliging such parties to take out a licence to sell, which might be, with advantage to the revenue, placed at a high amount, say 100 dollars, it would, I think, go a long way to putting a stop to traffic which is only injurious to the people in every way; whilst selling to Indians or Esquimaux might be brought under the same penalties as the Dominion Legislature on that point.

Trusting that you will grant some relief this autumn to the poor widows and helpless people, I have, &c.

(Signed) M. FORTESCUE.

P.S.—The Honourable Stephen Rendell having visited the coast this spring will, I think, be able not only to confirm a portion of the above, but also to give very valuable advice on the state of the public feeling along the coast generally.

M. F.

Inclosure 20 in No. 182.

The Rev. W. C. Shears to Governor Sir J. Glover.

Sir, *Labrador, Esquimaux Bay, Rigolet, August 15, 1879.*

I AM a clergyman of the Church of England, having charge in Newfoundland of the mission of Bay Roberts, Conception Bay, and I have been making a missionary tour on the lower part of the Labrador coast for the last month, visiting each settlement and settler.

I have been through the largest part of this bay, and have seen most of the people, and from what I have learnt of their circumstances from personal observation I deem it my duty to write to your Excellency, and inform you of their present state.

The salmon fishery, on which they entirely depend for their living, has been a complete failure, they have literally caught nothing. I have spoken with men who have not caught fifty salmon this season, and I heard to-day of one whose whole catch did not number ten. At present they have but little food, and no means to buy more. Before long want will be felt, and starvation is the only prospect before them in the winter, and I venture to beg that your Excellency will ask the Government to take some speedy steps to help these poor people in their distress, and ward off the impending calamity.

I trust that your Excellency will not think me presumptuous or meddlesome in thus writing, and I beg to subscribe myself your Excellency's, &c.

(Signed) W. C. SHEARS.

No. 183.

Earl Granville to Sir E. Thornton.

(No. 15.)

(Telegraphic.)

Foreign Office, March 25, 1881, 1:40 P.M.

WITH reference to my telegram No. 14 of the 17th instant, take no further steps in matter of joint British and American cruizers, and postpone all other questions until Her Majesty's Government are able to communicate to Newfoundland Government result of present negotiations for payment of compensation.

No. 184.

Earl Granville to Sir E. Thornton.

(No. 68. Extender.)

Sir,

Foreign Office, March 25, 1881.

WITH reference to my despatch No. 59 of the 17th instant relative to the claims for compensation advanced by United States' fishermen on account of the occurrences at Fortune Bay and elsewhere on the coast of Newfoundland, I have instructed you by telegraph to take no further steps with regard to the proposed dispatch to that neighbourhood of joint British and American cruizers. I have

further to request that you will postpone the consideration of all other questions connected with this discussion until such time as Her Majesty's Government may be in a position to communicate to the Government of Newfoundland the result of the present negotiations for the payment of an indemnity to the American fishermen.

I am, &c.
(Signed) GRANVILLE.

No. 185.

Sir E. Thornton to Earl Granville.—(Received March 29.)

(No. 75.)

My Lord,

Washington, March 14, 1881.

I HAVE the honour to inform your Lordship that, on Mr. Blaine's invitation, I called upon him at the State Department on the 12th instant, for the purpose of conferring with him upon the proposed settlement of the Fortune Bay and other claims of American fishermen.

Mr. Blaine said that, after due reflection, he had come to the conclusion that the discussion of the matter could be carried on more satisfactorily here than in London. He adverted to the position which had been taken by his predecessor, and pointed out that, as Mr. Evarts had declined to give the full assurance required by your Lordship on the receipt of 15,000*l.* from Her Majesty's Government, he did not think it was in his power at once to agree to the same terms without at least making further inquiries as to the existence of other claims. Upon my observing that your Lordship had since then offered to substitute the phrase "up to the end of last year" for "up to the present time," Mr. Blaine said that, though this made a slight alteration in the wording, the substance of the assurance to be given was the same, for that it was hardly to be supposed that any claims could be originated at this season of the year. But he authorized me to inform your Lordship that he hoped that he and I could come to an agreement upon the question at issue without reference to a third person, and that, after further inquiries and when he had satisfied himself as to the probable existence of other claims, and should have complete control of the claimants and of the whole matter, he would even be able to accept your Lordship's offer of 15,000*l.*, coupled with a statement, on its acceptance, in the terms desired by Her Majesty's Government.

With regard to the suggestion, that vessels of war should be sent by each Government to the fishing-waters of Newfoundland, with joint and identical instructions, Mr. Blaine observed that there could, of course, be nothing extraordinary in the fact of Her Majesty's cruizers being seen in British waters, nor indeed that, during the summer months, American men-of-war should escape the heat of the United States' coasts by visiting those of Newfoundland; but he thought that to agree upon giving their Commanders the same instructions might be interpreted into a joint act of repression by the two Governments towards the fishermen, which would not be in accordance with American feeling.

Upon my inquiring what steps it was proposed to take with a view to an agreement as to the rules and regulations which are to prevail hereafter respecting the fisheries, Mr. Blaine replied that this question would meet the early consideration of the United States' Government, and that he thought it was very desirable that a decision should be arrived at as soon as possible.

Mr. Blaine was most cordial in his manner, and expressed his earnest hope that there might be no obstacle to friendly relations between the two Governments.

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

No. 186.

Mr. Herbert to Lord Tenterden.—(Received March 29.)

My Lord,

Downing Street, March 28, 1881.

WITH reference to your letter of the 21st instant on the subject of the counter-claims of the Newfoundland Government for losses sustained by Newfoundland fishermen, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Confidential despatch from the Governor of Newfoundland relating to those counter-claims.

It will be perceived that they are likely to amount to a very small sum, and Lord Kimberley would suggest, for the consideration of Earl Granville, that copies of the Governor's despatch and inclosures should be communicated to Sir E. Thornton, and that it should now be carefully considered whether the present may not be the most convenient time for intimating to the United States' Government that they will be brought forward by Her Majesty's Government.

I am to state that the Minute of Council, purported to be inclosed in the Governor's despatch, did not accompany it, but Sir John Glover has since stated, by telegraph, that it is as follows:—

“The Council discussed the question relative to mode of dealing with alleged American fishery claims before the proposed negotiators or arbitrator, it was agreed that a statement of our case, with such additional information as may be procurable, be forwarded to the Imperial Government for the use of the British Representative at Washington.”

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

Inclosure 1 in No. 186.

Governor Sir J. Glover to the Earl of Kimberley.

(Confidential.)

My Lord,

Government House, Newfoundland, March 8, 1881.

I HAVE the honour to report, for your Lordship's information, that after personal explanations with several of my Ministers, I was enabled at a Council held on the 5th March to induce them to arrive at a decision which will be found, embodied in accompanying Minute, to be in conformity with your Lordship's telegram of the 6th February.

2. I inclose such depositions as have been already obtained, which will show the nature and amount of claims. My Government have prepared further claims to the possible amount in total of 2,000 dollars which may be forthcoming, but when taxed would not, I assume, exceed 1,000 dollars.

Trusting that this may meet with your Lordship's approval, I have, &c.

(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 186.

Mr. Snellgrove, J.P., to the Colonial Secretary.

Dear Sir,

St. Jacques, February 8, 1881.

I BEG to say that, according to directions received from you on the 18th January, I employed a craft and crew, and started directly we were ready for Long Harbour, where we found four American vessels loading herring, also quite a large fleet of craft from this and the neighbouring districts catching for them. The Americans did not try to catch any fish themselves, but bought all from our people at 1 dollar per barrel.

Could not learn that there had been any disturbance while we remained (which was until the vessels were loaded); found everything very peaceable.

Could not hear of any loss sustained by the Americans through our people in 1878, or any other year, except the tearing their seine at Tickle Beach on the 6th January, 1878, particulars of which the Government must be in possession of.

Serjeant Sullivan showed me a letter from the Honourable Attorney-General, in which he stated he wanted to get information, if possible, respecting the loss of nets and other property sustained by our people, and caused by the dragging of two American vessels in January 1878, a short time after their seine was torn at Tickle Beach. We made inquiries, and heard there was considerable loss. Took the depositions on oath of twelve who sustained loss; also a statement (not on oath) of five others, all of which I have the honour now to inclose. We heard of three others and went to see them, but found them away. There are also two or three more in this immediate neighbourhood that I hope to get, and send by next mail.

And beg respectfully to state, if there is anything else I can do I will be most happy to do it to the best of my ability.

The cost of the hire of the craft is 60 dollars, ten days at 6 dollars per day.

I am, &c.

(Signed) GEO. T. R. SNELLGROVE.

Inclosure 3 in No. 186.

Statements attached to Mr. Snellgrove's Letter.

LOSS sworn to—

	Dols. c.
William Grandy, Belloram: nets, line, and fish	150 00
Michael Murray, Long Harbour: nets torn and destroyed	70 00
Robert Petit, Moizambrose: nets, moorings, and fish	60 00
Thomas Davage, Bay de Nord: nets, moorings, and fish	132 00
William Grandy, Belloram: nets and fish	205 00
Thomas Farrell.	
Thomas Banasfield, Bay de l'Argent: nets, moorings, and fish	53 50
Philip Yarn, Moizambrose: nets, line, and fish	60 00
Peter Barron, Long Harbour: nets, line, and fish	130 00
William Yarn, Moizambrose: nets and fish	80 00
Henry Hellyer, Bay de Nord: nets, moorings, and fish	200 00
Samuel Strawbridge, Belloram: nets, moorings, and fish	1,140 50
Loss given but not sworn to	280 00
	1,420 50

Loss given, but not sworn to—

	Dols. c.
Thomas Quan, Sagona: loss of nets and moorings	50 00
Stephen Drake, Little Bay: loss of moorings	20 00
James Blyden, Little Bay: loss of nets, moorings, and fish	120 00
George Jenson, Harbour Breton: nets and moorings	20 00
Thomas Scott, Long Harbour: nets, moorings, and fish	70 00
	280 00

(Signed) GEO. T. R. SNELLGROVE, J.P.

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, Philip Yarn, of English Harbour West, fisherman, upon his oath, saith:—

In the month of January 1878 I was herring fishing at Long Harbour, and had for that purpose a fleet of three nets set between Woody Island and Bald Point, and same distance from Tickle Beach, and some time in the early part of that month, I do not remember the exact date, but am certain that it was after the 6th, an American fishing vessel called the "Charles C. Warren," commanded by Captain Peter Smith, and which had been for some time moored at Woody Island Cove, left that place and anchored at the north side of said island, in a place where I never at any time before saw a vessel anchor, and the captain must have known that if the wind should come up fresh from the south his anchors would not hold, and that his vessel dragged he could not prevent her from getting amongst the nets, which were in fleets just to the north where his vessel lay, unless by getting a mooring-line to the island, which he did not do. The first night his vessel lay there the wind came up from the south, and she not having any such line out dragged her anchor and chain, tangled in them, destroyed several of them entirely, and in the dragging of nets and net-moorings caused thereby I lost about 130 fathoms of line used as a mooring to my nets, of the value of 3 dols. 50 c., and it being useless for me to remain on the fishing ground without a mooring for my nets, I was obliged to end the voyage, and must have lost by so doing at least 50 dollars, as I knew that others who had only the same number of nets as I had made that amount after my moorings had been destroyed by the American schooner. There was not at any time the least danger of the schooner going on shore at that place, and the captain knew very well that he could at any time by hoisting his jib run through

the Tickle to a place of safety if his vessel should drag her anchor, and he also knew that in case of such an event he must do considerable damage to our nets.

(Signed) PHILIP YARN, his + mark.

Sworn before me at Long Harbour, this 28th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Bay de Nord, to wit.

This deponent, Thomas Farrell, of Bay de Nord, Fortune Bay, fisherman, upon his oath, saith :—

I remember the month of January 1878, and remember about the American herring seine being destroyed at Long Harbour. I was at Long Harbour at the time, and some days after that occurrence I was on board the American fishing schooner "Charles C. Warren," commanded by Captain Peter Smith. There was also on board Captain Soloman Jacobs, of the American fishing schooner "Moses Adams," and Captain James McDonald, of the American fishing schooner.

The "Charles C. Warren" had on the night previous shifted from her anchorage on the north side of Woody Island to a place called Bald Point, but I do not know what damage was done by her to the herring nets set there at that time, but I know that there was nets set in all directions the day before.

When I went on board of her she was lying at anchor near Tickle Beach, and shortly afterwards got under way. I assisted to weigh anchor, but the anchors were not hove up to the vessel's bow at that time, and all sail having been got on, her head put south-south-east, one of the captains, I do not know which, taking the wheel, and immediately in her course at this time there was moored a fleet of nets belonging to Peter Barron, of Tickle Beach, and Michael Murray Barron's son-in-law was in a boat tied on to the head rope of the nets. I spoke to Captain Smith telling him that unless he altered his course he would drag Barron's nets away on his anchors. I don't remember what reply he made to me, but he did not change the vessel's course, and a short time afterwards I heard Murray call out loudly hailing the vessel, and telling them to keep away from his nets; but the vessel continued on her course, and ran into the nets, and her chain and anchor becoming entangled, tore them from their moorings, entirely destroying them, as I afterwards saw them being cut away from the chain and anchor, there being no other way of getting them off. The wind at this time was blowing from the west and light, and the "Charles C. Warren" could without the least trouble been kept away even after Murray hailed the vessel, and if the anchors had been hove up even to within 10 fathoms of the surface of the water they would have passed over without touching the nets.

(Signed) THOMAS FARRELL, his x mark.

Sworn before me at Bay de Nord, this 29th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, William Grandy, of Garnish, fisherman, upon his oath, saith :—

I was at Long Harbour in the month of January 1878, engaged in the herring fishery. John Legge, of Garnish, was in partnership with me. We had two herring nets set together, between Woody Island and Tickle Beach, and in a north-westerly direction from the island, in about 80 fathoms of water.

There were other fleets of nets set near ours in every direction. On or about the 11th January the fishing schooner "Charles C. Warren," of Gloucester, Massachusetts, commanded by Captain Peter Smith, and which was anchored on the north side of and near Woody Island, drove from or dragged her anchor, and got foul of our nets and many others, all of which were thereby entirely destroyed, they afterwards having been cut away from her chain and anchor. The value of my net and that of my partner, destroyed, was 32 dollars, and our loss in herring, by being deprived of the use of them at that early season, was at least 100 dollars.

The schooner "Charles C. Warren" left Long Harbour the following day, and I did not make any demand on Captain Smith for compensation, and have never seen him since, nor have I been paid even one cent for my losses on that occasion, not knowing on whom to make a demand. For about a fortnight previous to this occurrence the schooner "Charles C. Warren" had been anchored in Woody Island Harbour or Cove, and her captain took her out of that place, preparatory to leaving Long Harbour, on the evening before she dragged her anchor. When anchoring on the north side of the island, Captain Smith could see the nets set in fleets in every direction near him, and must have known that, if his anchor dragged, he could not help destroying them, unless by getting a line to the island, which he could have easily done, but did not do so. Where this schooner had been anchored is not the usual anchoring ground for vessels, and I never saw one anchored there before that time. When I was engaged, with others, in getting our net moorings clear of the schooner's chains and anchors, I noticed that one of her anchors had only one fluke; the other must have been broken off some time previously, as the break was quite rusty.

(Signed) WILLIAM GRANDY, his + mark.

Sworn before me at Long Harbour, this 28th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Bay de Nord, to wit.

This deponent, Henry Hellyer, of Bay de Nord, Fortune Bay, fisherman, upon his oath, saith:—

In the month of January 1878 I was in company with son-in-law, William Brine, herring fishing at Long Harbour, and at the same time that the American fishing schooner "Chas. C. Warren" drifted from her anchorage at Woody Island and destroyed a great many of the nets set off and near Tickle Beach. We had four nets set at that place, one of which was torn into pieces by the vessel's anchor and chain coming in contact with it. We lost all the moorings of the four nets, about 400 fathoms of cordage. Our loss in nets and moorings was 50 dollars, and our loss in fish about 30 dollars. Some days after this, another vessel, called the "Maud and Effie," of Gloucester, Massachusetts, commanded by Captain Solomon Poole, drifted from the same place near the island, and her chain and anchors got among the nets, damaging and destroying many of them, and damaged our remaining nets to such an extent that we were obliged to relinquish the voyage. We repaired our nets after coming home, but I cannot say what our loss was on that occasion. Both of the captains, when they anchored where they did, must have known that if the wind came south their anchors could not hold, and neither of them took the necessary precaution of putting a line to the shore to prevent their vessel drifting among the nets, which they could see set in all directions, their positions being plainly indicated by the wooden buoys attached to them. I never saw vessels anchor where those two did before, as the anchorage is bad, and the herring nets in winter are set in fleets in close proximity to the place, and there would be great danger to them, but none to the vessel so anchored; and it was after the destruction of the Hurrican herring seine on Tickle Beach that those vessels came out from Woody Island Cove and anchored at the place from which they drifted.

(Signed) HENRY HELLYER.

Sworn before me at Bay de Nord, this 31st day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, Peter Barron, of Long Harbour, fisherman, upon his oath, saith:—

I live on Tickle Beach, Long Harbour, and have wintered there during the past four years for the purpose of herring fishing, and in the early part of the month of January 1878 I had a fleet of three nets set near the eastern point of Tickle Beach of

the value of at least 60 dollars, and some days after the American herring seine had been destroyed at Tickle Beach. I don't remember the exact date. I saw a vessel called the "Charles C. Warren," of Gloucester, Massachusetts, laying at anchor on the north side of Woody Island, and at an early hour the morning after she anchored there I was on the beach and saw that this vessel had drifted from where she had been and across the harbour, going through the several fleets of nets set in all directions, and her anchor being drawn and the water in which the nets were set being so deep that it could not reach bottom, therefore it caught in all the nets that came in its track, which was a great number, and the whole of which had to be cut away from his anchor and chain, and was thereby entirely destroyed. The wind at this time was blowing from the south, but not strong at this time. My nets were all right, but sometime during the day the wind changed to west or south-west, and the vessel having got under sail, and her anchor being still trailing in the water was steered into my nets, taking the whole fleet, together with their moorings, away, tore them into small pieces, entirely destroying them. This was done deliberately, as the vessel being under sail, and the lantrale of her helm could have passed either to one side or the other of them. I afterwards went on board the vessel and saw the captain, Peter Smith, demanding from him compensation for my loss, but was told by him that he was very sorry, but that he could not pay me anything, and did not. The vessel left Long Harbour that night, and I have not seen Captain Smith since, nor have I received one cent of compensation. I cannot calculate my loss in fish by being deprived of the use of this fleet of nets, but at the time they were destroyed they were taking about five barrels of herrings per day on an average, according to which I must have lost at least 60 dollars, and I have never since then been in a position to replace them.

I remember now that Captain Smith, in presence of Captain Jacobs, offered me, in part payment, one barrel of flour, which I refused to accept, but afterwards found that my son-in-law, Michael Murray, did accept it.

(Signed) PETER BARRON, his × mark.

Sworn before me at Long Harbour, this 28th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, Robert Pelit, of Moizambrose, Fortune Bay, fisherman, upon his oath, saith:—In the month of January 1878, my brother William and myself were at Long Harbour herring fishing, and remember that a few days after the seine was cut up in Tickle Beach. An American fishing-vessel, called the "Charles C. Warren," drifted from where she had been anchored at the north side of Woody Island, and got entangled in the herring nets, tearing up several nets and moorings, ours among the number. Our loss in nets and moorings was 40 dollars, and our loss in fish by being deprived of the use of those nets is at least 30 dollars. I have never before or since seen a vessel anchor in the place where this one had, and the captain must have known that if the wind came from the south his vessel would drift from there and get amongst the nets, which were set in deep water, their presence being indicated by their buoys.

(Signed) ROBERT PELIT, his × mark.

Sworn before me at Long Harbour, this 29th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Belloram, to wit.

This deponent, William Grandy, of Belloram, Fortune Bay, fisherman, upon oath, saith:—I was herring fishing at Long Harbour in the month of January 1878, and had set there a fleet of two nets, between Bald Point and Tickle Beach, and on the day that the American fishing-schooner "Charles C. Warren" drifted from Woody Island and got among the nets, destroying a great many of them, my net and that of my partner, William Cluett, were destroyed among the others, also one mooring line.

Our loss in nets and line was 50 dollars, and our loss in herring by being deprived of the nets at that season of year would be fully 100 dollars up to the end of Long Harbour fishery, and our loss during the remainder of the year, by not being able to replace them, and consequently not being able on many occasions to procure bait for cod fishing, must have been 100 dollars.

(Signed) WILLIAM GRANDY.

Sworn before me at Belloram, this 31st day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Bay de Nord, to wit.

This deponent, Thomas Davage, of Bay de Nord, Fortune Bay, fisherman, upon his oath, saith:—In the month of January 1878 I was herring fishing at Long Harbour, and at the time that Captain Poole's vessel drifted and damaged the nets there, two of my nets was dragged from their moorings, one of which was entirely destroyed and the other damaged. My loss in nets and moorings was 30 dollars, and my loss in herring by being deprived of the use of the nets must have been fully 30 dollars.

(Signed) THOMAS DAVAGE, his + mark.

Sworn before me at Bay de Nord, this 31st day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, Thomas Banfield, of Bay de l'Argent, fisherman, upon his oath, saith:—I am the son of Richard Banfield, of Bay de l'Argent, Fortune Bay, and in the month of January 1878 I was in company with my father at Long Harbour herring fishing. We had a fleet of three nets set between the Bald Point and Tickle Beach, and early in the month of January aforesaid, but some days after the disturbance on the beach about the American herring seine, my father and myself went out from Woody Island Cove, where our boat was moored, to where we had our nets set, and on coming to the place from that, our whole fleet had been dragged away from their moorings, and two of them entirely destroyed, also one of the net moorings. We found, also, that this had been done by Captain Peter Smith's vessel dragging her anchor through them, and getting the nets entangled around it and the chain. I assisted in cutting ours and other nets of the chain, and they were so cut up as to leave them entirely useless. My father went on board the vessel to demand compensation for the loss of his nets, but did not get anything, and Captain Smith left Long Harbour that night for Gloucester. Our loss in nets and mooring was 45 dollars, and our loss in fish by being deprived of the use of those nets was 160 dollars. The wind was not blowing strong at the time, and if Captain Smith had wished to do so, he could have easily got a line from his vessel to Woody Island, which would have prevented her from drifting down on the nets, even had it been blowing a gale. Vessels do not anchor in the place where she did, owing to the nets being set so near that place, and Smith must have known that his vessel would damage them, as their positions were well indicated by their buoys.

(Signed) THOMAS BANFIELD, his + mark.

Sworn before me this 28th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, William, Yarn of Moizambrose, fisherman, upon his oath, saith :—

I remember the month of January 1878. I was herring fishing at Long Harbour, Fortune Bay, at that time, and had my nets moored in about 70 fathoms of water between Bald Point and Tickle Beach, their presence and position being indicated by wooden buoys, as is invariably the custom in deep water fishing. I remember one morning shortly after the American seine had been destroyed on Tickle Beach, an American fishing vessel called the "Charles C. Warren," Commanded by Captain Peter Smith, hauled out from Woody Island Cove where she had been laying moored during some time previous and anchored at the north side of the island in a place where vessels have never been anchored to my knowledge, and I have been at Long Harbour herring fishing many years in succession, Captain Smith had also been often at Long Harbour and knew the place well, and must have known when he dropped his anchor there that it could not hold, as it dropped on a narrow ledge of rock and without a line from his vessel's bow to the island, in the event of a south wind it would drag off that ledge and drop into deep water where it would not reach bottom by giving all the chain he could, at the same time, his vessel would be in no danger as he could run inside the Tickle to a place of shelter even under his jib. On the first night his vessel lay here the wind came up from the south blowing fresh, but not strong, and the vessel dragging her anchor over narrow ledge on which it rested drifted among the nets, a contingency which Captain Smith must have foreseen, and her anchor and chain getting foul of them, tore up and destroyed several of them, nets, mooring, and anchors all being tangled up together. I lost thereby 80 fathoms of line used by me as a net mooring and of the value of 10 dollars, and had two of my nets damaged to the amount of 20 dollars, and my loss in herring during the time I had my nets on shore repairing them must have been 100 dollars.

(Signed) WILLIAM YARN, his × mark.

Sworn before me at Long Harbour, this 28th day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Belloram, to wit.

This deponent, Samuel Strawbridge, of Belloram, Fortune Bay, fisherman, upon his oath, saith :—

I remember the month of January 1878. I was herring fishing as a shareman with Thomas Grandy. We had set there three (at Long Harbour two) nets, the property of my employer; and some time after the American seine was destroyed at that place an American fishing schooner, called the "Maud and Effic," commanded by Captain Solomol Poole, drifted from her anchorage near Woody Island and got among the herring nets there set. Our nets were taken up on her chain and anchor, along with many others, and one of them was entirely destroyed and the other so much damaged as to make it useless for fishing; we also lost 300 fathoms of mooring line. Our loss in nets and moorings was 100 dollars; and our loss in fish thereby would be about 100 dollars more, as I was obliged to conclude the voyage then and there. My master, Thomas Grandy, had gone to Belloram, and left the nets in care of me and another man.

(Signed) SAMUEL STRAWBRIDGE.

Sworn before me at Belloram, this 31st day of January, 1881.

(Signed) GEO. T. R. SNELGROVE, *Justice of the Peace.*

NEWFOUNDLAND.

Southern District, Long Harbour, to wit.

This deponent, Michael Murray, of Long Harbour, Fortune Bay, fisherman, upon his oath, saith :—

I am son-in-law to Peter Barron, and live with him at Tickle Beach, Long Harbour, during the winter months for herring fishing. I remember the early part of the month of January 1878, when the seine belonging to the American fishermen was taken in on the beach and destroyed. I was on the beach at that time and remember that a few days afterwards a schooner called the "Charles C. Warren," commanded by Captain Peter Smith of Gloucester, dragged her anchor and got foul of several herring nets. She had been anchored at the north side of the west point of Woody Island, in a most unusual place for a vessel to anchor, and in close proximity to the nets there set. She dragged across in a northerly direction until brought up by the nets, and moorings of the same; we had a fleet of nets moored some distance from the beach, but out of the course in which the vessel was drifting, but after cutting away the nets and moorings from her chains and anchors, the Captain got sail on the vessel and ran her in another direction than that from where he came, and his anchor being still overboard, took our fleet of nets, destroying them entirely, with their mooring-line. I was also alongside our nets at this time, and saw the vessel coming towards me under sail, and also fully under control of her helm at which there was a man stationed. I saw Captain Smith on the deck, and also the captain of another American vessel, his name is Solomon Jacobs, and he was standing near the wheel. I called loudly several times to those on board the vessel to alter their course, which they could have easily done, but instead of taking any notice of my warning, the vessel's course was not altered, but deliberately and intentionally they ran her into our nets, which were taken away on the anchor and chain and torn into small pieces. If Captain Smith had hoisted his anchor to the bow his vessel would have passed over all the nets without doing them any damage, they having been set in deep water. The nets were the property of my father-in-law, Peter Barron.

(Signed) MICHAEL MURRAY, his X mark.

Sworn before me at Long Harbour, this 23rd day of January, 1881.

(Signed) GEO. T. R. SNELLGROVE, *Justice of the Peace.*

No. 187.

Mr. Bramston to Lord Tenterden.—(Received March 29.)

Sir, *Downing Street, March 29, 1881.*

WITH reference to the letter from this Department of the 25th instant, respecting the proposal that one of Her Majesty's ships on the Newfoundland Station should be detailed to visit the coast of Newfoundland between Cape Bonavista and Fortune Bay during the bait season, I am directed by the Earl of Kimberley to transmit to you, for the information of Lord Granville, a copy of a further letter from the Lords Commissioners of the Admiralty, stating the names of the officers selected for employment this year on the Newfoundland and Labrador fisheries.

Lord Granville will perceive that the Lords Commissioners of the Admiralty are desirous of receiving an early reply to the letter from the Admiralty of the 14th ultimo, upon the subject of the instructions to be given to Captain Kennedy, of Her Majesty's ship "Druid."

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

Inclosure in No. 187.

The Secretary to the Admiralty to Mr. Herbert.

Sir, *Admiralty, March 21, 1881.*
I AM commanded by my Lords Commissioners of the Admiralty to request that you will state to the Earl of Kimberley that a letter has been received from the

Commander-in-chief on the North American and West Indian Station, in which he reports that the officers he has selected for employment on the Newfoundland and Labrador fisheries this year, under the orders of Captain Kennedy, of Her Majesty's ship "Druid," are Commander W. C. Karslake, Her Majesty's ship "Fantôme," and Lieutenant F. A. Moysey, commanding Her Majesty's ship "Contest."

The "Druid" will leave Bermuda early in April to proceed to Fortune Bay, and the "Fantôme" and "Contest" will leave that island about the second week in May to proceed to St. John's.

I am also to request that you will move Lord Kimberley to cause an answer to be sent to my letter of the 14th February last, inclosing copy of a letter from Vice-Admiral Sir L. McClintock, asking to be furnished with any special instructions for Captain Kennedy's guidance.

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

No. 188.

Sir J. Pouncefote to Mr. Herbert.

Sir, *Foreign Office, March 29, 1881.*
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton respecting the Fortune Bay question.*

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

No. 189.

Sir E. Thornton to Earl Granville.—(Received March 31.)

(No. 19.) *Washington, March 31, 1881.*
(Telegraphic.)
SECRETARY of State is very impatient for an answer from the United States' Minister in London with respect to his request that Fortune Bay claims should be referred to him and myself.

Ought I to communicate to him the substance of your Lordship's telegram No. 15 of the 26th instant which I had thought was intended only for myself?

No. 190.

Lord Tenterden to Mr. Herbert.

(Confidential.)
Sir, *Foreign Office, April 1, 1881.*
WITH reference to your letters of the 23rd and 28th ultimo, I am directed by Earl Granville to transmit to you, to be laid before the Secretary of State for the Colonies, a copy of a cyphered telegram which has been received from Her Majesty's Minister at Washington, asking whether he is authorized to communicate with Mr. Blaine the substance of the instructions which was sent to him by telegraph on the 25th March, the text of which had been previously communicated to the Colonial Office for Lord Kimberley's concurrence, with my letter of the 21st March.†

Lord Granville now proposes, should Lord Kimberley see no objection, to send to Sir E. Thornton the telegram of which the draft is inclosed herewith; and I am to request that, in laying the same before his Lordship, you will move him to inform Lord Granville at his earliest convenience whether he concurs in its terms.

I am, &c.
(Signed) TENTERDEN.

No. 191.

Mr. Herbert to Lord Tenterden.—(Received April 2.)

(Confidential.)

My Lord,

Downing Street, April 2, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 1st instant, inclosing a copy of a telegram received in cypher from Her Majesty's Minister at Washington respecting the claims of the United States' Government arising out of the occurrences at Fortune Bay and elsewhere on the coast of Newfoundland, together with the draft of a telegram which Earl Granville proposes to address to Sir Edward Thornton in reply.

I am to request that you will inform Lord Granville that Lord Kimberley concurs in the terms of the proposed telegram to Sir Edward Thornton.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 192.

Earl Granville to Sir E. Thornton.

(No. 16.)

(Telegraphic.)

Foreign Office, April 2, 1881, 5 P.M.

YOUR No. 19.

If there is any misunderstanding as to Mr. Blaine's meaning you had better clear it up; but if he is ready to refer the fishery claims to yourself and to himself, or to Delegates named by you for assessment, you may accept this at once.

The Colonial Office now prefer this mode of proceeding in preference to the payment of a lump sum, in view of the desirability of obtaining the co-operation and concurrence of Newfoundland.

Have you said anything to Mr. Blaine about referring to a third person in case of yourselves or your Delegates being unable to agree?

Her Majesty's Government do not wish to raise difficulties, and give you full discretion to arrive at the best settlement you can with Mr. Blaine, either for assessment or lump sum, though they prefer the former under present circumstances.

It is desirable to get the claims settled and Regulations speedily agreed upon for the coming fishing season.

No. 193.

Earl Granville to Sir E. Thornton.

(No. 69. Extender.)

Sir,

Foreign Office, April 2, 1881.

I HAVE received your telegram No. 19 of the 31st ultimo, in which you inform me that Mr. Blaine is extremely anxious to learn whether Her Majesty's Government are prepared to accede to his request that the claims connected with the Fortune Bay dispute should be settled at Washington between himself and Her Majesty's Minister.

I have to state to you, in reply, that should there be any misunderstanding with regard to Mr. Blaine's meaning in pressing this mode of settlement, it is desirable that it should be made clear. If, however, he is ready to agree that the claims of the American fishermen should be referred to himself and yourself, or to Delegates to be named by both, for assessment, Her Majesty's Government are prepared to accept this arrangement at once.

This mode of proceeding is now preferred by the Colonial authorities in this country to the payment of a lump sum, in view of the desirability of obtaining the co-operation and concurrence of the Government of Newfoundland.

I should be glad to learn whether anything has passed between Mr. Blaine and yourself with regard to a reference to a third party in case it should be found impossible to come to an agreement between yourselves, or that the same difficulty should occur in the case of the Delegates.

Her Majesty's Government do not wish to raise any difficulties, and they give you full discretion to arrive at the best solution you can make with the Secretary of State,

either as regards an assessment of the claims, or the payment by Her Majesty's Government of a lump sum. Under present circumstances they would prefer an arrangement by assessment.

I need not remind you how desirable it is, in view of the approach of the fishing season, that a settlement of these claims should be arrived at as speedily as possible, and also an understanding with regard to the Regulations to be framed for the fisheries, with a view to the prevention of future misunderstandings.

I am, &c.
(Signed) GRANVILLE.

No. 194.

Earl Granville to Sir E. Thornton.

(No. 17.)

(Telegraphic.)

Foreign Office, April 2, 1881, 5.40 P.M.

MR. LOWELL called this morning and brought a telegram from the United States' Secretary of State inquiring what was the cause of the delay in the Fortune Bay question. Mr. Blaine said he had heard nothing on the subject from Mr. Lowell since he had telegraphed to him on the 14th March accepting my proposal to refer the matter to you and him.

I explained that there had been no intentional delay on our part, and that instructions had now been sent to you.

No. 195.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, April 2, 1881.

WITH reference to my letter of yesterday's date, and to previous correspondence, I am directed by Earl Granville to transmit to you, for the information of the Secretary of State for the Colonies, a copy of a despatch from Sir E. Thornton, reporting the substance of a conversation he had had with Mr. Blaine on the 12th ultimo, relative to the proposed settlement of the Fortune Bay question and other claims of American fishermen.*

I am, &c.
(Signed) TENTERDEN.

No. 196.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, April 2, 1881.

WITH reference to my other letter, marked Confidential, of this day's date, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a further telegraphic despatch, as noted in the margin, in regard to the Fishery question at Fortune Bay and elsewhere, on the coast of Newfoundland.†

I am, &c.
(Signed) TENTERDEN.

No. 197.

Sir E. Thornton to Earl Granville.—(Received April 4.)

(No. 87.)

My Lord,

Washington, March 21, 1881.

WHEN your Lordship's telegram No. 14 of the 17th instant reached me Mr. Blaine was unwell and was not able to be at his office. On the 19th, however, he allowed me to pay him a visit at his house, when he repeated to me the substance

of the telegram he had sent to Mr. Lowell relating to the Fortune Bay affair, more or less in the same words as those contained in your Lordship's telegram above mentioned.

Upon my asking him what he meant to imply by the reference of the Fortune Bay affair to him and myself, whether he intended that we should merely assess the damages for the claims contained in Mr. Evarts' despatches Nos. 109 and 110 to Mr. Lowell,* or whether his object was that we should agree upon a lump sum upon his giving the assurance required by Her Majesty's Government, he replied that he wished that the reference should be as wide as possible, so that we might agree upon a lump sum coupled with an assurance to be given by the United States' Government in the terms required by Her Majesty's Government, or if we could not agree upon this mode of settlement, then we should apply ourselves to an assessment of the damages suffered by the claimants above mentioned.

Mr. Blaine said that he would much prefer the former mode of settlement, and that he was now making searching inquiries with a view to being able to give to Her Majesty's Government such an assurance as would satisfy it. He hinted at a slight increase of the lump sum offered by your Lordship, but said nothing definite. With regard to the form of receipt, he thought he would be able, and it would be expedient, to fix the 4th March as the time up to which all claims of that nature should be considered as cancelled.

Mr. Blaine seemed to dislike negotiation by means of telegraphic communication, and said that a good deal of misapprehension had already arisen from its being employed. I imagine that the cypher used by the United States' Government is much more complicated than ours.

With regard to sending cruisers to the coast of Newfoundland during the fishing season, Mr. Blaine said that he saw no objection to such a step, but thought that, before doing so, it would be desirable to agree upon the Regulations which such cruisers would have to enforce, so that there might be no disputes between the commanders of the respective vessels.

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

No. 198.

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

(No. 21.)

(Telegraphic.)

Washington, April 4, 1881.

YOUR Lordship's No. 16.

Secretary of State agrees to reference to him and me of Fortune Bay claims and of those contained in despatch No. 110 to United States' Minister in London, but declines reference to third person in case of disagreement, saying that in that case he would prefer to let them drift.

He adds that he would have preferred the basis of a lump sum, and would be ready to accept 16,000*l.*, and give a receipt in full of all claims which may have arisen out of any interruption of operations of fishermen on the coasts of Newfoundland or its dependencies up to the 4th March last.

No. 199.

Earl Granville to Sir E. Thornton.

(No. 72.)

Sir,

Foreign Office, April 5, 1881.

WITH reference to my despatch No. 69 of the 2nd instant, I inclose herewith, for your information, a copy of a letter from the Colonial Office on the subject of the claims asserted by the United States' fishermen on account of occurrences at Fortune Bay and elsewhere, on the Coast of Newfoundland.†

I am, &c.
(Signed) GRANVILLE.

* For substance of these despatches, see Nos. 99, 206, and 107.
[919]

No. 200.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, April 5, 1881.*
 I HAVE laid before Earl Granville your letter of the 28th ultimo, inclosing a copy of a Confidential despatch from the Governor of Newfoundland, with its inclosures, relative to the counter-claims of the Newfoundland fishermen.

In reply, I am to request that you will state to Lord Kimberley that, in Lord Granville's opinion, it is to be regretted that these claims, which are founded on occurrences apparently accidental in January 1878 should have been preferred, if they were thought tenable by the Newfoundland Government for the first time upwards of three years later.

It does not appear that they have any international character, and Lord Granville considers that it is very doubtful whether they could be properly pressed upon the Government of the United States. I am, however, to state that his Lordship proposes to consult the Law Officers of the Crown upon the subject.

I am, &c.
 (Signed) TENTERDEN.

No. 201.

Memorandum by Mr. Jervoise.

LORD GRANVILLE told Sir E. Thornton on the 18th February, 1881, that in a conversation with Mr. Lowell he had said that the proposal of the United States' Government that the question of damages should be arranged by negotiation between the Secretary of State and Sir E. Thornton, or by parties delegated by each of them respectively for that purpose, appeared to his Lordship to be good. (Print, p. 107, to Sir E. Thornton No. 29, 18th February, 1881.)

In a further conversation on the 21st February Lord Granville told Mr. Lowell that he thought that it was desirable, in case there was a difference, which he hoped would not occur, that there should be a previous agreement to refer to a third person. (Page 110, to Sir E. Thornton No. 33, 21st February.)

At a further interview on the 24th February Lord Granville repeated that we should be quite ready to adopt the proposal made in Mr. Evarts' despatch, that the matter should be referred to Mr. Evarts and Sir E. Thornton, or to delegates chosen by each of them; but no allusion was then made to a third person. (Page 115, to Sir E. Thornton No. 35, 24th February.)

On the 1st March Sir E. Thornton was informed that unless an immediate settlement could be secured by payment of a lump sum, Her Majesty's Government prefer to revert to Mr. Evarts' original proposal, to the effect that the claims should be referred to assessors named by the Secretary of State of the United States and Sir E. Thornton, *with the addition that provision should be made for reference to a third person in case of disagreement.* (Page 121, No. 135, to Sir E. Thornton No. 40 A, 1st March.)

(Signed) H. CLARKE JERVOISE.

Foreign Office, April 6, 1881.

No. 202.

Sir J. Pauncefote to Mr. Bramston.

(Confidential.)

Sir, *Foreign Office, April 6, 1881.*
 I AM directed by Earl Granville to state to you that on the receipt of your letter of the 2nd instant, the telegram respecting the Fortune Bay dispute, of which the text was inclosed with the letter from this Department of the preceding day, was immediately forwarded to Sir E. Thornton, who has now returned the reply of which a copy is inclosed herewith.*

You will observe that Mr. Blaine is prepared to agree that the amount of

compensation to be given for the Fortune Bay claims should be settled between himself and Her Majesty's Minister at Washington, in conjunction with those referred to in the communication made by Mr. Lowell to Lord Granville on the 21st February last. In making that communication, no copy of Mr. Evarts' despatch on the subject appears to have been left by Mr. Lowell with Lord Granville, but on the 22nd February he forwarded to the Foreign Office the affidavits of the masters of two American fishing-vessels which had formed the subject of his conversation with Lord Granville on the 21st February. Copies of the correspondence on this particular point were forwarded to the Colonial Office on the 23rd of that month.

Mr. Blaine now absolutely declines to acquiesce in the proposal that in case of disagreement reference should be made to a third person, and has intimated that he would prefer the assignment of a lump sum as a settlement of all claims in full up to the 4th March last, which sum he seems disposed to fix at 16,000*l*.

For convenience of reference, a copy of a short Memorandum is also annexed,* which shows that the question of a reference to a third party, in the event of disagreement, was raised by Lord Granville in his conversation with Mr. Lowell on the 21st February, and again referred to in his Lordship's despatch to Sir E. Thornton No. 40 A of the 1st March.

I am to request that you will lay the accompanying papers before the Earl of Kimberley, and move him to favour Lord Granville, at his earliest convenience, with any observations he may wish to make upon Sir E. Thornton's telegram of the 4th instant.

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

No. 203.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, April 8, 1881.*
I AM directed by Earl Granville to acknowledge the receipt of your letter of the 19th ultimo, inclosing a copy of a notice which the Government of Newfoundland intends to issue for the purpose of notifying to the inhabitants of outlying settlements in the Colony frequented by citizens of the United States the rights to which the latter are entitled under the Treaty of Washington.

In reply, I am to request that you will have the goodness to inform the Secretary of State for the Colonies that Lord Granville concurs in the terms of the proposed notice, and that he agrees with Lord Kimberley that it will be desirable that Sir J. Glover should be instructed to cause it to be widely circulated on the coasts of Newfoundland.

Lord Granville cannot but regret that such a notice was not long since issued by the Government of the Colony, as in all probability the occurrences at Fortune Bay and elsewhere which have given rise to the claims of the American fishermen might have been thereby obviated.

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

No. 204.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, April 8, 1881.*
I AM directed by Earl Granville to acknowledge the receipt of your letter of the 25th ultimo, with its inclosures, relative to the approaching visit of Her Majesty's ship "Druid" to that portion of the coast of Newfoundland which is situated between Cape Bonavista and Fortune Bay during the bait season, and of your further letter of the 29th ultimo announcing the selection of Commander W. C. Karlake, Her Majesty's ship "Fantôme," and Lieutenant V. A. Moysey, Her Majesty's ship "Contest," for employment on the Newfoundland and Labrador fisheries, under the orders of Captain Kennedy, of Her Majesty's ship "Druid."

In reply, I am to request that you will state to the Earl of Kimberley that Lord Granville has carefully considered the objections raised by the Commander-in-chief on the North American Station to certain passages contained in the Instructions issued last year for the guidance of the naval officers engaged in the protection of the fisheries, and that he concurs in Lord Kimberley's views respecting those objections, and in the amendment proposed by his Lordship in clause 2 of Article 9 of the Instructions.

Lord Granville is not prepared to abandon the position hitherto maintained by this country that foreigners exercising their Treaty rights of fishing in British waters in common with British subjects are bound to obey the law of the country "so far as is consistent with Treaty."

In view, however, of the proposals which have been made for negotiations on the part of Her Majesty's Government with the Governments of France and the United States with the object of placing the rights of all parties on a clearer footing, Lord Granville considers that instructions should be given to the Commanders of Her Majesty's ships to be very careful to abstain from dealing with cases which involve questions of Treaty rights to a greater extent than may be necessary to maintain order and prevent a breach of the peace, referring such cases at once to the Colonial Government and to Her Majesty's Government.

Lord Granville is disposed to think that a general instruction in the above sense would be preferable to laying down any strict rule as to the application of the Colonial Ordinances such as was suggested in your letter of the 22nd June last.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 205.

Earl Granville to Sir E. Thornton.

(No. 73. Confidential.)

Sir,

Foreign Office, April 9, 1881.

I TRANSMIT herewith, for your information, copies of a letter and its inclosures, which I have received from the Colonial Office,* relative to the counter-claims of the Newfoundland Government for losses sustained by Newfoundland fishermen.

A copy of the reply which has been returned to that letter is also inclosed.†

The particular question of these claims is now under the consideration of Her Majesty's Government, and a further despatch on this point in connection with the Fortune Bay inquiry will be addressed to you on a subsequent occasion.

I am, &c.

(Signed) GRANVILLE.

No. 206.

Mr. Bramston to Lord Tenterden.--(Received April 12.)

Sir,

Downing Street, April 11, 1881.

I HAVE laid before the Earl of Kimberley your letter of the 5th instant respecting the counter-claims of the Newfoundland fishermen.

His Lordship would be glad to peruse the case which it is proposed to lay before the Law Officers with regard to these claims, and I am to point out that as the Colonial Government will ultimately be called upon to pay any compensation which may be awarded to the Government of the United States, it is of special importance that they should have a full opportunity of submitting their case to Mr. Blaine and Sir E. Thornton. If it is decided, after consultation with the Law Officers, to proceed with the counter-claims, they would be preferred as a separate question.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 207.

Mr. Bramston to Lord Tenterden.—(Received April 12.)

(Confidential.)

Sir,

Downing Street, April 11, 1881.

I HAVE laid before the Earl of Kimberley your letter of the 6th instant, inclosing a copy of a telegram from Sir E. Thornton respecting the Fortune Bay dispute, and requesting to be furnished with any observations his Lordship may desire to make thereupon.

Lord Kimberley would suggest, for Lord Granville's consideration, whether the best course would not be to let the matter be referred to Sir E. Thornton and Mr. Blaine, without insisting on the nomination of a third person to decide in case they are unable to agree.

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

No. 208.

Sir J. Pouncefote to Mr. Bramston.

(Confidential.)

Sir,

Foreign Office, April 13, 1881.

WITH reference to your letter of the 11th instant, I am directed by Lord Granville to transmit to you, to be laid before the Secretary of State for the Colonies, for his concurrence, the draft of a letter which his Lordship proposes to address to the Law Officers of the Crown, asking whether, in their opinion, looking at the evidence, and considering all the circumstances, the counter-claims of the Newfoundland fishermen can properly be preferred by Her Majesty's Government during the negotiations for the settlement of the Fortune Bay indemnity.

I am to state that it is proposed to lay before the Law Officers your letter under reply, with reference especially to the last paragraph.

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

No. 209.

*Sir J. Pouncefote to the Lord Chancellor.**Foreign Office, April 13, 1881.*

SIR J. PAUNCEFOTE presents his compliments to the Lord Chancellor, and has the honour to transmit to him, by Lord Granville's direction, a copy of a telegram from Her Majesty's Minister at Washington,* in which it is stated that Mr. Blaine is prepared to agree that the claims arising out of the Fortune Bay dispute, together with two other claims, the particulars of which will be found in the accompanying printed Correspondence, Nos. 106 and 107, pp. 109 and 110, should be referred to himself and Sir E. Thornton.

Mr. Blaine, however, declines to agree to the suggestion made by Lord Granville as to a previous understanding to refer the amount of damages to a third party, in case of a difference on the subject between himself and Sir E. Thornton, or the parties delegated by them.

A Memorandum on this question of the reference to a third party is also submitted herewith.†

Lord Kimberley has now suggested that the matter should be referred to Sir E. Thornton and Mr. Blaine, without insisting on the nomination of a third person as referee in case of disagreement.

Mr. Blaine expresses his preference for a settlement on the basis of a lump sum, and intimates his readiness to accept 16,000*l.*, and to give a receipt in full up to the 4th March last for all claims which may have arisen out of any interruption of the operations of the American fishermen on the coasts of Newfoundland or its dependencies.

Sir E. Thornton was authorized to offer, on behalf of Her Majesty's Government,

* No. 198.

† No. 201.

the payment of a lump sum of 15,000*l.* in full settlement of the question. Print, No. 116, p. 115.

Lord Granville would be glad to be favoured with the Lord Chancellor's views on the reply of Mr. Blaine, communicated in Sir E. Thornton's telegram of the 4th instant.

No. 210.

Memorandum by the Lord Chancellor.

IF the Government of the United States think it consistent with their honour and dignity to haggle for 1,000*l.* more, when they know that we have offered (for mere goodwill's sake) four or five times as much as we believe to be fairly or justly due—and to enforce that demand, by declaring that they had rather *let the matter drift* than submit it to a fair and effective arbitration—I suppose it is not worth our while to keep the question open for the sake of 1,000*l.*, more or less. A reference to Mr. Blaine and Sir E. Thornton, without umpirage, means, I suppose, merely the same thing as the demand for 16,000*l.*

Is there any possibility of ulterior claims for loss of fishing profits on account of the United States' fishermen being deterred from going to Newfoundland in respect of the time since the 4th March?

I assume that there is not; but this sort of haggling suggests that any advantage which is possible might be hereafter taken of us.

If we settle with the United States on this footing (the case of the Newfoundlanders not having been so much as heard), we cannot expect Newfoundland to indemnify us.

Although I do not advise holding out (unless Lord Granville or Lord Kimberley should think it wise to do so), I have misgivings as to the effect in the long run of the policy of yielding to the screw, whenever it is put upon us, even by the United States.

(Signed) SELBORNE.

April 14, 1881.

No. 211.

Sir E. Thornton to Earl Granville.—(Received April 17.)

(No. 103.)

My Lord,

Washington, April 4, 1881.

WITH reference to your Lordship's telegram No. 16 of the 2nd instant, I have the honour to inform you that I called this morning upon Mr. Blaine at the State Department, and stated that Her Majesty's Government acceded to his request that the fishery claims should be referred for assessment to him and myself, or to Delegates named by us. I presumed that by the fishery claims your Lordship intended to signify the Fortune Bay claims and those described in Mr. Evarts' despatch to Mr. Lowell No. 110,* the contents of which were communicated to you by the latter.

I went on to say that I was afraid that we should not be likely to agree upon the amount of damages to be paid on account of the claims in question, and that it would therefore be very desirable that we should name a third person who should decide in the event of our disagreeing. But Mr. Blaine replied that Mr. Evarts' original proposal, to which he had now reverted, did not include any reference to a third person, and that his Government was not prepared to acquiesce in such a reference, but would rather let the claims "drift" than appeal to arbitration, to which he thought the subject of the claims was not adopted.

In answer to my inquiry, Mr. Blaine said that he would rather negotiate the matter with me than leave it to Delegates named by us. He added that he would examine the documents upon the subject as soon as he could, and would then invite me to meet him.

In the course of the conversation Mr. Blaine said that he should have preferred to have negotiated on the basis of a lump sum, and that, having now carefully examined the claims already presented, and considered possibility of any further claims which might be brought forward, he would have been prepared, on behalf of his

* For substance of this despatch, see Nos. 108 and 107.

Government, to accept the sum of 16,000*l.*, and to give a receipt in full for all claims for interruption of American fishermen on the coasts of Newfoundland or of its dependencies which may have arisen up to the 4th March, 1881.

I replied that Her Majesty's Government now preferred that the claims should be assessed, and was disinclined to negotiate upon the basis of a lump sum.

We then began to converse with regard to the nature and amount of the Fortune Bay claims, but I need not now trouble your Lordship with any of the remarks which were made on each side. He showed me, however, pretty plainly that the amount which he considered should be paid as damages was very different from my idea of it. It is, perhaps, unfortunate that he should belong to the State of Maine, where the fishing interests exercise great influence, so that he will probably feel bound to sustain the claims in question to the utmost. He was, however, very friendly in his manner and bearing towards me, and expressed the strongest desire to be able to settle the question at issue.

I am inclined to the opinion that Mr. Blaine would have accepted your Lordship's proposal to pay 15,000*l.*, upon a receipt in full for all claims to the end of last year, had it not been that his predecessor had virtually refused that offer. The addition of 1,000*l.* to that sum, which he now says his Government would accept, is probably put forward only to place himself in a good position before the public and Congress in the event of any comparison being made between his conduct of the affair and that of his predecessor.

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

No. 212.

Sir J. Pauncefote to Mr. Bramston.

(Confidential.)

Sir, *Foreign Office, April 18, 1881.*
WITH reference to my letter marked Confidential of the 6th instant, and to previous correspondence, I am directed by Earl Granville to transmit to you, to be laid before the Secretary of State for the Colonies, copies of two despatches, as marked in the margin,* from Her Majesty's Minister at Washington, reporting the substance of recent conversations which he has had with Mr. Blaine on the methods proposed for the settlement of the claims of the American fishermen in the Fortune Bay dispute.

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

No. 213.

Earl Granville to Sir E. Thornton.

(No. 74.)

Sir, *Foreign Office, April 19, 1881.*
I INCLOSE, for your information, copies of despatches, as marked in the margin,† on the subject of the instructions to Her Majesty's naval officers stationed off the coast of Newfoundland in view of the Fortune Bay and other fishery disputes.

I am, &c.
(Signed) GRANVILLE.

No. 214.

Earl Granville to Sir E. Thornton.

(No. 75.)

Sir, *Foreign Office, April 19, 1881.*
I INCLOSE, for your information, copies of despatches, as marked in the margin,‡ on the subject of notices to be issued by the Government of Newfoundland

* Nos. 197 and 211.

† Nos. 182, 187, and 204.

‡ Nos. 174* and 203.

to outlying settlements under its jurisdiction in view of the Fortune Bay and other fisheries disputes.

I am, &c.
(Signed) GRANVILLE.

No. 215.

Sir J. Pauncefote to Mr. Bramston.

Sir, *Foreign Office, April 19, 1881.*
I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch, as noted in the margin,* in regard to the Fortune Bay and other fisheries questions.

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

No. 216.

Sir E. Thornton to Earl Granville.—(Received April 22.)

(No. 24.)

(Telegraphic.)

Washington, April 21, 1881.

AFTER a long interview with Secretary of State this morning, I find that the assessment of Fortune and Aspe Bay claims would involve great delay, summoning of witnesses, calling for vouchers, and serious discussion of principles, and am convinced that Secretary of State would never agree to a smaller sum than the lump sum already proposed.

I would strongly recommend a settlement by a lump sum, and think that if your Lordship would authorize me to offer it, Secretary of State would accept 15,500*l.* for the two classes of claims above mentioned, and all that may have arisen up to the 4th March last on the coasts of Newfoundland and its dependencies.

No. 217.

Memorandum by Sir J. Pauncefote.

IT is clear from Print No. 151, p. 126, and No. 153, p. 127, that on the 8th March Lord Granville informed Mr. Lowell that he was ready to revert to the proposal of referring the claims to Sir E. Thornton and "Mr. Evarts, or his successor."

On the 16th March Mr. Lowell communicated to Lord Granville a telegram from Mr. Blaine, stating that Lord Granville's proposition, to refer the indemnity to him and Sir E. Thornton, was accepted. (Print p. 132, No. 169.)

On the 2nd April Sir E. Thornton was instructed by telegram No. 16 (see section 1014), that, if Mr. Blaine was ready to refer claims to Sir E. Thornton and himself, Sir E. Thornton might accept at once.

Sir E. Thornton replied by telegram on the 4th April No. 21 (see section 1015, p. 5), that Mr. Blaine agreed to such reference, and declined umpire. This was, therefore, agreed to, as reported afterwards in Sir E. Thornton's despatch No. 103 of the 4th April, extending the telegram of that date.

We are, I think, clearly committed either to a lump sum payment or to a reference to Sir E. Thornton and Mr. Blaine *without an umpire* in case of disagreement.

See further telegram from Sir E. Thornton, and Lord Kimberley's remarks thereon.

J. P.

Foreign Office, April 22, 1881.

No. 218.

Sir J. Pauncefote to Mr. Bramston.

(Secret.)

Sir, *Foreign Office, April 22, 1881.*
 WITH reference to your letter of the 11th instant, marked Confidential, and to my letter of the 18th instant, with which was inclosed a copy of Sir E. Thornton's despatch No. 103 of the 4th instant, I am directed by Earl Granville to transmit to you, for the consideration of the Secretary of State for the Colonies, a copy of a telegram which has been received this morning from Her Majesty's Minister at Washington.*

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 219.

Earl Granville to Sir E. Thornton.

(No. 51. Confidential.)

Sir, *Foreign Office, April 23, 1881.*
 I TRANSMIT to you herewith, for your own information, and to be deposited with the archives of Her Majesty's Legation at Washington, a copy of further printed correspondence respecting the claims of United States' fishermen for interruption of their fishing at Fortune Bay and elsewhere on the coast of Newfoundland.

This correspondence includes the period between the 10th May, 1880, and the 31st March, 1881.

I am, &c.

(Signed) GRANVILLE.

No. 220.

Mr. Bramston to Sir J. Pauncefote.—(Received April 25.)

(Secret.)

Sir, *Colonial Office, April 25, 1881.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 22nd instant, inclosing a telegram from Sir E. Thornton respecting the claims of the United States' Government arising out of the occurrences at Fortune Bay and elsewhere on the coast of Newfoundland.

Lord Kimberley is disposed to think that the sum of 15,000*l.* offered to the United States' Government in satisfaction of the claims in question should not be exceeded.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 221.

Sir J. Pauncefote to Mr. Bramston.

(Secret.)

Sir, *Foreign Office, April 27, 1881.*
 WITH reference to your letter of the 25th instant, I am directed by Earl Granville to transmit to you the draft of a telegram which his Lordship proposes, with Lord Kimberley's concurrence, to transmit to Her Majesty's Minister at Washington, informing him that Her Majesty's Government cannot consent, without previous inquiry, to increase their offer of a lump sum of 15,000*l.* as compensation to the American fishermen on account of the occurrences at Fortune Bay; but that they are prepared to abide by the proposal which has been accepted by Mr. Blaine, that the amount should be referred for inquiry and adjustment to himself and to Sir E. Thornton.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 222.

Mr. Herbert to Sir J. Pauncefote.—(Received April 28.)

(Secret.)

Sir,

Downing Street, April 27, 1881.

IN reply to your letter of this day's date, I am directed by the Earl of Kimberley to convey to you his Lordship's concurrence in the terms of the telegram which Earl Granville proposes to address to Sir E. Thornton respecting the claims of the United States' Government in connection with occurrences at Fortune Bay.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 223.

Earl Granville to Sir E. Thornton.

(No. 20.)

(Telegraphic.)

Foreign Office, April 28, 1881, 6.35 P.M.

YOUR despatch No. 103 of the 4th instant.

Her Majesty's Government cannot consent to increase their offer of a lump sum of 15,000*l.*, which they deem a large concession, without previous inquiry; but they abide by the proposal accepted by Mr. Blaine that the amount should be referred to him and yourself for inquiry and adjustment.

Before proceeding with the reference, you had better await my explanatory despatch.

No. 224.

Earl Granville to Sir E. Thornton.

(No. 82. Extender.)

Sir,

Foreign Office, April 28, 1881.

I HAVE had under my consideration your despatch No. 103 of the 4th instant, reporting the substance of a conversation you had had that morning with Mr. Blaine as to the means proposed for arriving at a settlement of the claims of the American fishermen concerned in the dispute which had arisen with the Newfoundlanders at Fortune Bay in the month of January 1878.

I have informed you by telegraph this day, in reply, that Her Majesty's Government are not prepared, without a previous examination of the individual claims, to make any further advance upon the gross sum of 15,000*l.* which you have been authorized to offer to the Government of the United States as compensation for the losses sustained by the American fishermen in consequence of these transactions. They are, however, willing to abide by the proposal which has been made to Mr. Blaine, and accepted by him, that the amount of the claims should be referred to Washington for inquiry and adjustment between himself and you.

I request that you will convey to Mr. Blaine the views of Her Majesty's Government in the sense of this despatch; but, as I propose to address you again shortly on the subject, you should not proceed further with the reference until I have had the opportunity of furnishing you with more precise instructions.

I am, &c.

(Signed) GRANVILLE.

No. 225.

Sir E. Thornton to Earl Granville.—(Received May 2.)

(No. 124. Confidential.)

My Lord,

Washington, April 19, 1881.

I HAVE not yet had any serious or official discussion with Mr. Blaine with regard to the assessment of the amount of damages arising out of the Fortune Bay claims. Partly owing to bad health, and partly on account of the great pressure of business on his entrance upon his office, he has not yet had time to examine the documents connected

with the above claims. I have, however, conversed with him privately upon the subject, and, from the tone of his remarks, I fear that it will be very difficult to make him agree to accept for the Fortune Bay claims and those on account of certain American fishermen having been prevented from fishing for squid in Aspee Bay in June 1879 anything less than the 16,000*l.* which he has recently said that his Government would accept for all such claims up to the 4th ultimo.

It appears to me that there are but two ways of assessing the damages arising out of the Fortune Bay affair. One is to consider the actual damages suffered, that is to say, the destruction of the American nets by the Newfoundland fishermen and the loss caused by setting at liberty the herring which had already been caught and barred by the Americans, and which would have formed a portion of their cargoes. The amount of these damages would not have been much more than 2,000*l.* without interest.

The other mode of calculating the damages would be on the basis of admitting that all the twenty-two American vessels in Fortune Bay on Sunday, the 6th January, 1878, would have been able to have secured a full cargo of herring on that day if they had not been prevented from doing so by natives of Newfoundland. The affidavits of the American fishermen claim that they could have done so, and this view is confirmed by John Cluett, of Belloram, Fortune Bay, who states that, "had they (the Americans) secured all they had barred, they could have, I believe, filled every vessel of theirs in the bay." The calculation would then have been upon the expenses of the voyage added to the net profit upon a full cargo.

I have supposed that whilst we reserved the rights secured to us by our Treaties with the United States we waived them with regard to the affair of the 6th January, 1878, because the Newfoundland fishermen had taken the law into their own hands and had committed violence upon the American fishermen; so that, though there might be a question whether the mode of fishing pursued by the latter was legal, it was not to be raised with regard to the Fortune Bay affair. If this be not the case, I do not see what more can be claimed than the actual damage as estimated above at not much more than 2,000*l.*, without interest. And even a portion of this might be questioned; for it is more than probable that all the herring which were barred by the Americans and set at liberty by the Newfoundland fishermen were caught from and barred to the shore, so that there would remain nothing more than the destruction of the nets, to the value of about 250*l.*

The expenses of the voyages of the twenty-two American vessels, as shown by the accounts presented by the owners, as well as the average profits of previous voyages, seem to me to be exaggerated. But when Mr. Blaine and I shall come to discuss these accounts, I have no doubt that he will produce details and witnesses without number to prove the accuracy of the accounts, the evidence of which it will be impossible for me to refute in general, though in particular instances I think I can prove to him, even from the showing of his own side, that the accounts are greatly exaggerated. But at any rate he will be able to raise the damages to a large amount, without my having the power of questioning it. I therefore venture to hope that your Lordship's judicious idea of offering a lump sum may still prevail; for, if not, it is probable that no agreement will be arrived at with regard to the Fortune Bay and Aspee Bay claims, whilst the assessment would refer to them alone, and still leave the door open for the presentation of other claims.

Mr. Blaine is apparently indifferent as to whether they should be settled or not, and many Americans are of opinion that their being kept open, and American fishermen being thus deterred from seeking the Canadian and Newfoundland fisheries, will form strong arguments in the event of fresh negotiations being entered upon at the end of the term of the Treaty of 1871, against granting any compensation for their enjoyment.

Whilst upon this subject, I venture, though with some hesitation, to ask your Lordship's permission to make some observations with regard to the strand fishery. Your Lordship, in your note to Mr. Lowell of the 27th October, 1880, declared that the strand fishery by American fishermen was clearly in excess of their Treaty privileges. The Marquis of Salisbury in his note to Mr. Hoppin of the 3rd April, 1880, also denied the right of Americans to pursue this mode of fishing; and the United States' Agent before the Halifax Commission, with a view to diminishing the amount of compensation which the United States might be called upon to pay, strongly maintained that the American fishermen would have no right to avail themselves of the strand fishery. Neither, until very lately, have American citizens been known to claim and exercise that right.

But a careful examination of the Treaties has not convinced me that this

conclusion can be arrived at directly from their wording, though perhaps indirectly. In Article I of the Treaty of 1818, it is provided that American fishermen shall be admitted to enter certain bays and harbours for the purpose of shelter and repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But this provision referred to the coasts of His Majesty's dominions within 3 miles of which the United States had renounced the right of fishing for ever. On the coasts where they were allowed to fish they were also allowed to dry or cure fish, the phrase "for no other purpose whatever" not being there used.

Article XVIII of the Treaty of 1871 gives permission to the inhabitants of the United States to take fish of every kind on the sea coasts and shores, and in the bays, harbours, &c., with permission to land upon the said coasts, and shores, and islands for the purpose of drying their nets and curing their fish, without adding "and for no other purpose whatever." What does fishing on the shores signify? Does it not imply the right to the strand fishery?

The Treaties both of 1818 and 1871 grant the right to fish "in common with the subjects of His [Her] Britannic Majesty." If American citizens are not to have greater rights than British subjects, it would appear to be but fair to let them have equal rights, and that they should therefore be allowed the enjoyment of the strand fishery.

I have carefully avoided referring to this subject in my conversations with Mr. Blaine; but as the question of the regulations which are to prevail hereafter at the fisheries must or ought soon to come under discussion, I have ventured to make the above observations in the hope that they will be refuted by some one more conversant than myself with the interpretation of Treaties.

I have, &c.

(Signed) EDWD. THORNTON.

No. 226.

Mr. Bramston to Sir J. Pouncefote.—(Received May 2.)

Sir,

Downing Street, April 30, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 13th instant, transmitting, for his Lordship's concurrence, the draft of a letter which Earl Granville proposes to address to the Law Officers of the Crown upon the subject of the counter-claims of the Newfoundland fishermen at Fortune Bay. I am, in reply, to request that you will intimate to Lord Granville that Lord Kimberley thinks it may be better not to put to the Law Officers the question with which the draft letter concludes. It appears to his Lordship that the fitness of time involved in the question whether the counter-claims can be properly preferred during the negotiations upon the Fortune Bay indemnity is not a matter of law so much as of policy, which it would rest with Her Majesty's Government to determine; but that the Law Officers should be consulted upon the question whether these claims are in themselves of such a nature that they may properly be put forward by Her Majesty's Government.

If the reply is in the affirmative, the question of taking action to support these claims would then be one for the consideration of the Government; while, if the reply is in the negative, it would be for Lord Kimberley and Lord Granville to decide whether the reasons given by the Law Officers should not be submitted to the Newfoundland Government, with the object possibly of obtaining further information upon the facts.

Upon this view of the matter it may suffice to omit from the draft letter the concluding words, "during the negotiations for the settlement of the Fortune Bay indemnity."

Lord Kimberley, however, considers that among the papers to which the attention of the Law Officers is called special reference should be made to Nos. 93-96, at pp. 102, 103 of the print of 1880-81.

It may be well also to inform the Law Officers that the Premier of Newfoundland (the Attorney-General, Sir W. Whiteway) will be in this country about the middle of May.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 227.

Lord Tenterden to Mr. Bramston.

(Secret.)

Sir, *Foreign Office, May 3, 1881.*

WITH reference to your letter marked Secret of the 27th ultimo, I am directed by Lord Granville to transmit to you the draft of a telegram which Lord Granville proposes, with Lord Kimberley's concurrence, to address to Sir E. Thornton,* informing him that it is intended to suggest to the Newfoundland Government to send some person to assist him, on the part of that Government, in the assessment of the claims of the American fishermen.

I am to request that you will move Lord Kimberley to inform Lord Granville at his earliest convenience whether he sees any objection to the terms of this telegram.

I am, &c.

(Signed) TENTERDEN.

No. 228.

Mr. Herbert to Lord Tenterden.—(Received May 3.)

(Secret.)

Sir, *Downing Street, May 3, 1881.*

I AM directed by the Earl of Kimberley to acquaint you, for the information of Earl Granville, that his Lordship concurs in the terms of the draft telegram to Sir E. Thornton, inclosed in your letter of this day, and that a telegram will be sent to Sir J. Glover, suggesting that the Newfoundland Government should send some competent person to confer with and assist Sir E. Thornton.

I am to inclose the draft of the telegram which Lord Kimberley proposes, with the concurrence of Lord Granville, to address to Sir J. Glover on the subject.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 228.

The Earl of Kimberley to Governor Sir J. Glover.

(Telegraphic.)

Downing Street, May 3, 1881.

SIR E. THORNTON and Mr. Blaine will probably very soon commence consideration of United States' Fortune Bay claims.

Can your Government send competent person at once to assist and confer confidentially with Sir E. Thornton?

Inquiry is informal, and no arguments will be heard or evidence taken; but Sir E. Thornton should know views and calculations of your Government.

No. 229.

Lord Tenterden to Mr. Bramston.

(Secret.)

Sir, *Foreign Office, May 3, 1881.*

IN reply to your letter of this day's date, I am directed by Lord Granville to state to you, for the information of the Secretary of State for the Colonies, that his Lordship concurs in the terms of the telegram which it is proposed to address to Sir J. Glover, suggesting that some competent person should be at once empowered by the Government of Newfoundland to proceed to Washington in order to assist and to confer confidentially with Sir E. Thornton on the subject of losses sustained by the American fishermen in their fishing operations on the coast of that Colony.

I am, &c.

(Signed) TENTERDEN.

No. 230.

Earl Granville to Sir E. Thornton.

(No. 22.)

(Telegraphic.)

Foreign Office, May 3, 1881.

WITH reference to my telegram No. 20 of the 28th ultimo, let me know as soon as you have fixed a day for discussing with Mr. Blaine the reference of the fishery claims. It will probably be desirable to send some one from Newfoundland to assist you personally and confidentially in assessing the claims. You may proceed without waiting for the explanatory despatch, which could not be sent by Saturday's mail, if Mr. Blaine wishes to begin the discussion sooner, but arrange to give time for Her Majesty's Government to inform Newfoundland Government.

No. 231.

Earl Granville to Sir E. Thornton.

(No. 85. Extender.)

Sir,

Foreign Office, May 3, 1881.

WITH reference to my despatch No. 82 of the 28th ultimo, I have to state to you that it will probably be desirable to send some person from Newfoundland to assist you personally and confidentially in the assessment of the claims connected with the Newfoundland fisheries.

I should be glad, therefore, to receive notification of the day, whenever it is fixed, for discussing with Mr. Blaine the amount of the indemnity to be awarded for their losses to the American fishermen.

In the meanwhile, I have to authorize you to proceed at once with the negotiation, without waiting for the further instructions promised in my despatch of the 28th April, should Mr. Blaine express a wish to expedite the settlement of the question; but you should so arrange that time may be given to enable Her Majesty's Government to communicate with the authorities of Newfoundland.

I am, &c.

(Signed) GRANVILLE.

No. 232.

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

(No. 25.)

(Telegraphic.)

Washington, May 5, 1881.

YOUR Lordship's telegrams Nos. 20 and 22.

Secretary of State, thinking as I do, that we shall never agree upon assessment, consents at length to accept your offer of 15,000*l.* for Fortune Bay claims and all claims arising out of any interruption of American fishermen on the coasts of Newfoundland and its dependencies up to the 4th March last, including Aspee Bay claims mentioned in Inclosure I in my despatch No. 173 of the 7th June last, at pages 138 to 141 inclusive.

Secretary of State promises to address me a note to the above effect. May I agree to the proposal?

No. 233.

Sir J. Pauncefote to Mr. Herbert.

(Secret.)

Sir,

Foreign Office, May 6, 1881.

WITH reference to your letters, marked Secret, of the 27th ultimo and 3rd instant, I am directed by Her Majesty's Principal Secretary of State for Foreign Affairs to transmit to you a copy of a cyphered telegram,* dated the 5th May, which has been received from Her Majesty's Minister at Washington, announcing that Mr. Blaine has signified his readiness to accept the sum of 15,000*l.* which has been offered by Her Majesty's Government in satisfaction of the claims of the American fishermen on account of the interruption caused to their fishing operations by the proceedings of the Newfoundlanders.

Mr. Blaine has intimated that he is prepared to comprise in this arrangement the claims arising out of the occurrences at Fortune Bay, and also all claims on account of any interruption of American fishing on the coasts of Newfoundland and its dependencies up to the 4th March last, and at Aspee Bay, Cape Breton, in the month of June 1879.

The particulars of the last-named claims are given with the documents annexed to the President's message of the House of Representatives of the 17th May, 1880, of which a copy is forwarded herewith for convenience of reference (see pp. 138-141).

I am to request that you will submit this letter, with its inclosure, to the Earl of Kimberley, and that you will move him to inform Lord Granville at his earliest convenience whether he concurs with Lord Granville in thinking that, as Mr. Blaine is now prepared to give the full assurance required by Her Majesty's Government when they made the offer of 15,000*l.*, Sir E. Thornton should be authorized to agree to this settlement?

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

No. 234.

Mr. Herbert to Lord Tenterden.—(Received May 7.)

My Lord,

Downing Street, May 6, 1881.

WITH reference to the recent correspondence which has taken place respecting the negotiations now proceeding with the French and the United States' Governments in connection with the Newfoundland fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a telegram from the Governor of the Colony, from which it appears that the Premier is disposed to visit New York before coming to this country to attend the negotiations on the French fishery question.

It appears to Lord Kimberley highly desirable that Sir W. Whiteway should, if possible, be able to see Sir E. Thornton and discuss with him the questions which he and Mr. Blaine are to consider jointly; and I am accordingly to suggest that, if, in the opinion of Lord Granville, the postponement for two or three weeks of the meeting of the Commission appointed to sit in London to consider the French fishery question would not prove prejudicial to the British interests involved, Lord Lyons should be informed, by telegraph, that it is hoped that Sir W. Whiteway will be able to proceed to New York before coming to this country, in order to confer with Sir E. Thornton with respect to the Fortune Bay question, and that it is therefore very important to postpone, if possible, for the period above mentioned, the meeting between the Premier of Newfoundland and the French Admiral in London.

Lord Granville will no doubt recognize the importance of arriving at an early decision on this point, as, in the event of a return to the previous arrangement referred to in the letter from this Department of the 27th ultimo, it would be necessary for Sir William Whiteway to leave Newfoundland on the 11th instant.

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

Inclosure in No. 234.

Governor Sir J. Glover to the Earl of Kimberley.

(Telegraphic.)

Newfoundland, May 5, 1881.

YOUR telegram of the 3rd instant has been communicated to my Government, who have not yet come to any decision. I am of opinion that the Premier is disposed to visit New York before proceeding to England to attend the Commission of Inquiry into the French fishery question, and therefore the decision is delayed until date of the meeting of the Commission is ascertained.

Mr. Herbert to Lord Tenterden.—(Received May 7.)

(Secret.)

My Lord,

Downing Street, May 7, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of yesterday, transmitting a copy of a telegram dated the 5th instant from Sir E. Thornton, announcing that Mr. Blaine has signified his readiness to accept the sum of 15,000*l.* in satisfaction of the claims of the American fishermen on account of the interruptions to their fishing operations by the Newfoundland fishermen.

As Earl Granville is aware, a telegram was sent to Sir J. Glover on the 3rd instant, informing him that Sir E. Thornton and Mr. Blaine would probably soon commence an informal inquiry into the matter of the United States' claims, and desiring to be informed whether the Newfoundland Government could send a competent person to assist and confer with Sir E. Thornton, in order that he might know the views and calculations of the Newfoundland Government; and Sir J. Glover has replied, in a telegram which was communicated to you yesterday, that he thinks the Premier, Sir William Whiteway, is disposed to visit New York for this purpose.

As the Newfoundland Government has thus been officially informed that at the inquiry which was about to take place an opportunity would be given them to state their views as to the amount payable as compensation to the United States' fishermen, it appears to Lord Kimberley that it is necessary, before any further action is taken, to acquaint the Newfoundland Government that Sir E. Thornton and Mr. Blaine, after a preliminary consideration of the question, have concurred in thinking that there is no prospect of their agreeing to an assessment; that in these circumstances the United States' Government has preferred to revert to an arrangement which was under consideration while Mr. Evarts was in office for the settlement of the claims, namely, the immediate payment of a lump sum of 15,000*l.*, which will be in satisfaction of Fortune Bay claims, and all other claims arising out of any interruptions of American fishermen on the coast of Newfoundland and its dependencies up to the 4th March last, including the Aspee Bay claims, that Her Majesty's Government are of opinion that this offer should be agreed to.

If Lord Granville concurs, Lord Kimberley will address a telegram to this effect to the Governor of Newfoundland.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Sir E. Thornton to Earl Granville.—(Received May 7, 6.15 P.M.)

(No. 26.)

(Telegraphic.)

Washington, May 7, 1881.

I HAVE received from Secretary of State the note mentioned in my telegram No. 25. He adds that he is ready to discuss the subject of joint cruisers at the fisheries, and the instructions under which they should act.

Sir J. Pauncefote to Mr. Herbert.

(Secret.)

Sir,

Foreign Office, May 8, 1881.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 7th instant, and am to request that you will inform Lord Kimberley, in reply, that his Lordship concurs in the telegram which it is proposed to send to the Governor of Newfoundland on the Fortune Bay question.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

Sir E. Thornton to Earl Granville.—(Received May 9.)

(No. 133.)

My Lord,

Washington, April 25, 1881.

ON the 21st instant I had a long interview with Mr. Blaine at the State Department with regard to the Fortune Bay claims and those arising from United States' fishermen having been prevented from fishing for bait. I proposed that we should examine the accounts rendered by each claimant, which had induced Mr. Evarts to state that the amount claimed was about 105,000 dollars without interest; but before entering upon this examination, I thought it would be desirable that we should agree upon the basis upon which the amount of the claims should be assessed.

The principal points at issue seemed to be two:—

1. Whether fish caught from the shore and set at liberty by the Newfoundland fishermen was to be considered to be one of the grounds of compensation to the American fishermen; and

2. Whether it was to be admitted that if the latter had not been prevented from fishing by the Newfoundland fishermen, all the twenty-two American fishing-vessels would, on the 6th January, have obtained full cargoes of herring, and that they should be compensated for those full cargoes.

Upon the first point I stated that your Lordship, in your note of the 27th October last, had declared that the strand fishery was clearly in excess of the Treaty privileges to which United States' fishermen were entitled, and that as the evidence seemed to indicate that all the fish which had been set at liberty by the Newfoundland fishermen had been caught in seines from the shore and even barred to the shore, and as probably what further fish might have been caught would have been obtained in the same way, there did not seem to be any good ground for compensating the American fishermen for their losses on this head.

But Mr. Blaine replied that it had been understood from Mr. Lowell that whilst each party was to reserve its rights with regard to the Treaty, your Lordship had waived this right with regard to the particular claims in question, on account of the unjustifiable violence which had been committed by the Newfoundland fishermen.

With respect to the claim, that the American fishermen would have obtained full cargoes on that day, I observed that this was in the nature of consequential or indirect claims which ought not to be allowed. But Mr. Blaine maintained that they would certainly have secured full cargoes except for the violence offered them. It is true that this assertion was made in the American affidavits, and admitted in one at least sworn to by a British subject.

Mr. Blaine therefore declared that he would enter upon the examination and discussion of the claims with reference to their assessment only on the condition that the legality of the mode of fishing on that particular occasion should not be questioned, and that it should be considered that each vessel would on that day, if not prevented from fishing, have secured a full cargo of herring.

It only remained, therefore, to scrutinize the accounts furnished by the parties interested, which presented an aggregate amount of about 105,000 dollars without interest. To me they appear full of exaggeration, both with regard to the actual expenses and the probable profits; but Mr. Blaine states that he is prepared to produce witnesses and detailed accounts which will prove that the losses are not less than they are stated to be. And I have no doubt that he would be able to do this without my having a chance of obtaining rebutting testimony, which, under the circumstances, could hardly be procured. At the same time, he declares that as Mr. Evarts had refused your Lordship's offer of 15,000*l.*, it could not be expected that his successor would agree to an assessment in an amount less than that sum.

Mr. Blaine considered, however, that the offer which he had made to accept 16,000*l.* in full of all claims of the class above mentioned up to the 4th March last was really better for Her Majesty's Government than that made by your Lordship of 15,000*l.* up to the end of last year. With a view, however, to a prompt settlement of the question, and to entering upon a negotiation as to the regulations respecting the fisheries which were to prevail hereafter, he was ready to accept the sum of 15,500*l.* for the Fortune Bay claims and those of American fishermen who had been prevented from fishing for bait, as well as for all claims arising out of any interruption of American fishermen on the coasts of Newfoundland and its dependencies up to the 4th March last.

For my own part, I would recommend that this offer should be accepted; for,

although it may be more than is really due, it would have the advantage of finally settling the claims, and of avoiding the delay which would inevitably arise if witnesses are to be summoned and further accounts and vouchers are to be called for. Neither would there be any danger of exciting the bad feeling which would be almost inseparable from the discussion of each item of the accounts which have been presented.

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

No. 239.

Lord Tenterden to Mr. Herbert.

(Secret.)

Sir, *Foreign Office, May 9, 1881.*
I AM directed by Earl Granville to transmit to you, to be laid before the Secretary of State for the Colonies, copies of despatches* relative to the proposed assessment of the compensation to be granted to American fishermen for the losses to which they have been subjected by the action of the fishermen on the coasts of Newfoundland.

Since these despatches were written, Mr. Blaine has signified, as you are aware, his readiness to accept a lump sum of 15,000*l.* in satisfaction of these claims.

I am, &c.
(Signed) TENTERDEN.

No. 240.

Lord Tenterden to Mr. Herbert.

(Secret.)

Sir, *Foreign Office, May 9, 1881.*
I AM directed by Lord Granville to transmit to you, to be laid before the Earl of Kimberley, the decypher of a further telegram which has been received from Her Majesty's Minister at Washington,† stating that he had received from Mr. Blaine the note referred to in his telegram No. 25 of the 5th May, a copy of which was forwarded to you with my letter, marked Secret, of the following day.

Sir E. Thornton adds that Mr. Blaine states in that note that he is now prepared to enter upon the question of the dispatch to the Newfoundland fisheries of joint cruisers on the part of the American and British Governments, and of the instructions under which these Commanders should act.

I am, &c.
(Signed) TENTERDEN.

No. 241.

Sir J. Pauncefote to Mr. Herbert.

Sir,

Foreign Office, May 9, 1881.
WITH reference to your letter of the 27th ultimo, marked Secret, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch which has been addressed to Her Majesty's Minister at Washington ‡ respecting a settlement of the claims of the American fishermen concerned in the dispute with the Newfoundlanders at Fortune Bay.

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

* Nos. 225 and 238.

† No. 236.

‡ No. 224.

Sir J. Pauncefote to the Law Officers of the Crown and Dr. Deane.

(Confidential.)

Gentlemen,

Foreign Office, May 11, 1881.

I HAVE the honour to transmit to you, by Earl Granville's direction, the inclosed printed correspondence,* together with two letters, dated the 28th March and 11th ultimo, from the Colonial Office, relative to certain counter-claims which the Newfoundland Government desire to prefer in reduction of the indemnity claimed by the United States' Government in respect of the incident at Fortune Bay which is the subject of your Reports of the 15th July and 27th September last. (Correspondence, pp. 59 and 75, 1880-81.)

These counter-claims arise out of losses sustained by Newfoundland fishermen, who allege that their nets were wantonly destroyed by American fishing vessels after the incident at Fortune Bay by way of retaliation.

The particulars of these counter-claims will be found in the affidavits transmitted in the Colonial Office letter of the 28th March last.

With reference to the charge of wanton destruction of these nets by way of retaliation, I am to invite your attention to the affidavits of Saunders and Cluett, taken shortly after the date of the Fortune Bay incident, copies of which were furnished at the time to the United States' Government. They will be found at pp. 25 and 31 of the Print, 1878-79.

I am also to refer you to the following papers on the subject:—

Print, 1880-81, No. 89, p. 96; No. 90, p. 101; No. 93, p. 102; No. 96, p. 103; No. 118, p. ; and No. 174, p. 134.

I am to observe that, in the letter addressed by Lord Granville to Mr. Lowell, dated the 27th October last (Print, No. 65, p. 81), in which his Lordship expresses the willingness of Her Majesty's Government to pay a reasonable indemnity in respect of the Fortune Bay claims, no mention is made of any counter-claims.

I am to request that you will take these papers into your consideration, and favour Lord Granville with your opinion, at your earliest convenience, whether, looking at the evidence and considering all the circumstances, the counter-claims in question can properly be preferred by Her Majesty's Government. I am to add that the Premier of Newfoundland (Sir William Whiteway, Attorney-General of the Colony) is expected in this country in the course of this month.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 243.

Mr. Herbert to Lord Tenterden.—(Received May 12.)

(Secret.)

My Lord,

Downing Street, May 11, 1881.

WITH reference to the letter from this Department of the 7th instant respecting the proposed settlement of the claims of American fishermen arising out of occurrences at Fortune Bay and elsewhere on the coast of Newfoundland, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, copies of a telegram which was sent to the Governor of Newfoundland upon the subject on the 9th instant and of one received from him in reply.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

* Printed Correspondence, 1878-79; ditto, 1879-80; ditto, 1880-81 (with omissions).

Inclosure 1 in No. 243.

The Earl of Kimberley to Governor Sir J. Glover.

(Telegraphic.)

Downing Street, May 9, 1881, 10.5 P.M.

MY telegram 3rd May.

After preliminary consideration, Sir E. Thornton and Mr. Blaine concur that there is no prospect of their agreeing to assessment; and, in these circumstances, United States' Government have preferred to revert to an arrangement which was under consideration while Mr. Evarts was in office for settlement of American claims by payment of a lump sum.

United States' Government have expressed willingness to accept immediate payment of 15,000*l.* in satisfaction of Fortune Bay claims and all other claims arising out of interruptions of American fishermen on coasts of Newfoundland and its dependencies up to 4th March last, including Aspee Bay claims.

Her Majesty's Government are of opinion this arrangement should be carried out; and as Sir William Whiteway's visit to Washington not now necessary in this matter, hope he may be able leave for England by steamer 11th as proposed.

Inclosure 2 in No. 243.

Governor Sir J. Glover to the Earl of Kimberley.

(Telegraphic.)

Newfoundland, May 10, 1881, 7.30 P.M.

I AM leaving for England to-morrow with the Premier. The Council respectfully request settlement of American claims be deferred till the arrival of the Governor and Sir William Whiteway, who take important documents on the subject.

No. 244.

Mr. Herbert to Lord Tenterden.—(Received May 12.)

(Secret.)

My Lord,

Downing Street, May 11, 1881.

WITH reference to my letter of the 7th instant respecting the settlement of the claims of American fishermen arising out of the occurrences at Fortune Bay and elsewhere on the coast of Newfoundland, and to the telegram which was sent to Sir John Glover on the 9th instant in pursuance thereof, I am directed by the Earl of Kimberley to acquaint you that a telegram has been received from the Governor of Newfoundland, dated the 10th instant, stating that his Government respectfully request that the settlement of the American claims may be deferred until the arrival of himself and of Sir William Whiteway, who leave for England this day (the 11th instant), and who are bearing important documents connected with this subject.

It appears to Lord Kimberley that it would be desirable that Sir E. Thornton should inform Mr. Blaine that, as the Newfoundland Government, which had understood that there would be an inquiry at Washington, has made this request to be heard here, and the Governor and Premier are now on their way to England, Her Majesty's Government propose to defer their decision as to reverting to the arrangement for the payment of a fixed sum until they have had an opportunity of personally communicating with Sir John Glover and Sir William Whiteway, and that no time will be lost in conferring with them as soon as they arrive.

If Earl Granville should concur in this view, Lord Kimberley would be glad if instructions could be at once sent to Sir E. Thornton to this effect.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 245.

Mr. Bramston to Lord Tenterden.—(Received May 12.)

My Lord,

Downing Street, May 11, 1881.

WITH reference to the letter from this Department of the 19th March, and to your reply of the 8th ultimo, respecting the issue of a notice by the Government of Newfoundland for the purpose of notifying to the inhabitants of the Colony the rights of fishery which the Americans enjoy under the Treaty of Washington, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a further despatch which has been received from the Governor of Newfoundland on the subject.

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

Inclosure in No. 245.

Governor Sir J. Glover to the Earl of Kimberley.

My Lord,

Government House, Newfoundland, April 22, 1881.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 12th instant, transmitting a copy of a letter from the Foreign Office expressing the concurrence of Lord Granville in the terms of the notice issued by my Government, for the purpose of notifying to the inhabitants of outlying Settlements frequented by the Americans the rights which the latter have under the Treaty of Washington.

2. I duly communicated your Lordship's despatch, with its inclosure, to my Government, who will use every exertion to cause the notice to be as widely circulated as possible on the coasts of this Colony.

3. In regard to Lord Granville's expression of regret that such a notice was not long since issued by my Government, I would observe that, during the last two years I have not failed to represent to my Ministers the importance of adopting some means for publishing the Treaty-rights of the Americans in the outlying Settlements.

I have, &c.
(Signed) JOHN H. GLOVER.

No. 246.

Earl Granville to Sir E. Thornton.

(No. 25.)

(Telegraphic.)

Foreign Office, May 13, 1881, 5.50 P.M.

WITH reference to your telegrams Nos. 25 and 26 of the 5th and 7th instant, we await the receipt of your despatches with Mr. Blaine's notes.

Telegrams are apt to lead to misapprehension when the words used are of importance.

No. 247.

Earl Granville to Sir E. Thornton.

(No. 90. Extender.)

Sir,

Foreign Office, May 13, 1881.

I HAVE received your telegrams Nos. 25 and 26 of the 5th and 7th instant relative to the note addressed to you by Mr. Blaine, in which you state he signifies his acceptance of the offer made to him of a lump sum of 15,000*l.* in satisfaction of the Fortune Bay claims and all claims arising out of any interruption to the operations of American fishermen on the coast of Newfoundland and its dependencies up to the 4th March last, including the Aspee Bay claims, mentioned in Inclosure 1 of your despatch No. 173 of the 7th June last.

I have informed you by telegraph to-day, in reply, that in order to avoid any possibility of misapprehension hereafter as to the full meaning of expressions used in

telegrams, Her Majesty's Government prefer to await the arrival of your despatch inclosing Mr. Blaine's note.

I am, &c.
(Signed) GRANVILLE.

No. 248.

Earl Granville to Sir E. Thornton.

(No. 26. Secret.)

(Telegraphic.)

Foreign Office, May 13, 1881, 6.10 P.M.

WITH reference to my telegram No. 25 of to-day, Governor of Newfoundland and Sir W. Whiteway are expected in England next week; and with a view to money arrangements with Newfoundland, Lord Kimberley would like to delay until after they arrive, but he agrees that the matter may be considered as settled.

No. 249.

Earl Granville to Sir E. Thornton.

(No. 91. Secret. Extender.)

Sir,

Foreign Office, May 13, 1881.

WITH reference to my previous despatch of this day's date, I have to state to you that Sir J. Glover and Sir W. Whiteway are expected in England from Newfoundland towards the end of next week; and with a view to the ultimate payment of the compensation by Newfoundland, Lord Kimberley would be glad that the settlement of the American fishery claims should be deferred until after their arrival, although he agrees that the matter may be considered as decided.

I am, &c.
(Signed) GRANVILLE.

No. 250.

Lord Tenterden to Mr. Bramston.

(Secret.)

Sir,

Foreign Office, May 13, 1881.

I HAVE laid before Earl Granville your letter of the 11th instant respecting the acceptance by Mr. Blaine of the offer made to him by Her Majesty's Government of a sum of 15,000*l.* in satisfaction of all claims of American fishermen; and I am, in reply, to request that you will state to the Earl of Kimberley that Lord Granville concurs with his Lordship in thinking that, under all the circumstances, it would be advisable to delay acting on the telegraphic report of this acceptance.

His Lordship has accordingly addressed a telegraphic despatch to Sir E. Thornton, of which a copy is inclosed, informing him that Her Majesty's Government will await the receipt of his despatches forwarding copies of the notes from Mr. Blaine.

I am, &c.
(Signed) TENTERDEN.

No. 251.

Lord Tenterden to Mr. Bramston.

(Secret.)

Sir,

Foreign Office, May 13, 1881.

WITH reference to my other letter of this day's date respecting Mr. Blaine's acceptance of the offer of 15,000*l.* made to him by Her Majesty's Government in settlement of the claims of United States' fishermen, I am directed by Earl Granville to transmit to you, for the confidential information of the Earl of Kimberley, a copy of a further and secret telegram which has been sent to Sir E. Thornton, explaining to him the special reasons which make it desirable to delay acting on this acceptance.

I am, &c.
(Signed) TENTERDEN.

No. 252.

Earl Granville to Sir E. Thornton.

(No. 92. Confidential.)

Sir,

Foreign Office, May 14, 1881.

I TRANSMIT herewith, for your information, confidentially, copies of the correspondence marked in the margin,* relative to the claims of the American fishermen on account of the interruption to their fishing operations by the Newfoundland fishermen.

I am, &c.
(Signed) GRANVILLE.

No. 253.

Mr. Herbert to Lord Tenterden.—(Received May 16.)

(Secret)

Sir,

Downing Street, May 14, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 9th instant, marked Secret and Immediate, inclosing the decypher of a telegram from Sir E. Thornton reporting that the Secretary of State of the United States had informed him that he was ready to discuss the subject of joint cruisers in connection with the fisheries of Newfoundland, and the instructions under which they should act.

Lord Kimberley desires me to request that you will refer Earl Granville to the letter from this Department of the 18th March last, in which his Lordship's opinion was expressed to the effect that no further steps should be taken in regard to the question of the joint American and British cruisers in Newfoundland waters before the Newfoundland Government is consulted on the matter.

Unless there is some necessity for immediate action of which his Lordship is not aware, Lord Kimberley still thinks that it would not be desirable to take any steps in regard to this proposal until he has had an opportunity of discussing the question with Sir William Whiteway, who, as Lord Granville is aware, may be expected to arrive in England in the course of next week.

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

No. 254.

Earl Granville to Sir E. Thornton.

(No. 27.)

(Telegraphic.)

Foreign Office, May 19, 1881, 1:50 P.M.

IN reply to your telegram No. 26 of the 7th instant, I have to refer you to my despatch No. 68 of the 25th March.

Her Majesty's Government still think it would not be desirable to take any steps relative to the question of the joint American and British cruisers in Newfoundland waters before consultation with the Governor of Newfoundland and Sir W. Whiteway, who are expected here this week.

No. 255.

Earl Granville to Sir E. Thornton.

(No. 94. Extender.)

Sir,

Foreign Office, May 19, 1881.

I GATHER from your telegram No. 26 of the 7th instant that Mr. Blaine is ready to discuss with you the question of sending to the Newfoundland fisheries joint American and British cruisers, and the instructions under which their Commanders should act.

In reply, I have to refer you to the instructions contained in my despatch No. 68 of the 25th March last, and to add that Her Majesty's Government still think that it

* Nos. 228, 234, 235, 243, 244, and 245.

would not be desirable to take any steps relative to this point before they have had an opportunity of consulting with the Governor of Newfoundland and Sir William Whiteway, who are expected to arrive in England towards the end of this week.

I am, &c.
(Signed) GRANVILLE.

No. 256.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, May 19, 1881.*
IN reply to your letter of the 14th instant, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of the despatch marked in the margin,* informing Her Majesty's Minister at Washington that Her Majesty's Government do not consider that it would be desirable to take any steps for the moment relative to the question of sending joint American and British cruisers to the Newfoundland fisheries.

I am, &c.
(Signed) TENTERDEN.

No. 257.

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

(No. 142.)

My Lord, *Washington, May 9, 1881.*
WITH reference to your Lordship's telegrams No. 20 of the 28th ultimo and No. 22 of the 3rd instant, I have the honour to inform your Lordship that I had an interview with Mr. Blaine at the State Department on the 5th instant upon the subject of the Fortune Bay claims. I informed him that I was instructed by your Lordship to state that Her Majesty's Government could not consent to increase its offer of a lump sum of 15,000*l.*, which it considered to be a large concession, without a previous inquiry, but that it was prepared to abide by the proposal accepted by him, that the amount should be referred to him and myself for inquiry and adjustment.

Mr. Blaine said that he was perfectly willing and ready to enter upon a detailed examination of the claims in question; but it was evident that, unless we rested upon the affidavits which had been already presented on the American and British sides of the question, it would be necessary to summon witnesses and call for documentary evidence, which would be a very tedious operation, and would probably cause the inquiry to extend over a great length of time.

If we were to rely solely upon the affidavits sworn to upon each side, it is pretty clear that the assessment would be much above the 15,000*l.* which have already been offered by Her Majesty's Government. I am also convinced that the summoning of witnesses and the calling for further documentary evidence would have a similar result.

Mr. Blaine stated, however, that since he had entered upon his office he had caused searching inquiries to be made as to whether there existed any other claims besides those which had been already brought before the two Governments, and that he had satisfied himself that there were none. As his Government, therefore, did not wish to place any obstacles in the way of the settlement of the claims in question, it would be prepared to accept the sum of 15,000*l.* originally offered by Her Majesty's Government in full of the Fortune Bay claims and of all claims arising out of wrongs done to United States' fishermen on the coasts of Newfoundland and of its dependencies up to the 4th March last.

I then pointed out to Mr. Blaine that, in examining the affidavits and accounts which had been submitted to Her Majesty's Government by the instructions of Mr. Evarts, and from which the latter had stated, in his despatch to Mr. Welsh of the 1st August, 1879, that the claims amounted to 105,305 dol. 2 c., I had not been able to understand how this amount had been reached, unless claims of American fishermen for being deterred from fishing for bait in Aspee Bay, Cape Breton, were included among the Fortune Bay claims. I had, therefore, concluded that, although

Aspee Bay was not on the coast of Newfoundland, these claims were among those for which a demand had been made by Mr. Evarts of the sum of 105,305 dol. 2 c.

Mr. Blaine acquiesced in my view of this matter, and said that they would be included among those for which he now stated that the Government of the United States would accept the sum of 15,000*l*.

Affidavits with regard to the Aspee Bay claims are to be found at pp. 138 to 141 inclusive of Inclosure No. 1 in my despatch No. 173 of the 7th June last.

Mr. Blaine then said that he would address me a note to the above effect, and that he would be glad to receive an answer at once from me that Her Majesty's Government acquiesced in this settlement of the claims in question; but I replied that I did not consider myself authorized to give such an answer without asking for instructions from your Lordship, which I would do at once by telegraph.

I have now the honour to inclose copy of the note which Mr. Blaine has addressed to me in consequence of the above-mentioned interview, and I venture to hope that Her Majesty's Government will be able to agree to the settlement indicated therein, which I believe to be the most favourable which can be now obtained.

Your Lordship will perceive that Mr. Blaine states in his note that at my convenience he will discuss the subject of joint cruisers on the fishing-grounds and the code of instructions under which they should sail, which subject he understands to have been also referred by your Lordship. As this, however, is a matter of considerable importance and delicacy, it would certainly be desirable that I should be aided by the advice of some person from Newfoundland who is well acquainted with the subject.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure in No. 257.

Mr. Blaine to Sir E. Thornton

Sir,

Department of State, Washington, May 6, 1881.

I WAS advised by Mr. Lowell by his despatch of the 9th March last that Lord Granville would either pay 15,000*l*. in the Fortune Bay matter for a receipt in full against all claims up to and including the close of the past year, or he would refer the matter to yourself and me for adjustment.

I chose the latter because I had at that time no means of knowing with definiteness whether there might not be claimants whom I could not properly bar by a receipt given without an opportunity of a hearing assured to them.

As I told you in our first consultation, I did not seek the reference with any desire to urge you to a larger sum than was offered by Lord Granville unless new facts could be found which would warrant the demand.

Both of us have discovered and think that we have no practical means of assessing the damages except by taking the facts as stated in the American Case, unless, indeed, we should resort, at great expense and with endless trouble, to a new, independent, and exhaustive investigation by original testimony in each and every claim.

Under these circumstances, it is proper that I should frankly state to you that I find no other claims than those already presented for wrongs inflicted in the waters of Newfoundland and its dependencies; and, as I originally advised you, I have no desire to urge you to increase the sum offered by Lord Granville on the old claims.

My investigations have included the period up to the 4th March, 1881; and in giving the receipt I would, if desired, be willing to cover that period. I make this offer in the hope that you will recognize in it a disposition on the part of the United States to be, not merely just, but liberal in dealing with Her Majesty's Government on this complicated and somewhat delicate question.

Your understanding, communicated verbally, that the injury at Aspee Bay was to be included, is correct; and the receipt which I shall give will cover that case.

In accepting Lord Granville's offer in this matter, I desire to state that at your convenience I will discuss the subject of joint cruisers on the fishing-grounds, and the code of instructions under which they should sail. I understand this subject to have been also referred by Lord Granville.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 258.

Mr. Meade to Sir J. Pouncefote.—(Received May 21.)

Sir,

Downing Street, May 21, 1881.

I AM directed by the Earl of Kimberley to transmit to you herewith, to be laid before Earl Granville, a copy of a letter received from Sir William Whiteway, the Premier of Newfoundland, who is now in London, transmitting a Memorandum drawn up by Judge Bennett, of the Northern District Court in the island, relating to the occurrences at Fortune Bay in January 1878, and to the claims of United States' fishermen in connection therewith.

If an inquiry with a view to the assessment of compensation to American fishermen were to be proceeded with, this Memorandum would afford valuable information, and would no doubt be of great assistance to Sir E. Thornton in dealing with the question; but if Lord Granville should be of opinion that it is desirable, for diplomatic reasons, to agree to the proposed payment at once of the sum which Mr. Blaine is willing to accept in satisfaction of all claims, Lord Kimberley would be prepared to assent to this course. Apart from the great advantage of terminating at once an irritating controversy, it appears to his Lordship that even if the United States' Government should, after considering the statement now submitted, consent to a further reduction of their original demand, the cost of the inquiry, added to the compensation, would probably amount to at least as much as the sum which the United States' Government is now prepared to accept.

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

Inclosure 1 in No. 258.

Sir W. Whiteway to the Earl of Kimberley.

My Lord,

May 20, 1881.

I HAVE the honour to inclose the paper to which I referred, and I also send, for facility of reference, the papers which were published in the United States relating to the Fortune Bay affair. I had not all the papers from Her Majesty's Government, and of necessity was obliged to hand the American publications to Judge Bennett.

I have, &c.
(Signed) W. WHITEWAY.

Inclosure 2 in No. 258.

Memorandum.

I, THOMAS R. BENNETT, Judge of the Northern District Court at Harbour Grace, Newfoundland, do solemnly declare as follows:—

I have resided in Fortune Bay more than twenty years, and have an intimate knowledge of the fishery, especially in its relations with American fishermen, from its inception more than twenty-five years ago until quite recently. I remember the winter of 1878, and know that the herring fishery was a failure for American and Newfoundland fishermen alike, and that the chief causes to which it is attributable were—

1. An unusual but not unprecedented scarcity of fish;
2. An intermixture of small and useless fish, which made seining unprofitable and tedious work, because of the labour required to pick and cull the fish;
3. Because the winter was exceptionally mild, and unsuited for freezing the fish.

The Honourable Sir William V. Whiteway, K.C.M.G., Premier, and Her Majesty's Attorney-General, having confidence in my knowledge of this subject, has submitted to me the accompanying papers and documents connected with the claim made by the Government of the United States for compensation for alleged wrongs done by fishermen of Newfoundland to certain fishermen of the United States at Long Harbour, Fortune Bay, during the winter of 1878. He has requested me to investigate the claim, for the purpose of ascertaining a reasonable and just amount to be tendered the United States' Government as full compensation for the alleged interference with their fishermen, upon the basis laid down in the despatch of Lord Granville dated the 27th day of October, A.D. 1880, in order to preserve that amity heretofore existing between the fishermen of the two countries, and to avoid the inconveniences attending an arbitration.

In the following Report I have given a careful consideration to the circumstances connected with the transactions in question.

(Signed) T. R. BENNETT, *Judge of District Court.*

Report.

Before minutely analyzing the claims I would remark that the statements and affidavits on both sides are much exaggerated. Both parties appear to have been irritated; the Americans by being interfered with in the exercise of what they considered to be their rights, for I believe they were under the impression, however erroneous that opinion may have been, that their rights under the Treaty extended to fishing from the strand, and the Newfoundland fishermen were doubtless incensed at the breach of a law relating to Sunday fishing, a day which they had always observed as a day of rest.

The greatest harmony and good fellowship had always existed in Fortune Bay between the fishermen of both countries until Sunday, the 6th day of January, 1878; and since that day until the present time not a single case of dispute has arisen between them in that locality, although several hundred visits have been made by Americans for bait and cargoes.

There were more than sixty seines belonging to Newfoundlanders lying idle on that Sunday; more than two-thirds of them were of American manufacture, and they were not inefficient means for capturing the fish, nor were the Newfoundlanders inexpert at the business; on the contrary, they were so expert that each American seine-owner had engaged a Newfoundland crew to work it for him. These facts show that no feeling of hostility exists against Americans, and that our people were impelled to act as they did by a feeling that the others were not acting fairly towards them in capturing fish on a day which they by custom and law had always observed as a day of rest, and which the Americans had kept decently during their past twenty-five years' intercourse.

It is quite true that a smaller number of vessels have visited Fortune Bay since, but not for the cause alleged, nor is it credible, if those small schooners could make a net profit of 2,000 to 3,000 dollars for a short voyage when they purchased their cargoes, that they would forego the business, even if they could not safely exercise their right to catch fish for themselves. They would continue to purchase their cargoes rather than lose a trade, if it were as profitable as they represent. The real reason why they do not visit the bay in as great numbers as before is because they can now obtain an abundant supply of excellent herrings from British fishermen at Grand Manan and other places in the Bay of Fundy, within 150 miles of their own port, while Fortune Bay is over 800 miles distant.

That the winter of 1878 was exceptionally mild, and therefore unsuitable for freezing herrings, and that they were very scarce and two-thirds small and unfit for use, are facts within the knowledge of every resident in Fortune Bay, some of which are confirmed by the truthful and reliable Report (p. 16, Message of President to Congress) of W. F. McLaughlin, Esq., the American Consular Agent at St. Pierre Miquelon, at the entrance to Fortune Bay, and about 60 miles from Long Harbour.

All the depositions on both sides show that whatever damage was done occurred on Sunday, the 6th January, and that the Americans continued to haul their seines after that day is asserted by every Newfoundland witness, nor is any specific aggression on any other day alleged by the Americans.

That they were not in fear and were not molested or "driven away" is proved by

the attested return from the Customs Department hereto annexed. It shows that some of those who have deposed that they were "driven away" did not leave before the 16th day of March, nearly two and one-half months after the alleged "outrage."

If the basis for compensation indicated in the last paragraph of Earl Granville's despatch be strictly adhered to, it will be difficult to show that any other fisherman is entitled to compensation except the schooners "Ontario" and "New England," whose seines were destroyed. They claim for value of seines 1,400 dollars, and for 2,000 barrels of herrings, the whole amounting to 6,700 dollars. It is to be observed that these herrings were taken by strand fishing, and could not have been caught in any other way. They were, by the destruction of their seines, deprived of the opportunity of using them afterwards during that voyage, and although the herrings said to have been inclosed were taken in violation of Treaty rights, yet their value may be taken as a most liberal estimate of the losses they sustained by being interfered with and being deprived of the means to prosecute the fishery within their Treaty rights.

The other seines were uninjured. Those that had been set were worked from the shore. They all claim that they intended to fish them by using the strand, and that they had a right to do so under the Treaty. They endeavour in several depositions to show that they were not trespassing on private property, and that they had been using a public beach. (See depositions, Charles Dagle, Willard E. Poole, p. 85, and Michael Murray, p. 86, President's Message.)

Perhaps no stronger argument than these facts could be adduced to show that the Government and people of Newfoundland had not been disposed to interpret the Treaty rigidly nor enforce it strictly against American fishermen. They had been permitted to use the strand in common with Newfoundland fishermen so freely that they believed it to be their right. But not content with this generous concession, which they had availed of every day previous to the 6th January, they attempted to exercise it to the prejudice of Newfoundlanders at a time when they were at rest. Hence arose the disturbance and the demand for payment for herrings, which could not have been captured without using the strand.

I know that seine fishing cannot be successfully conducted at Long Harbour except from the strand. Neither Americans nor Newfoundlanders ever attempt it in any other way, and were they to do so it would be a failure.

The whole of these claims, when tested on the basis laid down in Lord Granville's despatch, are reduced to one doubtful and extravagant demand for 6,700 dollars made by Pew and Sons, owners of the "Ontario" and "New England," and as they unquestionably suffered some loss by the destruction of their property, they should be paid without scrutinizing their account too severely.

With regard to the claims made for other vessels, I propose to review them from the American standpoint, and not upon the basis laid down by Lord Granville, and shall endeavour to show the utmost amount which, according to their own affidavits, coupled with the official Customs Return of Newfoundland, they would be entitled to receive.

Of the twenty-two vessels said to have been at Long Harbour on the 6th January, I shall begin with those that had seines, and shall refer again to the "Ontario," McAuly master, and "New England," Dago master, owned by Pew and Sons. (Their claim and depositions are on pp. 57, 58, and 59, President's Message.)

They had two seines joined together, and these were the only seines destroyed. They allege that these seines were worth 1,400 dollars, and contained by their estimate 2,000 barrels of herrings, more than sufficient to load their vessels.

They estimate their total loss for seines and herrings at 6,700 dollars. This was an enormous haul of herrings, and most improbable at that season of the year. During the spawning season in the month of May at Magdalen Islands, at St. George's Bay, and in one or two localities in Fortune Bay, it might be possible to haul that quantity, but during twenty years I never knew or heard of a haul exceeding 500 or 600 barrels at one time; and it is a striking fact that the only seine whose herrings were not thrown away hauled 100 barrels (that of Captain Jacobs).

There is a great contrast between the quantity actually secured by one seine and the quantities assumed to have been in the other seines which were not secured.

But these claimants, Pew and Sons, were those alleged to have been the greatest sufferers, and, extravagant as is their estimate of loss, I have, for the reasons already given, suggested that they should be paid 6,700 dollars.

Having secured their seine and herrings unmolested on that day, they could not have hauled any more during the next ten days, as it would require that time at least to handle and freeze such a large quantity.

If Pew and Sons are allowed the full amount of their claim, there can be no further claim by persons alleging that they were depending on Pew and Sons' seines for their herrings, for after the Sunday referred to the other seines which did work (and there was no interference after that day) were unsuccessful.

These vessels remained one month after the 6th January, and cleared out at the Customs on the 4th and 6th February.

"Lizzie and Namari," Dagle, Master.

(Deposition on p. 81, President's Message.)

States that he had sold his seine and boat the previous winter to Newfoundland fisherman.

It was no longer American property, and he could not sell the right to violate our laws, whatever he may do himself.

There is no evidence that this seine was used on that day, and had it been interfered with, we are not accountable to the United States' Government for any acts done by our own people to our own people.

This deponent clearly, then, has not been injured, and has not a shadow of claim.

The vessel was cleared at the Customs on the 4th February, nearly a month after the "outrage."

"F. A. Smith," Jas. McDonald, Master.

(Deposition on p. 83, President's Message.)

He states that he had taken 1,000 barrels. If not interfered with, he could not have used his seine again until those were disposed of, which would require several days.

These herrings were taken by strand fishing, but I shall test their value by the standard of Pew and Sons' claim (see *ante*).

	Dollars.
For seines destroyed and herrings (2,000 barrels)	6,700
Less value of seines	1,400
Value of 2,000 barrels	5,300
Value of 1,000 barrels at this rate	2,650

This is at a very much higher rate per barrel than is credited in any of the accounts. (See further on, schooners "Bunker Hill," "Izaak Rich," "Bonanza," "Herbert W. Rogers," and "Moses Knowlton.")

This vessel was cleared at the Customs on the 6th February.

"William E. McDonald," McDonald, Master.

(Deposition on p. 82, President's Message.)

The master of this vessel was on shore, and had not attempted to seine on the 6th January.

His seine was probably worked by a Newfoundland crew that had conscientious objections against pursuing their usual avocation on a Sunday. However this may be, it is clear from his deposition that at no time during that day did he use his seine, nor is there any indication that he intended doing so. It may be fairly assumed that he was not influenced in his conduct by any action of the mob.

There can be no merits in this claim unless it is assumed that every vessel having a seine, whether she used it or not, was entitled to be paid for a catch of herrings which might possibly have been taken by fishing from the strand. If such a principle were adopted, then this vessel might be set down for 1,000 barrels at 2,650 dollars, being at the same rate claimed by Pew and Sons.

It is, perhaps, unnecessary to remark that McDonald's affidavit, charging Newfoundlanders with having placed rocks on the hauling-ground where they fished

themselves with a large number of seines, and thereby destroying its use for all time, for the mere purpose of injuring Americans who were using only five or six seines, is too gross and absurd to require refutation, as is his charge that poor net fishermen had placed their gill-nets in a locality where herrings were not usually caught, and permitting them to rot in the water for the purpose of obstructing Americans.

The animus shown in this affidavit discredits his claim, and leaves an impression that it is without foundation.

This vessel cleared at the Customs on the 5th February, one month after the "outrage."

"Hereward," E. Stapleton, Master.

(Deposition on pp. 84 and 85, President's Message.)

Stapleton says he employed a crew of Newfoundlanders, who set his seine in a strong tideway and utterly destroyed it. Such accidents do occasionally happen with old worn-out seines when set on a rough and rocky sea bottom. However this may have been caused, it was the act of his own servants, and he should look to them for redress if they did him a wilful wrong. But it is incredible that men depending on his seine for their wages would sacrifice their own interests merely to injure their employer.

This casualty happened before the 6th January, when all were working in harmony.

He confirms the testimony of others that no herrings could, because of their scarceness, be taken in seines after the 6th January, thus showing (on the assumption that we are liable) that our liability would be limited to the losses of that day. If we admitted the claim of other seine-owners and pay them the value of herrings they say they might have taken, he cannot make a further claim on account of any interest he may have had in them.

His owners in their exhibit (p. 48) attribute their loss to the destruction of their seines by their own hired servants.

Stapleton's statement, that all the vessels had agreed to assist in loading each other, thereby competing with each other in the New York market (they not being on a joint account, but separate ventures), is most improbable. None of the seine-owners mention such an arrangement, nor do Pew and Sons, who suffered most, make any claim on that account. In my experience of many years no such co-operation was known; each man was active to obtain a cargo and get to market before others could load and compete with him.

This vessel has clearly no claim.

She was cleared at the Customs on the 8th February, more than a month after the "outrage."

"Charles C. Warren," Peter Smith, Master.

(Deposition on p. 86, President's Message.)

He says he had his seine in the boat, but took it up because of the disturbance.

He estimates his loss at 3,000 dollars, besides expenses of the voyage. His account is stated in detail on p. 49, and an analysis of it, as well as a few others who have given details, will enable us to form an idea of the character of the claims made, and the extravagant estimate of profits claimed by all.

He charges—

For outfits and cash paid for 400 barrels of herrings	Dols.	Dols.
		4,610

He credits—

800 barrels herrings, at 3 dollars	2,400
30 hogsheads salt	30
	<hr/> 2,430

Expense, loss	2,180
-----------------------	-------

And charges—

500 barrels herrings	2,500
------------------------------	-------

4,680
<hr/> 3 D

He claims that his vessel would carry 1,300 barrels, and that he only got 800 barrels. He has valued the 800 barrels at 2,400 dollars, and the 500 barrels he did not get at 2,500 dollars. He sold the former at 3 dollars per barrel, and charges the latter at 5 dollars per barrel.

Assuming his charges for outfits are correct, his account, on his own showing, would, if he had procured a full cargo of herrings and no interference had taken place, have resulted in a loss upon the voyage of 150 dollars.

Say from above—

	Dollars.
Outfits and cash paid for herrings	4,610
Less for 400 barrels purchased	560
	<hr/> 4,050
Cr.	
1,300 barrels herrings at the rate he sold (3 dollars)	3,900
Net loss	<hr/> 150

Just 4,530 dollars less than he charges in his claim.

Supposing it be admitted that he could have taken the 400 barrels he purchased, and also the 500 barrels to make up the cargo, his claim could not be more than—

	Dollars.
400 barrels herrings purchased	560
500 barrels herrings short at 3 dollars	1,500
	<hr/> 2,160

Apart from his account, and assuming that seines were to be paid for the herrings they might have taken by strand fishing, using Pew and Sons' claim as a standard, this claimant would be put down for 1,000 barrels at 2,650 dollars.

This vessel was cleared at the Customs on the 9th January, an early date for a successful voyage.

“Moses Adams,” Job Jacobs, Master.

He does not make any deposition.

David Malleson (deposition p. 48) says: “Captain Jacobs being a Newfoundlander, the mob allowed him to take in the herrings he had taken.”

His owners, however, in their claim (p. 49), demand for herrings tripped out of seine, but offer no evidence that such an act took place. But if strand fishing is allowed, and its interruption is to be compensated for, there is no distinction can be made between him and the other seine-owners, and he would be entitled, on Pew and Sons' basis, to 1,000 barrels of herrings at 2,650 dollars.

This vessel cleared with a cargo of 600 barrels of frozen herrings, very nearly, if not quite, a full cargo, and he credits them in market at a trifle over 1 dol. 50 c. per barrel.

This is the eighth and last seine, and the demand of the owners for 8,586 dol. 5 c. is the most extravagant and outrageous of the twenty-two.

Recapitulation.

(Based on Lord Granville's despatch.)

“Ontario” and “New England,” owned by Pew and Sons.

For seines destroyed and consequential damages, 6,700 dollars.

The damages are allowed on the assumption that Americans might legally use seines during the close months, which is denied and at issue otherwise the damage would be 1,400 dollars.

Recapitulation.

(On the basis that American fishermen were interfered with, and prevented fishing from the strand.)

Seines.	Vessel.	Master.	Owner.	Amount.
				Dollars.
2	{ Ontario	McAuly	} Pew and Sons ..	6,700
	New England	Dago		
0	Lizzie and Namari	Dagle	Wonsen and Co. ..	..
1	F. A. Smith	McDonald	Friend	2,650
1	Wm. E. McDonald	McDonald	Parsons	2,650
0	Hereward	Stapleton	Mansford .. ..	..
1	Chas. C. Warren	Smith	Smith	2,650
1	Moses Adams	Jacobs	Lane and Bros. ..	2,650
6				17,300

The above appears to me to be the utmost which can possibly be made up upon the affidavits of the Americans, taking Pew and Sons as a basis, and their claim would doubtless be considered in excess of the actual and legitimate loss sustained by them.

I have taken, although it may be considered as not impossible, but very improbable, the whole quantity of herrings which could possibly have been seined on Sunday, the 6th January, with the appliances at hand, at 6,000 barrels, based on Pew and Sons' statement. These seven vessels, by their tonnage, would carry about 700 barrels each on an average, making 4,900 barrels for their cargoes, leaving 1,100 barrels to be disposed of to other vessels; if divided among the other fifteen vessels, it would give about 73 barrels to each; thus showing how small an injury these fifteen vessels could have really suffered.

I will now consider the case of the other fourteen vessels.

They were at Fortune Bay, but there is no statement or affidavit showing they were at Long Harbour on the 6th January (Rumsey, deposition, p. 74, states there were only twelve American vessels at Long Harbour), but this is immaterial if the following views are correct.

These vessels were on an ordinary trading voyage, such as they had pursued during the past twenty-five years. They had no seines or other appliances for carrying on a fishery.

They had entered at the Customs for trade, as they had usually done, and had apparently defrauded the revenue of Newfoundland.

Their sworn statements of cargo in their claims are far larger than their sworn entries for duties, as example, schooner "Izaak Rich" (p. 92 in President's Message) claims for cargo 1,030 dollars, and enters at the custom-house (see Returns) in ballast, and makes oath that he has no cargo. All the other entries are of a like character, and some of them will be noticed further on.

There is not the slightest evidence that any one of these vessels was interfered with by the mob. They were, in fact, the very good customers of Newfoundlanders were there any herrings to be caught.

They were not in any sense fishermen following their avocation, nor were they exercising any of the rights conferred on them by the Treaty of Washington. They went to Fortune Bay for the purposes of trade and for no other purpose; consequently, had any wrong been done them, it must have been in violation of the comity of nations, and could not have been an infraction of the Treaty, which confers fishing privileges only. If we did a wrong to the others in contravention of the Treaty, we are not bound to these traders for that wrong. If we hindered them from trading on a Sunday, we had a right to do so, because it is contrary to our laws.

For these reasons, and because I have shown that the utmost quantity of herrings at the disposal of the owners of seines would have been 1,100 barrels, that if these fourteen vessels had been on a fishing voyage the loss of that quantity, divided among them, would have been so small that it could not have materially affected the results of the voyage, and because I have proposed to pay the owners of seines for the value of their herrings, I am of opinion that these fourteen vessels have no claim.

Although these claims are not allowed, it will be interesting to examine a few of them for the purpose of showing their exaggerated character. Most of them have

avoided details such as will enable me to thoroughly analyze them, but I shall begin with the schooner—

“*Bunker Hill*” (p. 51).

Account stated—						Dol. c.
Expenses, cargo for trade, &c.	..	..	..	..	..	3,179 80
Sale of 911 barrels herrings, at 2 dollars	..	..	..	..	..	1,962 00
						<hr/> 1,217 80
The cargo of this vessel had been sold for 3 dollars per barrel, but, on account of delay, brought 2 dollars per barrel, leaving a loss of	..	..	..	..	..	981 00
Full cargo would have been 1,300 barrels, but, on account of disturbance, did not obtain but 981 barrels, leaving a deficiency of 319 barrels, which would have cost 478 dol. 50 c., were sold for 957 dollars, leaving a loss of	..	..	..	..	..	478 50
						<hr/> 2,677 30

(Signed) WALEN AND ALLAN.

The account of loss correctly stated should be :—

						Dol. c.
981 barrels less than contract, at 1 dollar..	..	..	..	..	..	981 00
319 barrels, profit on..	..	..	..	..	..	478 50
						<hr/> 1,459 50

And their account with full cargo of 1,300 barrels, as per contract, would show as follows :—

						Dol. c.
Outfits, cargo, &c., as per statement	..	..	..	..	..	3,179 50
Credit—						
1,300 barrels herrings, at contract price, 3 dollars	..	..	..	..	..	3,900 00
						<hr/> 720 50
Profit of voyage, instead of 2,677 dols. 50 c., as per claim.						

“*Izaak Rich,*” *McDonald,* Master.

(Claim on p. 51, President's Message.)

						Dol. c.
Charges for cargo supplies	..	..	..	..	..	1,030 25
Enters at Customs on oath at	..	..	..	..	..	250 00

His account stated is :—

						Dols. c.
Debit charges	..	..	..	..	..	2,986 09
Credits—						
Sale of 918 barrels herrings, at 2 dollars	..	..	..	..	..	1,836 00
						<hr/> 1,150 09

The cargo of this vessel had been contracted for at 3 dollars per barrel, but on account of the delay they only brought 2 dollars per barrel, leaving a loss of	..	..	..	..	..	918 00
Full cargo would have been 1,200 barrels, but on account of the disturbance did not obtain but 918 barrels, leaving a deficiency of 282 barrels, which would have cost 423 dollars, were sold for 846 dollars, leaving a loss of	..	..	..	..	..	428 00
						<hr/> 2,496 09

(Signed) M. WALEN.

The real loss for short cargo and price was :—

						Dol. c.
981 barrels herrings, at 1 dollar	..	..	..	..	..	981 00
Loss on 282 barrels deficiency	..	..	..	..	..	428 00
						<hr/> 1,409 00

And their account with full cargo of 1,200 barrels, as per contract, would show as follows :—

						Dol. c.
Debits for outfits, &c..	..	..	..	..	..	2,986 09
Credits—						
1,200 barrels herrings at contract price, 3 dollars	..	..	..	..	..	3,600 00
						<hr/> 613 91

The real profit of an undisturbed voyage, proved from his own statement.

This vessel remained peaceably trading, and cleared at the Customs on the 17th March.

"Bonanza," owner, Jas. Proctor.

(Claim on p. 52, President's Message.)

					Dol.	c.
Account for expense and profit..	3,997 17
Deducts value of partial cargo	975 00
						<hr/>
Leaving a loss of..	3,022 17

This vessel cleared at the Customs, on the 23rd February, with 1,080 barrels, which appears to have been a full cargo.

He credits them at something less than 1 dollar a barrel. With these facts it is unnecessary to investigate this account further.

If this be the value of herrings to those who got cargoes, the loss of those who got none must be very small.

"John W. Bray."

(Claim on p. 54, President's Message.)

Charges a loss of 3,580 dol. 7 c.

He cleared at the Customs on the 11th January, with 500 barrels of frozen herrings, about 100 barrels, and certainly not 150 barrels, short of a full cargo for a vessel of her tonnage (83 tons). (Vessels carry more than one-third less frozen herrings than salted.)

He credits these herrings at 1,525 dol. 45 c., thus fixing the value of frozen herrings at a little over 3 dollars per barrel.

He left for market very early, and was not delayed by the "outrage."

He only lost on the 150 barrels he was short (if he were short) at the same rate as those he credits, 3 dollars per barrel; it would be a little over 450 dollars.

Further comment is unnecessary.

"Herbert M. Rogers."

(Claim on p. 53, President's Message.)

Claims for his losses 5,876 dol. 30 c.

He cleared at the Customs on the 2nd February, with 517 barrels of frozen herrings. His vessel, being 77 tons (6 tons smaller than the last), would, perhaps, have capacity to carry 100 barrels more. He got away about the usual time.

He credits these herrings at 1,120 dollars, thus fixing their value at a trifle over 2 dollars per barrel.

The 100 barrels short would have yielded him, at that rate, 200 dollars.

In the face of these facts he estimates the profit of a voyage at 3,930 dol. 17 c.

"Maud and Effie."

(Claim on p. 51, President's Message.)

Makes his account up carelessly, and recapitulates 1,000 dollars more than it adds correctly, and swears it is correct.

Charges his cargo at 1,405 dol. 2 c., and enters it for duty at 125 dol. 80 c.

His cargo and entry, as well as all the others, proves that he and they were traders, not fishermen.

He cleared at the Customs on the 31st January, twenty-five days after the "outrage."

"Wildfire."

(Claim on p. 50, President's Message.)

Her owner swears she was driven away from Newfoundland.

She was the last vessel that left, and cleared at the Customs on the 16th March more than two months after the "outrage."

Schooner "Hersward," entered 19th December, 1877.

Cargo—							Dol.	c.	
1 barrel flour ..	..	..	..	..	..	Value	30	00
2 " pork ..	..	..	..	..	..	"	20	00
1 cwt. butter ..	..	..	..	..	..	"	34	00
1 herring seine	..	..	..	..	..	"	200	00
							<hr/>		
Duties paid	284	00
							..	4	12

Schooner "Wm. E. McDonald," entered 14th December, 1877.

Cargo—							Dol.	c.	
10 barrels flour..	..	..	..	..	..	Value	70	00
2 " pork ..	..	..	..	..	..	"	29	00
2 " kerosene oil	..	..	..	..	..	"	15	60
2 cases boots ..	..	..	..	..	..	"	20	00
1 dozen suits oil clothes .	..	..	..	..	..	"	18	00
10 tons salt ..	..	..	..	..	..	"	4	00
20 dozen cabbage	..	..	..	..	..	"	10	00
							<hr/>		
Duties paid	166	60
							..	14	28

Schooner "Crest of the Wave," entered 29th December, 1877.

Cargo—							Dol.	c.	
5 barrels flour ..	..	..	..	..	..	Value	30	60
2 " pork ..	..	..	..	..	..	"	22	00
							<hr/>		
Duties paid	52	00
							..	3	00

Schooner "F. A. Smith," entered 13th December, 1877.

Cargo—							Dol.	c.	
20 barrels flour..	..	..	..	..	..	Value	120	00
9 " pork..	..	..	..	..	..	"	117	00
3 " kerosene oil	..	..	..	..	..	"	18	00
10 nets and netting	..	..	..	..	..	"	90	00
12 suits oil clothes	..	..	..	..	..	"	24	00
1 case boots ..	..	..	..	..	..	"	25	00
1 box soap ..	..	..	..	..	..	"	4	00
6 coils rope ..	..	..	..	..	..	"	25	00
15 lbs. tobacco..	..	..	..	..	..	"	7	00
							<hr/>		
Duties paid	430	00
							..	39	41

Schooner "Chas. C. Warren," entered 10th January, 1878.

With inward cargo of 400 barrels herring and 12 barrels salmon, duty free.

Schooner "Moses Adams," entered 9th January, 1878.

Cargo—							Dol.	c.	
10 barrels flour..	..	..	..	..	..	Value	50	00
2 " pork..	..	..	..	..	..	"	28	00
80 gallons molasses	..	..	..	..	..	"	6	00
10 pairs boots ..	..	..	..	..	..	"	15	00
1,000 feet lumber	..	..	..	..	..	"	4	00
							<hr/>		
Duties paid	103	00
							..	8	75

Schooner "Moro Castle," entered 19th December, 1877.

Cargo—							Dol.	c.	
5 barrels flour ..	..	..	..	..	..	Value	35	00
1 barrel kerosene oil	..	..	..	..	..	"	7	00
1 cwt. butter ..	..	..	..	..	..	"	20	00
							<hr/>		
Duties paid	62	00
							..	3	03

Schooner "Wildfire," entered 29th December, 1877.

Cargo—							Dol.	c.	
10 barrels flour..	..	..	..	..	..	Value	60	00
2 " pork..	..	..	..	..	..	"	30	00
							<hr/>		
Duties paid	90	00
							..	4	00

Schooner "Maud and Effie," entered 19th December, 1877.

Cargo—							[Dol. c.
10 barrels flour ..	..	..	..	..	..	Value	60 00
2 " pork ..	..	..	..	..	..	"	35 00
6 axes ..	..	..	..	..	..	"	4 80
1 case boots ..	..	..	..	..	..	"	20 00
1 dozen pails ..	..	..	..	..	..	"	4 00
1 " brooms ..	..	..	..	..	..	"	2 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	125 80
							<hr/>
							7 94

Schooner "Bunker Hill," entered 3rd December, 1877.

In ballast.

Schooner "Isaac Rich," entered 24th November, 1877.

Cargo—							Value
15 barrels flour ..	..	..	..	..	..	..	90 00
5 " pork ..	..	..	..	..	..	..	100 00
2 " kerosene oil ..	..	..	..	..	..	..	10 00
1 bale herring-nets ..	..	..	..	..	..	..	50 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	250 00
							<hr/>
							15 80

Schooner "Bonanza," entered 26th November, 1877.

Cargo—							Value
20 barrels flour ..	..	..	..	..	..	..	130 00
2 " pork ..	..	..	..	..	..	..	32 00
500 empty herring barrels ..	..	..	..	..	..	..	200 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	362 00
							<hr/>
							46 00

Schooner "Moses Knowlton," entered 11th January, 1878.

In ballast.

Schooner "J. W. Bray," entered 10th December, 1877.

Cargo—							Value
10 barrels flour ..	..	..	..	..	..	..	55 00
2 " pork ..	..	..	..	..	..	..	25 00
2 cwt. butter ..	..	..	..	..	..	..	24 00
2,000 feet lumber ..	..	..	..	..	..	..	12 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	116 00
							<hr/>
							8 24

Schooner "Maud B. Wetherell," entered 26th November, 1877.

Cargo—							Value
600 empty herring barrels	..	..	..	..	..	..	200 00
10 barrels flour ..	..	..	..	..	..	..	60 00
1 barrel pork ..	..	..	..	..	..	..	17 00
1 dozen suits oil clothes	..	..	..	..	..	..	18 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	295 00
							<hr/>
							46 60

Schooner "Ontario," entered 17th December, 1877.

Cargo—							Value
10 barrels flour ..	..	..	..	..	..	..	50 00
1 barrel kerosene oil ..	..	..	..	..	..	..	5 00
3 herring nets ..	..	..	..	..	..	..	21 00
2,000 feet lumber ..	..	..	..	..	..	..	16 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	92 00
							<hr/>
							7 37

Schooner "New England," entered 15th December, 1877.

Cargo—							Value
13 barrels flour ..	..	..	..	..	..	..	100 00
1,500 feet lumber ..	..	..	..	..	..	..	7 00
1 case boots ..	..	..	..	..	..	..	20 00
							<hr/>
Duties paid ..	..	..	..	..	..	..	127 00
							<hr/>
							6 70

The undermentioned vessel from Gloucester, Massachusetts, United States entered at Harbour Breton, Newfoundland:—

Schooner "Herbert M. Rogers," entered 7th December, 1877.

Cargo—							Value	
1½ barrels kerosene	..	..	..	..	..	..	10 00	
10 " flour	..	..	..	..	..	..	60 00	
4 boxes onions	..	..	..	..	..	..	12 00	
2,000 feet lumber	..	..	..	..	..	..	24 00	
1,400 lbs. fresh beef	..	..	..	..	..	..	70 00	
25 lbs. confectionery	..	..	..	..	..	..	5 00	
1 case boots	..	..	..	..	..	..	31 00	
2 barrels pork	..	..	..	..	..	..	32 00	
1 barrel beef	..	..	..	..	..	..	10 00	
1 pair boots..	..	..	..	..	..	..	2 00	
							<hr/>	
							256 00	
Duties paid	..	..	..	..	..	..	16 47	

I hereby declare that the statements in the annexed Return contain true extracts from the books in this office, and from the original reports outwards made by the masters of the vessels therein described on clearing at ports in Fortune Bay in the months of January, February, and March 1878.

(Signed) JAS. S. HAYWARD, *Assistant Collector.*

Declared before me at the Custom-house, St. John's, Newfoundland, this 27th day of April, 1881.

(Signed) JAMES J. ROGERSON, *J.P.*

STATEMENT of United States' Vessels cleared from the Port of St. Jacques in the Year 1878.

Date.	Vessels' Names.	Port cleared for.	Tonnage.	Masters' Names.	Port of Registry.	Salted Herring.	Frozen Herring.	Tierces Salmon.	Ballast.
1878.									
January	Cunard ..	Gloucester.	74	G. Galvon ..	Gloucester	650	..	..	Ballast.
"	E. E. Webster ..	"	98	C. Nute ..	"	700	..	..	Ballast.
"	Bellerophon ..	"	85	Thos. Scott ..	"	800	..	..	Ballast.
"	Mary M. ..	"	101	M. B. Murray ..	"	900	..	..	..
"	C. C. Warren ..	"	108	Peter Smith ..	"	1,060	..	..	..
"	M. B. Wetherell ..	"	107	S. Anderson ..	"	850	500	..	..
"	John M. Jway ..	New York	83	E. F. Wotton ..	"	700	..	..	..
"	Bunker Hill ..	Gloucester	100	J. McDonald ..	"	..	..	..	..
"	Izanc Rich ..	"	91	J. McDonald ..	"	..	..	..	..
"	Montgama ..	Beverly, Mass.	65	J. W. Mann ..	Beverly, Mass.	..	..	..	Ballast.
"	Fred P. Frye ..	Eastport, Mass.	85	Jno. Gorman ..	Gloucester	..	..	..	Ballast.
"	Moro Castle ..	Gloucester	88	L. P. Nause ..	"	..	..	..	Ballast.
"	Maud and Effie ..	"	85	W. Poole ..	"	..	..	..	..
February	H. M. Rogers ..	"	77	R. Warren ..	"	..	517	..	..
"	Lizzie and Namri ..	Rockport, Mass.	94	C. Dagle ..	Rockport, Mass.	..	..	..	..
"	Crest of the Wave ..	Gloucester	71	D. Malumson ..	Gloucester	..	..	..	..
"	New England ..	"	86	John Dago ..	"	50	..	..	..
"	W. E. McDonald ..	"	98	W. McDonald ..	"	50	..	..	..
"	Ontario ..	"	91	McAuley ..	"	..	..	..	..
"	F. A. Smith ..	"	77	J. McDonald ..	"	..	..	..	..
"	Hereward ..	"	90	E. Stapleton ..	"	..	..	..	..
"	Bonanza ..	"	137	J. Bown ..	"	1,080	..	..	..
March	Moses Knowlton ..	"	107	H. Smith ..	"	400	..	..	..
"	Moses Adams ..	"	99	Job Jacobs ..	"	..	600	..	..
"	Wildfire ..	"	108	R. Cunningham ..	"	..	..	..	..
						7,240	1,617	8	

No. 259.

Lord Tenterden to Mr. Herbert.

(Secret.)

Sir,

Foreign Office, May 23, 1881.

WITH reference to the two letters from this Department of the 13th instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of the despatches marked in the margin,* which have been addressed to Sir E. Thornton relative to the settlement of the Fortune Bay question, the substance of which has already been communicated to you with the letters above named.

I am, &c.

(Signed) TENTERDEN.

No. 260.

Lord Tenterden to Mr. Herbert.

(Secret.)

Sir,

Foreign Office, May 23, 1881.

WITH reference to my letter of the 13th instant, communicating a copy of a telegram which had been addressed to Sir E. Thornton relative to the Fortune Bay claims, I am directed by Earl Granville to state to you, for the information of Her Majesty's Secretary of State for the Colonies, that a despatch has been received this morning from Sir E. Thornton, of which a copy is forwarded herewith,† in which he communicates the substance of what passed at his interview with Mr. Blaine on the 5th instant relative to the proposed settlement of these claims by the payment to the United States' Government of a lump sum of 15,000*l.*

Sir E. Thornton also transmits with the same despatch a copy of the note addressed to him by Mr. Blaine on the following day, in which he expresses his readiness to accept the sum of 15,000*l.* in satisfaction of the American claims for the occurrences complained of in the waters of Newfoundland and its dependencies up to the 4th March, 1881.

In laying these papers before the Earl of Kimberley, I am to request that you will call his attention to the intimation conveyed in Mr. Blaine's letter that he is prepared to enter upon the discussion of the question of the joint American and British cruizers in Newfoundland, and the Code of Instructions under which they should sail, and that Sir E. Thornton considers it expedient that some person from Newfoundland who is versed in the subject should aid him with his advice in this negotiation.

I am, &c.

(Signed) TENTERDEN.

No. 261.

Earl Granville to Sir E. Thornton.

(No. 98.)

Sir,

Foreign Office, May 25, 1881.

In the letter from the Colonial Office of the 25th March last, a copy of which was inclosed with my despatch No. 74 of the 19th ultimo, allusion is made to the Instructions issued in 1880 to the naval officers employed in protecting the fisheries on the coasts of Newfoundland and Labrador, and I now forward, for your information and for convenience of reference, a copy of a letter from the Board of Admiralty, in which those Instructions were communicated to this Department.

I am, &c.

(Signed) GRANVILLE.

Inclosure 1 in No. 261.

The Secretary to the Admiralty to Sir J. Pauncefote.

Sir,

Admiralty, April 23, 1881.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Secretary of State for Foreign Affairs, a copy of the instructions which will be issued to the Senior Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Newfoundland and Labrador,

* Nos. 247 and 249.

† No. 257.

observing that they have been corrected in the sense suggested in your letter of the 8th October last.

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

Inclosure 2 in No. 261.

Instructions for the Senior Officer on the Coasts of Newfoundland and Labrador, 1880.

By Sir Francis Leopold McClintock, Knight, Vice-Admiral in Her Majesty's Fleet, and Commander-in-chief of Her Majesty's Ships and Vessels employed, and to be employed, on the North American and West Indian Station.

THE following instructions are furnished for your guidance as Senior Officer of Her Majesty's ships employed in protecting the fisheries on the coasts of Newfoundland and Labrador.

Given under my hand on board the "Northampton," at Bermuda, this 22nd day of March, 1880.

(Signed) F. L. McCLINTOCK.

By command of the Commander-in-chief:
(Signed) GEO. C. MARCOM.

To the Senior Officer of Her Majesty's ships employed
on the Coasts of Newfoundland and Labrador.

*Instructions for the Senior Officer of Her Majesty's Ships employed and to be employed
on the Coasts of Newfoundland and Labrador.*

Limits of station.

1. The limits of the Newfoundland Station, of which St. John's is the Headquarters, are:—

(1.) The coast of Newfoundland, and its adjacent seas to a distance of 60 miles.

(2.) The coast of Labrador, from Bradore to Cape Harrison, and the adjacent seas to a distance of 60 miles.

Command.

2. Within the above limits, you are to take under your orders all such ships as shall be attached to the Station.

(2.) Should any ship arrive commanded by an officer senior to yourself, you are to wait upon him for the purpose of showing him these Instructions; and such Senior Officer is hereby required to abstain from interference with the performance of the particular duties intrusted to you, unless some special necessity shall arise for his doing so: in which case you are to make a report to the Commander-in-chief. You are, however, to be careful to keep such Senior Officer duly informed of everything connected with the Public Service which is worthy of his notice.

(3.) Such alterations and additions as I may hereafter find it necessary to make to these instructions are to be inserted on the blank pages opposite the Articles to which they relate, the date of the alteration being always noted.

Communication with Governor.

3. You will request the Governor of Newfoundland to afford such information as will be of assistance in conducting the important duty with which you are intrusted.

Commission of Peace.

4. Should the Governor request it, you have permission to accept Commissions of the Peace for yourself and the Senior Lieutenant of the ship you command; observing that the latter should be furnished with a distinct legal opinion as to the extent of his powers, and the mode in which they are to be exercised.

(2.) In the exercise of these magisterial functions, you are to be guided in a great measure on all disputed questions by the opinion, of a few of the most respectable fishermen on the spot, selected as a species of jury for the purpose, and by that of your pilot, if he is well acquainted with the usages prevailing on the coast, and is otherwise a fit person to be so employed.

Route of visitation.

5. You are to be guided by the general principle laid down in the following programme, with the approximate dates of arrival and departure.

Halifax. Leave about 14th May.

First cruise.

St. John's. Arrive about 20th May, complete coal if necessary, obtain a pilot (Article 15), and having arranged the work to be done by each of the vessels under your orders, you will proceed on your first cruise. The parts of the coast where the French enjoy rights of fishing, viz., from Cape St. John, round by the north, and descending the west coast to Cape Raye, should be visited as early and as frequently as possible.

Second cruise.

(2.) All the ships should return to St. John's by about the 25th August to meet

and dispatch mails, and give leave to the ships' companies, &c., and having done which, proceed about the 5th September on the second cruise.

(3.) The ship ordered to proceed by the South and West Coasts each cruise should call at Sydney, Cape Breton, to communicate by telegraph with the Commander-in-chief at Halifax.

(a.) It is advisable to coal at Sydney whenever practicable; ships drawing 18 feet of water can go alongside the wharf, and 200 tons may be taken in a day.

(b.) Coals obtained at Sydney are to be paid for on the spot in the usual manner.

(4.) The following are some of the principal harbours and bays that should be visited, viz. :—

South of St. John's to Cape Ray.

Bay Bulls.	Long Harbour.
Reneuse.	Harbour Briton.
Fermeuse.	Bay of Despair.
Trepassy.	Hare Bay.
St. Mary's.	Rencontre.
Salmonier.	Little River.
Placentia.	White Bear Bay.
Burin.	Burgo.
St. Lawrence.	La Poile.
Lamaline.	Port au Basque.
Fortune Bay.	

Cape Ray to St. Barbe's Harbour.

(French Right of Fishing.)

Codroy.	Hawkes Bay.
St. George's Bay, Port au Port (can be visited by stopping at Isthmus Bay).	Port au Choix.
Bay of Islands.	St. John's Harbour.
Bonne Bay.	Castors River.
Ponds River.	St. Barbe.
	Flower Cove (small ships only).

Labrador.

Bonne Espérance.	Deer Harbour.
Bradore.	Occasional Harbour.
Blanc Sablon.	Mecklenburg Harbour.
Forteau.	Gready Harbour.
Loup Bay.	Cartwright Harbour.
Black Bay.	Rigoulet (at which there is a very strong tide). Coast be- yond is unsurveyed.
Red Bay.	
Chateau.	
Battle Harbour.	

St. Barbe's Harbour to Cape St. John.

(French Right of Fishing.)

Pistolet Bay.	Canada Bay.
Quirpon.	Orange Bay.
St. Anthony.	Fleur de Lis.
Hare Bay.	Pacquet.
Croc Harbour.	La Scie.
Rouge Harbour.	

Cape St. John to St. John's.

Tilt Cove.	Smith's Sound.
Betts Cove.	Heart's Content.
Little Bay.	Carbonear.
Catalina Harbour.	Harbour Grace.
Trinity Bay.	

(5.) The best time to visit the Labrador coast is during the month of August or early in September.

Return to St.
John's.

6. All the ships should return to St. John's by about the middle of October, and then as soon as possible rejoin the Flag at Halifax.

(2.) The return of the ships to St. John's after each cruise is to be reported by telegraph to the Commander-in-chief at Halifax.

Treaties, Conven-
tions, &c.

7. In the performance of the important duties intrusted to you, your attention is called to the following Treaties, Conventions, and Acts of Parliament which bear upon them, viz. :—

Appendix No. 1.

(1.) XIIIth Article, Treaty of Utrecht, 31st March, 11th April, 1713, in vol. i., p. 236, Hertslet's Treaties.

(2.) Vth Article, Treaty of Paris, 10th February, 1763, in vol. i., p. 239, Hertslet's Treaties.

(3.) IVth, Vth, and VIth Articles, Treaty of Versailles, 3rd September, 1783, and the Declarations of the respective Sovereigns of Great Britain and France, attached thereto; and to the XIIIth Article of the Definitive Treaty of Peace between Great Britain and France, 30th May, 1814, in vol. i., p. 241, Hertslet's Treaties, and certain later Acts which can be procured from the Colonial Government.

(4.) Article I of the Convention between Great Britain and the United States, 20th October, 1818, in vol. ii., p. 392, Hertslet's Treaties.

(5.) Act 59 Geo. III, cap. 38, for carrying terms of the 1st Article of the above Convention into effect, in vol. iv., p. 489, Hertslet's Treaties.

(6.) XVIIIth to XXVth Articles of Treaty of Washington, 8th May, 1871.

(7.) Laws and Regulations relating to Fisheries, cap. 102, Consolidated Statutes of Newfoundland, 1872, and certain later Acts which can be procured from the Colonial Government.

Papers for infor-
mation.

8. For general information in regard to the Fisheries, you are further referred to the various Reports, Legislative Acts, and Colonial and Diplomatic correspondence contained in the Senior Officer's box.

Fishery reports.

(2.) The general Reports of the officers who have at various times been employed on the service now intrusted to you, copies of which are also in the Senior Officer's box, will afford you the advantage of the experience gained in former years.

Instructions.

(3.) Each ship placed under your orders is to be supplied with a copy of these instructions for the information and guidance of the officer in command. Copies of any other papers, &c., which you consider would be useful to him in carrying out his duties, are also to be furnished by you.

Co-operation with
French authorities.

9. When proceeding to St. John's, you are, unless otherwise ordered, to detach the officer next in seniority to yourself to the Island of St. Pierre, to communicate with the Senior Officer of the French ships of war employed on the fisheries, for the purpose of assuring him that it is the Commander-in-chief's anxious desire to prevent all encroachments, suggesting to him that under existing circumstances it would be better merely to warn off trespassers, and to use your joint endeavours to prevent, by all possible means, collisions between the fishermen of the two nations.

General duties.

(2.) Your mission is to be confined to ascertaining facts and maintaining good order. You are not to decide any questions which have arisen, or may arise, between the French officers and yourself respecting the interpretation of the Treaties; and it is desirable that in your intercourse with the French, your duties should be carried out in as conciliatory and moderate a manner as possible.

(3.) In your dealings with the fishermen of the British provinces, as well as with those of other nations, you are to exercise a spirit of forbearance and moderation, bearing in mind that while you are to protect British subjects in the prosecution of their lawful trade, it is equally your duty to prevent their encroaching on the just rights of others.

(4.) On visiting the parts of the coast of Newfoundland where the French enjoy the rights of fishing, viz., between Cape St. John (passing to the north and descending by the west coast) and Cape Raye, secured to them by the Treaty of Utrecht, 1713, and Definitive Treaty, 1783, notwithstanding whatever questions may from time to time have arisen as to the exact interpretation to be placed upon those rights, you will take especial care that the admitted rights of the French shall be maintained, and that British fishermen shall be prevented from interfering in any manner with the free enjoyment by the French fishermen of their rights of fishery, in accordance with the terms of the Declaration of King George III, signed at Versailles on the 3rd September, 1783.

(5.) It is advisable that the term "French shore" should not be made use of in official correspondence in regard to the question of the French fishery rights on the coast of Newfoundland, and officers employed on that coast are therefore to refrain from making use of the expression "French shore" in their official reports.

(A. L.,—15th September, 1873, M, No. 310.)

10. The sale of bait to French fishermen is legal; but the French have no right to take it, except on those parts of the coast where they enjoy rights of fishing, and they should be warned off, when attempting to do so, on any other part of the coast. Sale of bait to French.

11. By a proclamation of the Governor of Newfoundland, dated the 30th May, 1874, the provisions and stipulations of Articles XVIII to XXV inclusive of the Treaty of Washington, 1871, have been extended to the Colony of Newfoundland, so far as they are applicable. United States' fishermen and other foreigners.

(2.) All foreigners who exercise the right of fishing in British waters in common with Her Majesty's subjects are bound, in common with them, to obey the law of the country, including such colonial laws as have been passed to insure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto.

(3.) The enforcement of the colonial laws must be left, as far as the exercise of rights on shore is concerned, to the colonial authorities, by whom Her Majesty's Government desire they shall be enforced with great forbearance.

The colonial laws relating to fisheries are to be found in the Consolidated Statutes of Newfoundland, a copy of which is furnished to you.

12. Disputes occur occasionally between Nova Scotian and American fishermen and those of Newfoundland relative to the practice of "barring" herring. "Barring" herring.

This practice is illegal by section 1 and 2, 42 Vict., cap. 2, repealing the 1st clause of cap. 102 of the Consolidated Statutes of Newfoundland, 1872, and it is desirable that it should be prevented as much as possible.

13. The question whether the Labrador coast is, or is not, subject to the Newfoundland Revenue Laws, does not fall properly within the range of your duties, but should be decided by legal process. Revenue Laws, Labrador.

(2.) Should the Collector of Customs be impeded, and ask for assistance, you should only interfere so far as to prevent his being obstructed in the performance of his duty. His own crew should be sworn in as special constables, and if then resisted, you should afford only such assistance as may be necessary to prevent his being impeded, leaving the responsibility of seizure with him.

14. Any interference with British subjects and property by foreign naval officers is illegal; and if in any case there should be any such interference, a remonstrance should be addressed to the officer exercising it, and the circumstance be immediately reported to the Commander-in-chief in the fullest manner, for the information of Her Majesty's Government. Foreign interference illegal.

(A. L.,—16th October, 1879, M, No. 278.)

15. "Ships employed for the first time on the Newfoundland and Labrador Fisheries may employ a permanent pilot, but after the first year the employment of a pilot is left to the option of the respective captains, who are trusted not to engage a pilot if they and the navigating officers on board each ship feel sufficient confidence to navigate the vessel without one." Many of the pilots are merely fishermen, over-confident, with small knowledge beyond the requirements of their own small craft, and often found incapable of handling ships of war. Pilotage. Art. 941. A. I

(A. L.,—2nd June, 1879, N, No. 154.)

The pilot is only to be paid for the time he may be actually on board, except under very special circumstances, which are to be made the subject of a special Report to the Commander-in-chief.

(2.) With the view of encouraging the navigating officers to take pilotage charge while cruising for the protection of the fisheries, the Lords Commissioners of the Admiralty have sanctioned the payment of an allowance at the rate of 5s. a-day for ships drawing more than 13 feet, and 2s. 6d. a-day for vessels drawing less than 13 feet of water, for every day their ships are under way within the limits undermentioned:— Navigating officers.

Gulf and River St. Lawrence to Bic, and the Strait of Belle Isle;

The east coast of Labrador and Newfoundland when running into and out of the bays and harbours, and when cruising not more than three leagues from the mainland, or from the outlying islands and dangers.

The pilotage certificates should show, in a tabular form, the dates and places, or

the latitude and longitude, between which the ships were employed, and the total number of days they were under way.

These payments are only to be made provided no permanent or local pilots are employed, and after the claims have been transmitted to the Admiralty with the pilotage certificates for the year, as directed by Article 948 of the Admiralty Instructions, and are not to be made by the Paymaster on the spot.

(A. L.,—7th December, 1868, MM, No. 584.)

Vessels touching
the ground.

16. Should any of Her Majesty's vessels take the ground, and receive such damage as to render the necessity of repairs probable, she is to return to Halifax with the least delay possible, if in a condition to do so; except when St. John's or any other secure harbour, with telegraphic connection, lays in her route, in which case she is to put into such harbour for examination, the result of which is to be telegraphed to the Commander-in-chief, or, in his absence, to the Senior Officer at Halifax, with a statement whether the ship can proceed to England or Bermuda with safety or not, and await orders.

St. John's, use of
Naval Yard.

17. By deed, dated 29th April, 1868, the naval yard at St. John's is leased to Mr. John Bowring, on certain conditions, which will be found in an Agreement, dated the 23rd September, 1864, attached to a copy of the above-mentioned deed in the Senior Officer's box.

(2.) Any stores, provisions, &c., can be landed from Her Majesty's ships, and deposited in the stores, buildings, or on the wharves of the yard, free of charge, whenever necessary. The lessee is bound to take due care of all stores, &c., placed in his charge.

Supplies—Coal.

18. Coal can generally be procured at about 20s. to 25s. per ton. The facilities for obtaining liquor render it inexpedient to go alongside the Galway Wharf to coal, which otherwise would be preferable to using lighters.

Provisions.

(2.) Provisions of all descriptions can be procured at St. John's, but as ships leave Halifax with as much as they can stow, none should be required except biscuit; and when soft bread can be procured it should always be resorted to, in order to preclude, if possible, the necessity of purchasing biscuit.

Water.

(3.) Water is always to be had at the Queen's Wharf, free of charge.

Civil Hospital.

It can also be obtained at all the ports round the coast.

19. You are to make such use of the Civil Hospital at St. John's as may be expedient, taking care that no patients are left in it at the end of the season, if such can be avoided; and if otherwise, to make such arrangements as will provide for those left behind rejoining their ships by packet, either at Halifax or Bermuda. A special report of all such patients left behind is to be made to me, stating the probable time of their recovery.

(2.) Men of Her Majesty's ships are admitted into this hospital free of any charge whatever.

Prison.

(3.) Prisoners are also received in the Civil Prison in like manner.

Desertion.

20. The existence of crimping houses at St. John's, and the high wages offered to seamen by masters and owners of homeward-bound merchant-vessels, cause frequent desertions from the Royal Navy, while the facilities for escape afforded by the proximity of the woods to the water, the wild nature of the country, the sympathy of the fishing population for known deserters, and the smallness of the police force, render recapture difficult.

(2.) Boats are therefore not to be left at the booms at night, and the practice of hoisting up a dingy or punt at the cathead is to be discontinued.

(3.) Should boom-boats be out, a special look-out is to be kept on them during the night to guard against desertion.

(4.) Immediately on the absence, without leave, of a person becoming known, his description is to be forwarded to the police authorities and to his Excellency the Governor.

Correspondence.

21. You are to report to the Commander-in-chief, by every proper opportunity, your proceedings, and also your proposed movements, in order that arrangements may be made for forwarding your mails, &c.

(2.) Any matter of importance should form the subject of a separate Report, and be sent in duplicate.

(3.) At the conclusion of the season, you are to furnish the Commander-in-chief with a Report (in triplicate), containing full information of the past fishing season, and of your proceedings, with any other intelligence which may be likely to prove of interest to the public service, or useful to your successor in the following year.

The Fishery Report, as far as may be practicable, to be made on a tabulated form follows :—

Place visited.	Date of		Catch of				Remarks.
	Arrival.	Leaving.	Cod.	Herring.	Caplin.	Salmon.	

If the Commander-in-chief considers it expedient, he will furnish the Governor of Newfoundland with a copy of your Report.

To this Report is to be added one from the navigating officer of the ship relative to the navigation and pilotage of the station, and also one from the medical officer relative to the sanitary condition of the places you visit, and to the assistance he renders to sick persons.

The navigating officer of the Senior Officer's ship is to prepare, in duplicate, to be sent in with the Report, a track-chart of the coasts of Newfoundland and Labrador, on which is to be shown :—

1. The track of each ship.
2. The names of the harbours and anchorages visited by each ship, with the date of such visits.

(The tracks of the several ships to be distinguished by different colours.)

(4.) Your official correspondence with the Governor, or colonial authorities of Newfoundland, is to be limited to subjects immediately connected with the fisheries. Copies of all such communications are to be forwarded to the Commander-in-chief.

(5.) The Senior Officer's box, and all letters, &c., received by you relating to your duties as Senior Officer, are to be returned to the Commander-in-chief at the conclusion of the season.

(6.) Correspondence and Returns from the ships placed under your orders are, when no material delay is occasioned thereby, to be forwarded through you; but during your absence in a distant part of the station, the delay caused by difficulty of communication on the coasts is not to be incurred, and such letters, &c., are then to be sent direct to the Commander-in-chief, duplicates of all letters being forwarded to you. Returns and Reports.

(7.) You are to keep a journal of the proceedings of the ships under your orders, in the following form, in which you are to note the heads of all orders and letters, &c., received and written by you relative to the disposition and employment of the several ships. You are also to note in it all important signals made, so that a comprehensive record may be preserved, and the movements of each ship readily traced. Journal.

At the beginning of each month the stations or positions of the several ships are to be noted, and the names of those present with the Senior Officer's ship are to be recorded weekly.

A copy of the journal is to be forwarded to the Commander-in-chief once a fortnight, whenever practicable.

Senior Officer's Journal.

Date.	Position at Noon.	Heads of Orders, Telegrams, and Signals relative to the Movements and Employment of the Ships.		Remarks and Occurrences, including all Sailings and Arrivals.
		Received.	Written.	

Telegraph stations.

22. Telegraph stations are established in Newfoundland at—

Bay Roberts.	Grandy's Brook.
„ du Nord.	Great Placentia.
„ of Islands.	Harbour Grace.
„ St. George.	Heart's Content.
„ de Lievre.	Holyrood.
Burgeo.	Long Harbour.
Brigus.	Little Bay Mine.
Black River.	Little Bay-La Poile.
Bonavista.	Port au Basque.
Betts Cove.	Rose Blanche.
Bonne Bay.	St. John's.
Carbonear.	St. Pierre, Miquelon.
Chapel Arm.	South West Arm.
Conn River.	Salmonier.
Channel.	Trinity.
Catalina.	Tilt's Cove.
Colchester.	White Bear Bay.
Garia.	

And in Cape Breton of—

Arichat.	Bridgeport.
Baddeck.	Indian Brook.
Cow Bay.	Mabou.
Ingonish.	Plaister Cove.
North Sydney.	St. Peter's.
Port Hood.	Sydney.
Aspee Bay.	

Telegrams.

(2.) On arrival at any of the above stations, you will send to the telegraph office to ascertain if there are any orders for you there.

A. I.
Art. 1894.

(3.) Copies of all telegrams received or transmitted by you are to be forwarded to the Commander-in-chief by every opportunity.

23. The Appendix contains—

(1.) Extracts from the Treaties of Utrecht (1713) and Versailles (1783), and the Declarations subjoined thereto.

(2.) A list of the books, forms, &c., in the Senior Officer's box.

(3.) Form of oath for Special Constable.

Stationery allowance.

24. During the absence of the Commander-in-chief, the Senior Officer on the Newfoundland Station is to be paid allowance for stationery at the rate of 15*l.* per annum, to meet office expenses. This allowance is to be approved by the Commander-in-chief before payment.

Appendix No. 1.

Treaty of Utrecht, 1713.

XIII. The Island called Newfoundland, with the adjacent islands, shall, from this time forward, belong of right wholly to 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.

Definitive Treaty.—Versailles, September 3, 1783.

IV. 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 XIIIth 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.

V. 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 50° 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 St. John, passing to the north, and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Raye situated in 47° 50' 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.

Declaration of King George III.—(Subjoined to Treaty of Versailles, September 3, 1783.)

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 ensure 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 XIIIth 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 of Newfoundland shall be limited to the middle of the channel.

Counter-Declaration of French King.—(Subjoined to Treaty of Versailles, September 3, 1783.)

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 Vth 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.

Appendix No. 2.

LIST of Books, Papers, &c., in the Senior Officer's Box, Newfoundland, for reference and use.

- No. 1. Treaties, Conventions, and Acts of Parliament.
- No. 2. Consolidated Statutes of Newfoundland, 1872, and Acts 1877-78, and subsequent Acts.
- No. 3. Newfoundland Legislature Acts, 1874.
- No. 4. General Reports on the Fisheries from Officers, 1871 to 1876.
- No. 5. Newfoundland Pilot, by Cloué. 2 vols. and a supplement.
- No. 6. Hydrographical Notices, &c.

BLANK FORMS.

Recognizances.
Search Warrants.
Summonses.
Warrants to Apprehend.

Examinations.
Informations and Complaints.
Warrants for Imprisonment.

Appendix No. 3.

Form of Oath for Special Constable.

[To be found at page 224 of Consolidated Statutes of Newfoundland, 1872.]

35 Vict., Cap. 6, Sec. 7.—Whenever it shall be found that the ordinary constabulary force is insufficient to maintain the public peace of any locality, it shall be lawful for any Stipendiary Magistrate, or in his absence a Justice of the Peace, to call on and appoint such number of persons as may be deemed necessary to act as Special Constables in such locality, and every Stipendiary Magistrate, or Justice of the Peace, is hereby authorized to administer to every person so appointed the following oath:—

“I do swear that I will willingly and truly serve our Sovereign Lady the Queen in the office of Special Constable for the district of _____ without favour or affection, malice or ill-will; and that I will, to the best of my power, cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that I will discharge the duties of my said office faithfully, according to law.

“So HELP ME GOD!”

No. 262.

Earl Granville to Sir E. Thornton.

(No. 99. Confidential.)

Sir,

Foreign Office, May 25, 1881.

WITH reference to my Confidential despatch No. 81 of the 23rd ultimo, I transmit herewith, to be deposited with the archives of Her Majesty's Legation at Washington, the accompanying printed and Confidential correspondence respecting the occurrences at Fortune Bay, Newfoundland, in January 1878.*

I am, &c.

(Signed) GRANVILLE.

No. 263.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, May 25, 1881.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 21st instant, inclosing a copy of Sir W. Whiteway's letter of the 20th instant, together with the Memorandum drawn up by Judge Bennett, relative to the occurrences at Fortune Bay.

In reply, I am to request that you will inform the Earl of Kimberley that Lord Granville is strongly of opinion that arrangements should be made for the settlement of this question by the immediate payment to the United States' Government of a lump sum of 15,000*l.*, which Mr. Blaine has expressed his willingness to accept, in satisfaction of all claims.

Instructions will at once be drawn up, which will be submitted for Lord Kimberley's concurrence, directing him to close with the settlement of all the claims for the sum of 15,000*l.*, on account of disturbances caused to the operations of the American fishermen on the coasts of Newfoundland and its dependencies up to the 4th March last, including the occurrences at Aspee Bay.

I am to add that Lord Granville presumes that, as Sir W. Whiteway and the Governor of Newfoundland are now in England, Lord Kimberley will soon be in a position to give his opinion as to the instructions to be given to Sir E. Thornton with regard to the future regulation of the fisheries.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 264.

Sir J. Pouncefote to Mr. Herbert.

Sir,

Foreign Office, May 25, 1881.

WITH reference to my previous letter of this day, I am directed by Earl Granville to transmit to you the draft of a telegram which his Lordship proposes, with Lord Kimberley's concurrence, to forward to Sir E. Thornton, directing him to close with the settlement of all the claims, as already proposed, in connection with the occurrences at Fortune Bay and elsewhere, for the sum of 15,000*l.*, and without prejudice to any question of the rights of either Government under the Treaty of Washington.†

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

* Confidential Papers Nos. 3551 and 4334.

† See No. 266.

No. 265.

Mr. Herbert to Sir J. Pauncefote.—(Received May 27.)

(Secret.)

Sir, *Downing Street, May 26, 1881.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 25th instant, and to state that his Lordship concurs in the terms of the telegram which Earl Granville proposes to address to Sir E. Thornton, directing him to conclude the settlement of the claims in connection with the occurrences at Fortune Bay and elsewhere for the sum of 15,000*l.*, without prejudice to any question of the rights of either Government under the Treaty of Washington.

I am to inclose, for Lord Granville's information, a copy of a letter which has been this day addressed to Sir William Whiteway in reference to this matter.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 265.

Mr. Herbert to Sir W. Whiteway.

(Confidential.)

Sir, *Downing Street, May 26, 1881.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 20th instant, inclosing a Memorandum by Judge Bennett, relating to the occurrences at Fortune Bay in January 1878, and to the claims of United States' fishermen in connection therewith.

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

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

The amount will be advanced by the Imperial Treasury, and a communication will in due course be made to the Government of Newfoundland with regard to its repayment by the Colony.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 266.

Earl Granville to Sir E. Thornton.

(No. 28.)

(Telegraphic.)

Foreign Office, May 27, 1881, 6.25 P.M.

YOUR despatch No. 142.

You may inform Mr. Blaine that Her Majesty's Government are prepared to settle the Fortune Bay question by the payment of the sum of 15,000*l.*, in full satisfaction of all claims for disturbance of American fishermen in their fishing operations on the coasts of Newfoundland and its dependencies up to the 4th March last, including the occurrences at Aspee Bay.

You must make it clearly understood, as pointed out in my telegram No. 9 of the 26th February, that this payment is made without prejudice to any question of the rights of either Government under the Treaty of Washington.

No. 267.

Earl Granville to Sir E. Thornton.

(No. 100. Extender.)

Sir, *Foreign Office, May 27, 1881.*

I HAVE received your despatch No. 142 of the 9th instant, inclosing a copy of the letter addressed to you by Mr. Blaine on the 6th May, in which he accepts the offer made by Her Majesty's Government of the payment of the sum of 15,000*l.* in satisfaction in full of the claims of the American fishermen visiting the waters of Newfoundland and its dependencies, as well as those on account of the occurrences in Aspee Bay, up to the 4th March last.

I accordingly addressed to you a telegram this afternoon, authorizing you to inform Mr. Blaine that Her Majesty's Government are prepared to settle this question by the payment to the Government of the United States of the above-named sum, on receiving the assurance that it is accepted in full satisfaction of all claims, up to the date agreed upon, arising out of any interruption of American fishermen in their fishing operations in the localities which have been the subject of discussion between the two Cabinets, and without prejudice to any question of the rights of either Government under the Treaty of Washington.

I am, &c.
(Signed) GRANVILLE.

No. 268.

Sir E. Thornton to Earl Granville.—(Received May 28.)

(No. 29.)

(Telegraphic.)

Washington, May 28, 1881.

I HAVE addressed a note to Mr. Blaine, in strict conformity with your Lordship's telegram No. 28 of yesterday, relative to the Fortune Bay affair, and he has answered, acknowledging the correctness of the conditions as laid down in my note. Will you authorize me to draw for the 15,000*l.* on Her Majesty's Paymaster-General, and if so, at what sight?

No. 269.

Sir E. Thornton to Earl Granville.—(Received May 30.)

(No. 148.)

My Lord,

Washington, May 16, 1881.

I HAD the honour to receive your Lordship's telegrams Nos. 25 and 26 of the 13th instant, and almost at the same moment I received from Mr. Blaine the note of which a copy is inclosed, and in which he expresses the desire that the Fortune Bay affair should be promptly and definitely settled. He assumes that no further reference is now necessary, and invites me to join him, at my earliest convenience, in closing the transaction.

I called upon Mr. Blaine on the following day at the State Department, and explained to him that I had not considered myself authorized to come to a definite conclusion of the Fortune Bay affair until I should receive further instructions; that I had telegraphed to your Lordship upon the subject, and had received on the 13th instant a telegram from you to the effect that, owing to the misapprehension which so frequently arises from trusting entirely to telegrams, Her Majesty's Government preferred awaiting the arrival of his note of the 6th instant, which I had not been able to forward till last Tuesday, the 10th instant, so that it would not reach your Lordship till quite the end of this week.

Mr. Blaine seemed quite satisfied with my explanation, but took it for granted that the matter was now settled. To this remark I made no reply.

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

Inclosure in No. 269.

Mr. Blaine to Sir E. Thornton.

Sir,

Washington, May 13, 1881.

IT is quite desirable, for some reasons not necessary to explain, that this Department bring to a prompt and definite settlement the Fortune Bay affair.

I consider that in our last conversation we had, under authority of the reference made to us by both Governments, reached a conclusion satisfactory to both parties, and my note of the 6th instant was the record on the part of the United States' Government of its acceptance of that conclusion.

As the subject was committed to our decision, no further reference can now be necessary, and it would be agreeable to me if you would join me, at your earliest convenience, in closing the transaction.

It is a source of great satisfaction to me that the discussion has been conducted in so amicable a spirit, and reached so satisfactory a result.

I have, &c.
(Signed) JAMES G. BLAINE.

No. 270.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir,

Foreign Office, May 30, 1881.

I AM directed by Earl Granville to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, a copy of a despatch which has been received this morning from Sir E. Thornton,* forwarding a communication from Mr. Blaine, dated the 13th May, in which he expresses the hope for a speedy settlement of the Fortune Bay question.

I am, &c.
(Signed) TENTERDEN.

No. 271.

Lord Tenterden to the Lords Commissioners of the Treasury.

My Lords,

Foreign Office, May 30, 1881.

IN a letter dated the 26th February last I requested that your Lordships would be good enough to give the necessary directions that the sum of 15,000*l.* should be held in readiness, in order that it might be placed at the disposal of the Government of the United States, as had been sanctioned by the Cabinet, on the terms indicated in that letter, on account of certain hindrances caused to American fishermen in their fishing operations in the waters of Newfoundland and its dependencies.

Since that date an active correspondence has been carried on between London and Washington, in order to arrive at a clear understanding that this sum would be accepted by the Government of the United States as a complete settlement of all the claims on the part of the American fishermen, which should include not only claims on account of occurrences in the Newfoundland waters, but also those at a place called Aspee Bay, in Cape Breton Island, up to a given date, which has been fixed as the 4th March last.

In consequence of the satisfactory assurances on this point which have been received by Her Majesty's Minister at Washington from Mr. Blaine, the United States' Secretary of State for Foreign Affairs, instructions were sent to Sir E. Thornton on Friday last, desiring him to inform Mr. Blaine that Her Majesty's Government were now prepared to close this question by the payment to the United States of the sum of 15,000*l.*, in full satisfaction of all claims for disturbance caused to American fishermen on the coast of Newfoundland and its dependencies up to the 4th March last, including those at Aspee Bay, on the understanding that this payment is made without prejudice to any question of the rights of either Government under the Treaty of Washington.

Mr. Blaine having now informed Sir E. Thornton that he acknowledges the correctness of the conditions under which it had been agreed between the two Governments that this payment would be made, Sir E. Thornton has applied by telegraph for authority to draw for 15,000*l.* on Her Majesty's Paymaster-General, and he inquires at the same time at how many days' sight this should be done, if sanction is given to his drawing such a bill.

I have to request, therefore, that your Lordships will enable me to answer Sir E. Thornton's inquiry at your earliest convenience.

Her Majesty's Secretary of State for the Colonies has caused Sir William Whiteway, the Premier of Newfoundland, who is now in this country, to be informed that a communication will, in due course, be made to the Government of Newfoundland with regard to the repayment of this sum by the Colony.

I am, &c.
(Signed) TENTERDEN.

No. 272.

Mr. Cole to Lord Tenterden.—(Received June 1.)

My Lord,

Treasury Chambers, June 1, 1881.

THE Lords Commissioners of Her Majesty's Treasury have had before them your letter of the 30th May stating that the sum of 15,000*l.* has been accepted by the Government of the United States as a complete settlement of all the claims of the American fishermen in respect of hindrances in their fishing operations in the waters of Newfoundland and its dependencies.

Their Lordships have directed me to state, in reply to the request contained in your Lordship's letter, that Her Majesty's Minister should be instructed to draw a bill for this sum on Her Majesty's Paymaster-General at ten or thirty days' sight, as may appear to him most desirable.

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

No. 273.

Earl Granville to Sir E. Thornton.

(No. 30.)
(Telegraphic.)

Foreign Office, June 1, 1881, 6:35 P.M.

YOUR telegram No. 29.

You may draw a bill upon Her Majesty's Paymaster-General at ten or thirty days' sight, as you may consider best.

No. 274.

Sir E. Thornton to Earl Granville.—(Received June 2.)

(No. 30.)
(Telegraphic.)

Washington, June 2, 1881.

YOUR Lordship's telegram No. 30.

I have this day drawn for 15,000*l.* on Her Majesty's Paymaster-General at thirty days after sight.

No. 275.

Earl Granville to Sir E. Thornton.

(No. 108. Confidential.)

Sir,

Foreign Office, June 2, 1881.

I TRANSMIT herewith, for your information, a copy of a letter which has been received from the Colonial Office,* with its inclosures, among which will be found a

* No. 258.

Memorandum drawn up by Judge Bennett, of the Northern District Court in Newfoundland, relating to the occurrences at Fortune Bay.

I also forward a copy of the reply which has been returned to that letter,* together with a copy of a further letter from the Colonial Office,† inclosing a copy of a communication which has been addressed to Sir W. Whiteway, by Lord Kimberley's direction, upon this matter.

I am, &c.
(Signed) GRANVILLE.

No. 276.

Lord Tenterden to Sir R. Lingens.‡

Sir, *Foreign Office, June 2, 1881.*
WITH reference to your letter of yesterday's date, I am directed by Earl Granville to state to you, for the information of the Lords Commissioners of Her Majesty's Treasury, that a telegram has been this day received from Her Majesty's Minister at Washington, reporting that he has drawn a bill at thirty days after sight on Her Majesty's Paymaster-General, in settlement of the American fishery claims arising out of the occurrences at Fortune Bay and elsewhere.

I am, &c.
(Signed) TENTERDEN.

No. 277.

Earl Granville to Sir E. Thornton.

(No. 111.)
Sir, *Foreign Office, June 3, 1881.*
WITH reference to my despatch No. 108, Confidential, of the 2nd instant, I transmit herewith, for your information, copies of the correspondence marked in the margin,§ relative to the settlement of the American fishery claims arising out of the occurrences at Fortune Bay and elsewhere.

I am, &c.
(Signed) GRANVILLE.

No. 278.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, June 3, 1881.*
WITH reference to my letter of yesterday's date, I am directed by Earl Granville to transmit herewith, to be laid before Lord Kimberley, a copy of a letter which was addressed on the 30th ultimo to the Lords of the Treasury relative to the settlement with the Government of the United States of the fishery claims arising out of the occurrences at Fortune Bay and elsewhere.||

I am, &c.
(Signed) TENTERDEN.

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The Law Officers of the Crown and Dr. Deane to Earl Granville.—(Received June 7.)

My Lord,

Temple, June , 1881.

WE were honoured with your Lordship's commands signified in Sir Julian Pauncefote's letter of the 11th ultimo, stating that he had the honour to transmit to us, by your Lordship's direction, the printed correspondence noted in the margin,* together with two letters, dated the 28th and 11th April, from the Colonial Office, relative to certain counter-claims which the Newfoundland Government desired to prefer in reduction of the indemnity claimed by the United States' Government in respect of the incident at Fortune Bay, which was the subject of our reports of the 15th July and 27th September last (Correspondence 1880-81, pp. 59 and 75).

That those counter-claims arose out of losses sustained by Newfoundland fishermen, who alleged that their nets were wantonly destroyed by American fishing vessels after the incident at Fortune Bay by way of retaliation.

That the particulars of those counter-claims would be found in the affidavits transmitted in the Colonial Office letter of the 28th March last.

That with reference to the charge of wanton destruction of those nets by way of retaliation, Sir Julian Pauncefote was to invite our attention to the affidavits of Saunders and Cluett, taken shortly after the date of the Fortune Bay incident, copies of which were furnished at the time to the United States' Government. That they would be found at pp. 25 and 31 of the Print of 1878-9.

That Sir Julian Pauncefote was to refer us to the following papers on the subject: Print, 1880-1, No. 89, p. 96; No. 90, p. 101; No. 93, p. 102; No. 96, p. 103; No. 118, p. ; No. 174, p. 134.

That Sir Julian Pauncefote was to observe that in the letter addressed by your Lordship to Mr. Lowell, dated the 27th October last (Print, No. 65, p. 81), in which your Lordship expressed the willingness of Her Majesty's Government to pay a reasonable indemnity in respect of the Fortune Bay claims, no mention was made of any counter-claims.

That Sir Julian Pauncefote was to request that we would take those papers into our consideration, and favour your Lordship with our opinion at our earliest convenience, whether, looking at the evidence and considering all the circumstances, the counter-claims in question could properly be preferred by Her Majesty's Government.

That Sir Julian was to add that the Premier of Newfoundland (Sir William Whiteway, Attorney-General of the Colony) was expected in this country in course of the month.

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

That we have considered these papers, and particularly with reference to Sir J. Glover's inclosure No. 118, Print 1880-81, the affidavits of Saunders, p. 25, Print 1878-79, and Cluett 31, Print 1878-79.

In our opinion the evidence of malicious intention on the part of the American fishermen is too weak to enable Her Majesty's Government properly to support the counter-claims of the Newfoundland fishermen.

And we are further of opinion that if the evidence had been more conclusive, the small amount of damage done and the delay in making the counter-claims would be strong reasons against now bringing them forward in reduction of any compensation to which the United States' fishermen may ultimately be held entitled.

But we think it would be well to defer coming to a final determination until the views of the Premier of Newfoundland have been fully ascertained and considered.

We have, &c.

(Signed)

HENRY JAMES.
FARRER HERSCHELL.
J. PARKER DEANE.

No. 280.

Sir E. Thornton to Earl Granville.—(Received June 13.)

(No. 168.)

My Lord,

Washington, May 30, 1881.

I HAVE the honour to inform your Lordship that on the receipt of your telegram No. 28 of the 27th instant relating to the Fortune Bay affair, I wrote the note, of which a copy is inclosed, and the terms of which will, I hope, be found by your Lordship to be in entire conformity with the instructions contained in that telegram.

I took this note to Mr. Blaine on the 28th instant, and asked him whether he had any remarks to make upon it before I signed it. He replied at once that it was in accordance with the conditions which had been already agreed upon. I therefore signed it in his presence, and gave it to him. He promised to send me an answer, conveying the acquiescence of the Government of the United States in the terms of the agreement, and the conditions on which the payment was to be made.

Early the same afternoon I received the note, of which I inclose a copy, and to the contents of which there seems to me to be no objection.

With regard to the payment of the amount agreed upon, Mr. Blaine said that whatever was most convenient to Her Majesty's Government would be agreeable to that of the United States. He added that, if it were thought convenient, he would be ready to receive a bill of exchange drawn upon Her Majesty's Government, and signed by myself. Upon this point I shall have the honour of awaiting your Lordship's instructions.

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

Inclosure 1 in No. 280.

Sir E. Thornton to Mr. Blaine.

Sir,

Washington, May 28, 1881.

WITH reference to your note of the 6th instant relating to the discussions which have recently taken place between Her Majesty's Government and that of the United States with regard to the losses alleged to have been suffered by United States' fishermen in Fortune Bay, Newfoundland, on the 6th January, 1878, in consequence of certain acts committed by natives of that Colony, I have the honour to inform you that Her Majesty's Government is prepared to meet the views of the Government of the United States upon this matter by the payment of the sum of 15,000*l.* sterling in full satisfaction of all claims for disturbance of American fishermen in their fishing operations on the coasts of Newfoundland and its dependencies up to the 4th March last, including the occurrences at Aspee Bay, Cape Breton, Nova Scotia, in the Dominion of Canada, a statement of which is made at pp. 138 to 141, inclusive of executive document No. 84 of the Second Session of the House of Representatives of the 46th Congress.

It will, however, be clearly understood that the above-mentioned payment will be made without prejudice to any question of the rights of either of the two Governments under Articles XVIII to XXV, both inclusive, and Article XXXII of the Treaty of the 8th May, 1871, between the United States and Great Britain.

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

Inclosure 2 in No. 280.

Mr. Blaine to Sir E. Thornton.

Sir,

Department of State, Washington, May 28, 1881.

I HAVE the honour to acknowledge the receipt of your note of the 28th May, 1881, in which, referring to mine of the 6th, you convey the gratifying intelligence that Her Majesty's Government has accepted the terms of settlement agreed upon by us of the difficulties of Fortune Bay occurring on the 6th January, 1878.

The understanding of this Government is, as you state, that the payment of 15,000*l.* sterling is in full satisfaction of all claims for disturbances of American

fishermen in their fishing operations on the coasts of Newfoundland and its dependencies up to the 4th March last, including the occurrences at Aspee Bay, Cape Breton, Nova Scotia, in the dominion of Canada, a statement of which is made at pp. 138 to 141, inclusive of executive document No. 84 of the House of Representatives of the 46th Congress.

This Government also clearly understands that the above-mentioned payment will be made without prejudice to any question of the rights of either of the two Governments under Articles XVIII to XXV, both inclusive, and Article XXXII of the Treaty of the 8th May, 1871, between the United States and Great Britain.

You can advise me of the time and method of payment, which I leave to be settled by your own convenience.

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

No. 281.

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

(No. 169.)

My Lord,

Washington, June 2, 1881.

I HAVE the honour to inform your Lordship that, in accordance with the permission conveyed to me by your telegram No. 30 of yesterday's date, I have this day drawn upon Her Majesty's Paymaster-General for the sum of 15,000*l.* to Mr. Blaine's order at thirty days after sight.

I have transmitted the bill to Mr. Blaine in the note of which a copy is inclosed.

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

Inclosure in No. 281.

Sir E. Thornton to Mr. Blaine.

Sir,

Washington, June 2, 1881.

WITH reference to your note of the 28th ultimo, I have the honour to transmit herewith a bill of exchange in triplicate drawn by me on Her Majesty's Paymaster-General at thirty days after sight for the sum of 15,000*l.*, in full payment of the claims mentioned in the note above referred to and on the conditions therein expressed.

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

No. 282.

Mr. Bramston to Sir J. Pouncefote.—(Received June 14.)

(Confidential.)

Sir,

Downing Street, June 13, 1881.

WITH reference to the recent correspondence respecting the claim of the United States' fishermen in connection with the Newfoundland fisheries, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a despatch which his Lordship has addressed to the Governor of Newfoundland relative to the settlement of the question by the payment of 15,000*l.* to the United States' Government.

A copy of the letter to Sir W. Whiteway, inclosed in that despatch, accompanied the letter from this Department of the 26th ultimo.

I am also to inclose a copy of a despatch in which Lord Kimberley has acquainted the Governor-General of Canada with the inclusion of the Aspee Bay claims in the settlement referred to.

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

P.S.—A copy of Sir W. Whiteway's reply to the letter from this Department is also inclosed.

Inclosure 1 in No. 282.

The Earl of Kimberley to the Officer Administering the Government of Newfoundland.

Sir, *Downing Street, June 7, 1881.*
I HAD the honour to inform you, in my telegram of the 31st ultimo, of the settlement of the Fortune Bay question by the payment of 15,000*l.* to the United States' Government.

The inclosed copy of a letter which I caused to be addressed to Sir William Whiteway will place you in possession of the reasons which, in the opinion of Her Majesty's Government, rendered it advisable to agree that 15,000*l.* should be paid to the United States' Government in satisfaction of all claims up to the 4th of March last, rather than to enter upon an inquiry with a view to determine the amount of the compensation due to the American fishermen.

In this amount has been included the settlement of the claims of United States' fishermen, known as the Aspee Bay claims, and I have addressed a despatch to the Governor-General of Canada, informing him of the agreement which has been arrived at.

The papers relating to the subject will shortly be laid before Parliament, and will be communicated to you in due course.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 2 in No. 282.

The Earl of Kimberley to the Marquis of Lorne.

My Lord, *Downing Street, June 2, 1881.*
I HAD the honour to inform you in my telegram of the 31st ultimo, that the Aspee Bay question has been settled in conjunction with the Fortune Bay claims.

The depositions of the American fishermen with regard to the occurrences at Aspee Bay are contained on pp. 138-141 of the message from the President of the United States (46th Congress, 2nd Session, Ex. Doc. No. 84), a copy of which is no doubt in the possession of your Lordship's Government.

Her Majesty's Government had been for some time in communication with the United States' Government on the subject of the Fortune Bay claims, and in order to avoid an expensive inquiry with a view to the assessment of compensation to the American fishermen, and the consequent protraction of an irritating controversy, it was at length agreed that the question should be settled at once by the payment of a sum of 15,000*l.*

In this amount has been further included the settlement of the Aspee Bay claims and all other claims up to the 4th March last, it being understood that this payment is made without prejudice to any question of the rights of either Government under the Treaty of Washington.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 3 in No. 282.

Sir W. Whiteway to Mr. Herbert.

Sir, *British Hotel, June 2, 1881.*
I HAVE the honour to acknowledge the receipt of your letter of the 26th ultimo relating to the occurrences in Fortune Bay in 1878. I will take the earliest opportunity of communicating the purport of the same to my colleagues.

I have, &c.
(Signed) W. V. WHITEWAY.

No. 283.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, June 14, 1881.*
 WITH reference to your letter of the 30th April last, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a Report from the Law Officers of the Crown relative to the counter-claims in the matter of the fishery disturbances at Fortune Bay and elsewhere on the coast of Newfoundland.*

I am, &c.
 (Signed) TENTERDEN.

No. 284.

Lord Tenterden to Sir R. Lingen.†

Sir, *Foreign Office, June 14, 1881.*
 WITH reference to my letter of the 2nd instant, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a despatch, with its inclosure,‡ from Her Majesty's Minister at Washington in regard to the payment made to the United States' Government in satisfaction of the claims of American fishermen on account of occurrences at Fortune Bay and elsewhere.

I am, &c.
 (Signed) TENTERDEN.

No. 285.

Mr. Herbert to Sir J. Pauncefote.—(Received June 14.)

(Confidential.)

Sir, *Downing Street, June 14, 1881.*
 I HAVE laid before the Earl of Kimberley your letter of the 9th ultimo, inclosing copies of two despatches from Sir E. Thornton respecting the compensation to be granted to American fishermen for the losses which they sustained in consequence of the action of the fishermen of Newfoundland.

2. Lord Kimberley has given his attentive consideration to the observations made by Sir E. Thornton in the concluding paragraphs of his confidential despatch of the 19th April respecting the right of American fishermen to the strand fishery in Newfoundland; but his Lordship is not disposed to think that the inferences drawn by Sir E. Thornton from the Articles in the Treaties of 1818 and 1871, to which he alludes, can be sustained, and although the acceptance by Mr. Blaine of a sum of 15,000*l.* renders it unnecessary, so far as the present claims to compensation are concerned, to examine the points raised, Lord Kimberley thinks it desirable to state the reasons which cause him to take a different view from that suggested by Sir E. Thornton.

3. The words "and for no other purpose whatever," which occur in Article I of the Treaty of 1818, appear to have been introduced from excess of caution, and in order to make it clear beyond all doubt that the Americans were not, under pretence of seeking shelter, to occupy the bays and harbours for the purpose of fishing, all claim to which they had distinctly renounced. On the other hand, the omission of these words in that part of Article I of the Convention of 1818 which allows American fishermen to dry and cure fish in certain places, and in that part of Article XVIII of the Treaty of 1871 which allows them to land for the purpose of drying their nets and curing their fish, can scarcely be interpreted as conferring rights not specifically mentioned.

4. It was provided by Article XVIII that Americans should share, in common with British fishermen, the rights specified by the Treaty. But if British fishermen have certain rights, including that of strand fishing, beyond those which are named in the Treaty, the Treaty is not to be extended so as to place the Americans on the same footing with the English in regard to those rights.

5. The Treaty provides that the Americans can "take fish . . . on the sea-coasts and shores and in the bays . . . without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands . . . for the purpose of drying their nets and curing their fish," and I am to suggest, for Lord Granville's consideration, whether the words "without being restricted to any distance from the shore," coming as they do immediately before the permission to land, do not of themselves exclude by clear implication any right to fish from the shore.

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

No. 286.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, June 15, 1881.*
I AM directed by Earl Granville, in referring you to your letter of the 26th ultimo upon the subject of the Fortune Bay question, to transmit herewith, to be laid before the Earl of Kimberley, a copy of a despatch to Sir E. Thornton,* in extension of a telegram which was addressed to him by his Lordship upon the receipt of that letter.

I am, &c.
(Signed) TENTERDEN.

No. 287.

Sir J. Pauncefote to Mr. Herbert.

Sir, *Foreign Office, June 16, 1881.*
WITH reference to my letter, marked Confidential, of the 30th ultimo, I am directed by Earl Granville to transmit to you a copy of a despatch from Her Majesty's Minister at Washington, inclosing a copy of his letter to Mr. Blaine of the 28th May, and of Mr. Blaine's reply of the same day,* in which he notifies the acceptance by the United States' Government of the sum of 15,000*l.* in full satisfaction of the American claims arising out of the occurrences at Fortune Bay and elsewhere on the coasts of Newfoundland and its dependencies up to the 4th March last, including those at Aspee Bay.

In laying these documents before the Earl of Kimberley, I am to request that you will state that Lord Granville proposes, with his Lordship's concurrence, to approve the terms of Sir E. Thornton's communication to Mr. Blaine of the 28th May, and to inform him that the reply returned by Mr. Blaine is entirely satisfactory to Her Majesty's Government.

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

No. 288.

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

(No. 172.)

My Lord,

Washington, June 6, 1881.

WITH reference to my despatch No. 169 of the 2nd instant, I have the honour to inclose copy of a note which I have received from Mr. Blaine, acknowledging the receipt of mine of the 2nd instant, in which I transmitted to him a bill of exchange for 15,000*l.*, in full payment of the Fortune Bay and other claims, as specified in my note of the 28th ultimo.

I also inclose copies of articles from the "Times" and "World" of New York respectively upon the subject of the above payment. The tone of both of them is moderate and friendly. The New York "Times" is, however, very incorrect in its statements, and alludes to the former claim with regard to the right of the colony to

* No. 280.

† No. 277.

exclude Americans from fishing within a line drawn between headlands, as if this prohibition had been recently carried into effect.

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

Inclosure 1 in No. 288.

Mr. Blaine to Sir E. Thornton.

Sir, *Department of State, Washington, June 4, 1881.*
I HAVE the honour to acknowledge the receipt of your note of the 2nd instant, transmitting a bill of exchange in triplicate drawn by you on Her Majesty's Paymaster-General at thirty days after sight for the sum of 15,000*l.*, in full payment of the claims mentioned in my note of the 28th ultimo, and to inform you that the same is accepted by this Government on the conditions hereto agreed upon between us.

I have, &c.
(Signed) JAMES G. BLAINE.

Inclosure 2 in No. 288.

Extract from the "New York World" of June 1, 1881.

THE settlement by Mr. Blaine of the Fortune Bay affair is important as definitively establishing an important principle in international law. It will be remembered that the American fishermen were driven off by the Newfoundlanders on the plea, first, that they were violating the Treaty by attaching their nets to the shore, and, secondly, that they were breaking the Newfoundland local law prohibiting fishing on Sunday. The first plea was of little weight, but the second raised the question whether American fishermen enjoying the right of entering and fishing in Newfoundland waters were subject to the local statutes binding upon the local fishermen. The Newfoundlanders contended that the Treaty gave the Americans the same rights and privileges enjoyed and exercised by Newfoundland fishermen and no more; and this view was adopted by Lord Salisbury in replying to Mr. Evarts' claim for damages, and fortified to some extent by custom and usage under similar Treaties. But Lord Granville took broader ground. If each of the Contracting Parties to a Reciprocal Treaty like the Treaty of Washington was to be bound by the local laws of the other, neither could enjoy to the full extent the benefits of the Treaty, since local jealousy or caprice might pass laws aimed directly at the alien and easily avoidable by the local fishermen. Moreover, if submission to these laws was to be enforced by violence, as in the Fortune Bay case, the primary object of a Reciprocal Treaty, to wit, the peaceful pursuit of its privileges by each Contracting Party, would be defeated. The Newfoundland Government will probably raise a hullabaloo over the principle conceded by Lord Granville, but it can well afford to pay the compromise settlement of 75,000 dollars, seeing that it got 500,000 dollars of the 5,500,000 dollars obtained by the British-American Colonies under what the leading Colonial witness does not hesitate to characterize as false pretences. At any rate, Mr. Blaine is to be congratulated upon his prompt and successful disposal of a case with which his predecessor dallied so long without securing justice.

Inclosure 3 in No. 288.

Extract from the "New York Times" of June 1, 1881.

THE FORTUNE BAY AFFAIR.—The award of 75,000 dollars, to be paid by the British Government in satisfaction of damages sustained by American fishermen in Fortune Bay, Newfoundland, is not so much a triumph of American diplomacy as an instance of fair dealing on the part of the British Government. While we concede to the State Department at Washington an exceedingly able presentation of our case, we must admit that we have found in the British Government, particularly since it passed into the hands of Mr. Gladstone, a spirit of fairness and justice which may well be emulated by nations in serious disputes with other Powers. In this case, too, the

amount awarded, although not insignificant in itself, is really of very little account when we consider the interests involved. It is by no means small when we remember with what vehemence Canadian public opinion, so far as it found voice, insisted that the Americans were the aggressors, and that their treatment at Fortune Bay and Cape Breton was mildness itself when compared with what they deserved.

Under the Convention known as the "Halifax Award," the Government of the United States paid Great Britain the sum of 5,500,000 dollars for the privilege of fishing by American citizens in the waters of the Dominion of Canada and Newfoundland. The limit of this privilege was fixed at a line which was to be run at a certain distance from the shore, within which the Americans should not fish. The provincial authorities took it upon themselves to define that line as stretching from headland to headland, instead of following the indentations of the shore. This preposterous version of a solemn Treaty (which has never been accepted by the British Imperial Government) virtually excluded the Americans from the only desirable fishing grounds for the right to entrance to which we had just paid the enormous sum of 5,500,000 dollars. Moreover, the people of Newfoundland, having received for their share of the award 1,000,000 dollars, manifested an intention to prevent American fishermen from enjoying the privileges which had cost us so dear. The best customers of the Fortune Bay fishermen hitherto had been the Americans, who had paid liberal prices for the catch of the local fishermen. The inhabitants of Fortune Bay were indignant that the Americans should enter into the enjoyment of privileges sold us by the Imperial Government.

In January 1878, the Fortune Bay people set upon the Americans then engaged in herring fishing and beat them off, after destroying their nets and liberating the fish already seined. It was alleged that the Americans were violating the Christian Sabbath; that the herring season was over; that the American seines were of a kind forbidden by local law; and that the fishermen were inside the line prescribed by Treaty. Most of the American fishermen were from Gloucester, Massachusetts, and they made up a case which was forwarded to Washington. It was urged in their defence that the complainants were also engaged in fishing when they fell upon the Americans, and that the alleged infraction of local laws relating to fishing on the Sabbath, and to the closing of the season, could not fairly be charged against the Americans by those who were engaged in the same work at the time the attack was made. Obviously, if the provincial position were correct, we had committed an error in treating with the Imperial Government instead of the provincial authorities. The British Government, in point of fact, did rejoin that the action of the Fortune Bay inhabitants was justifiable, inasmuch as the Americans were pursuing their calling in violation of local laws and regulations. That is to say, having paid an extravagant sum for the privilege of fishing in Canadian and Newfoundland waters, in pursuance of the provisions of a Treaty executed between the United States and Great Britain, we must submit that privilege to such rules and regulations as might be imposed by local authorities. It is hardly necessary to add that such a course as this could only result in the virtual destruction of our dearly-bought privileges by the provincial authorities. This would be conceding that Newfoundland legislation could qualify and even nullify a Treaty which had been concluded with the Government of the United States by the Imperial Government of Great Britain.

And to this conclusion did actually arrive the Disraeli Government, Lord Salisbury being then the British Foreign Secretary. The accession of the Liberal Government to power, with Earl Granville in the place of Salisbury, led to the renewal of negotiations. The case was reopened, and, pending legislation designed to reimpose duties which had been reduced by Congress as part consideration for concessions granted, was indefinitely postponed. The American people regarded the reopening of the case with indifference, very few people, except those immediately interested, having paid any attention to the dispute, but the Canadian journals exhibited much foolish ill-temper. The amiable letter of Earl Granville to Minister Lowell, expressing a willingness to reconsider the whole matter, was stigmatized as a "prostration before the Republican Moloch," and a deference to the "extortioners at Washington." Happily, this silliness was without effect. The plain principles of justice were on our side. We paid a great sum for the privilege of fishing in the British provincial waters. By awarding damages for the injuries committed by the Fortune Bay mob, the British Government virtually renews its guarantee that we shall freely exercise the rights which have cost us so dearly.

No. 289.

Earl Granville to Sir E. Thornton.

(No. 120. Confidential.)

Sir,

Foreign Office, June 18, 1881.

I INCLOSE, for your information, copies of a letter, and of its inclosures, as marked in the margin, on the subject of the Fortune Bay Fisheries question.*

I am, &c.

(Signed) GRANVILLE.

No. 290.

Mr. Bramston to Sir J. Pouncefote.—(Received June 19.)

Sir,

Downing Street, June 18, 1881.

WITH reference to recent correspondence respecting the compensation claimed by the United States' fishermen on account of the occurrences at Fortune Bay and elsewhere, I am directed by the Earl of Kimberley to request that you will be so good as to move Earl Granville to ascertain, by telegraph, from Sir E. Thornton, what proportion of the sum of 15,000*l.* paid to the United States' Government represents the amount of the claim in respect of the Aspee Bay affair.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 291.

Earl Granville to Sir E. Thornton.

(No. 32.)

(Telegraphic.)

Foreign Office, June 20, 1881, 4 P.M.

I SHOULD be glad to know what proportion, in your opinion, of the 15,000*l.* paid to the United States' Government, represents the amount of the claim in respect of the Aspee Bay affair.

No. 292.

Earl Granville to Sir E. Thornton.

(No. 122. Extender.)

Sir,

Foreign Office, June 20, 1881.

WITH reference to recent correspondence respecting the compensation claimed by the United States' fishermen on account of the occurrences at Fortune Bay and elsewhere, I have to request you to inform me what proportion of the sum of 15,000*l.* paid by Her Majesty's Government in satisfaction of these claims may be taken to represent the amount payable on account of the Aspee Bay claim.

I am, &c.

(Signed) GRANVILLE.

No. 293.

Sir E. Thornton to Earl Granville.—(Received June 22.)

(Telegraphic.)

Washington, June 22, 1881.

YOUR Lordship's telegram No. 32.

I have always considered the Aspee Bay claim a small affair. I should say 150*l.* would pay it amply.

No. 294.

*Sir J. Pauncefote to Sir R. Lingen.**

Sir, *Foreign Office, June 23, 1881.*
 WITH reference to my letter of the 14th instant, I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Treasury, the accompanying copy of a further despatch, as marked in the margin, † from Her Majesty's Minister at Washington, transmitting a copy of Mr. Blaine's receipt for 15,000*l.* on account of the Fortune Bay Claims settlement, and extracts from the New York press.

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

No. 295.

Mr. Bramston to Lord Tenterden.—(Received June 24.)

My Lord, *Downing Street, June 23, 1881.*
 I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 16th instant, forwarding a copy of a despatch from Sir E. Thornton, with its inclosures, respecting the settlement of the American claims arising out of the occurrences at Fortune Bay and elsewhere.

Lord Kimberley concurs in the terms of the reply which Earl Granville proposes to return to Sir E. Thornton.

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

No. 296.

Lord Tenterden to Mr. Herbert.

(Confidential.)

Sir, *Foreign Office, June 24, 1881.*
 IN accordance with the request contained in your letter of the 18th instant, Earl Granville addressed a telegraphic despatch to Her Majesty's Minister at Washington, inquiring what proportion of the sum of 15,000*l.* paid to the United States' Government by Her Majesty's Government represents the amount of the claim in respect of the Aspee Bay affair; and I am directed by his Lordship to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying paraphrase of a telegram which has been received from Sir E. Thornton in reply ‡

I am, &c.
 (Signed) TENTERDEN.

No. 297.

Mr. Cole to Earl Granville.—(Received July 1.)

My Lord, *Treasury Chambers, June 30, 1881.*
 I AM directed by the Lords Commissioners of Her Majesty's Treasury to acknowledge the receipt of your letter of the 23rd instant, inclosing a copy of a further despatch from Her Majesty's Minister at Washington, transmitting a copy of Mr. Blaine's letter of receipt for 15,000*l.* on account of the Fortune Bay, &c., fishery claims; and I am to request that you will move Earl Granville to cause the original letter of receipt to be transmitted to this Board in order that it may be produced to the Comptroller- and Auditor-General.

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

* Also to Treasury and Colonial Office.

† No. 288.

‡ No. 293.

Mr. Herbert to Lord Tenterden.—(Received July 1.)

My Lord,

Downing Street, June 30, 1881.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 23rd ultimo, in which you inclosed a copy of a despatch from Sir E. Thornton respecting the settlement of the claims of the United States' Government arising out of the occurrences at Fortune Bay and elsewhere, with a note from Mr. Blaine, in which he intimates that he is prepared to enter upon the discussion of the question of the employment of joint American and British cruisers in Newfoundland waters and the Code of Instructions under which they should act.

2. I am also to acknowledge the receipt of your further letter of the 25th May, in the concluding paragraph of which it was stated that, as the Governor of Newfoundland and Sir William Whiteway were then in England, Lord Granville presumed that Lord Kimberley would soon be in a position to give his opinion as to the instructions to be given to Sir E. Thornton with regard to the future regulation of the fisheries.

3. Lord Kimberley has consulted Sir William Whiteway, the Premier of the Colonial Government, on this matter, and I am to inclose, for Lord Granville's information, a copy of a letter which has been received from him upon the subject.

4. With a view to determining what regulations it would be expedient to enforce for the protection of the fisheries, Lord Kimberley would suggest that in the first place it would be desirable that all the existing laws of Newfoundland bearing upon the use of the fisheries to which United States' fishermen are admitted by Treaty should be communicated to the United States' Government, and that the United States' Government should then be asked whether they object to any of these laws, or have any suggestions to make, and that when an agreement has been arrived at as to the Code which should govern the fisheries, the Legislature of Newfoundland should be invited to make the necessary changes in the law if any such should be decided upon.

5. As to the question of joint cruisers, Lord Kimberley would suggest, for Lord Granville's consideration, that it may be advisable to inquire of the United States' Government whether they will consider it necessary to send cruisers if satisfactory regulations are framed. It might be pointed out to them that their cruisers could not act within British waters, and that, at all events, it may be best, in the first place, that an agreement should be come to upon the subject of the regulations, and that the two Governments should judge by the experience of their working whether they operate well and harmoniously before entering on the question of joint cruisers.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 298.

Sir W. Whiteway to Mr. Herbert.

Sir,

British Hotel, June 13, 1881.

IN accordance with your request that I should submit my views in relation to the employment of British and United States' ships of war to cruize upon the coast of Newfoundland, for the purpose of protecting the rights of the fishermen of both nations whilst engaged in the fishery, I have the honour to submit that I do not consider such cruisers necessary in order that the fishermen should enjoy to the fullest extent the rights which they respectively possess; that, being in British territory, all laws and regulations relating to the fisheries should be carried out by British authorities, and that, such being the case, the existing Tribunals are sufficient.

2. With respect to those laws which it may be deemed advisable to enforce, I may observe generally that the few statutes now existing upon the subject of the fisheries were enacted and thought necessary by the Legislature for their preservation, and especially on those considered requisite which have reference to bait fishes.

I do not apprehend that more serious differences are likely to arise between British and United States' fishermen than are constantly occurring among British

fishermen, and that, upon complaint, redress may be afforded by local authorities as well in the one case as in the other.

I have, &c.
(Signed) W. V. WHITEWAY.

No. 299.

Earl Granville to Sir E. Thornton.

(No. 136.)

Sir,

Foreign Office, July 2, 1881.

I TRANSMITTED to the Lords Commissioners of Her Majesty's Treasury a copy of your despatch No. 172 of the 6th ultimo, inclosing copy of a note which you had received from Mr. Blaine, acknowledging the receipt of your communication of the 2nd ultimo, in which you forwarded to him a bill of exchange for 15,000*l.* in full payment of the Fortune Bay and other claims; and I now transmit to you the accompanying copy of a letter which has been received from the Treasury in reply,* desiring to be furnished with the original letter of receipt for production to the Comptroller and Auditor-General; and I have to request you to forward this document accordingly for the purpose indicated.

I have, &c.
(Signed) GRANVILLE.

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