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CONFIDENTIAL.

CORRESPONDENCE

WITH

MR. PERLEY,

RESPECTING

BRITISH NORTH AMERICAN FISHERIES.

1855-66.

LIST OF PAPERS.

No.	Page
1. The Earl of Clarendon to Mr. Perley	(No. 1) May 25, 1855 1
2. The Earl of Clarendon to Mr. Perley	(No. 2) May 25, — 1
3. Mr. Perley to the Earl of Clarendon	(No. 1) June 21, — 2
4. Mr. Perley to the Earl of Clarendon	(No. 2) July 3, — 2
5. Mr. Perley to the Earl of Clarendon	(No. 3) August 2, — 3
6. The Earl of Clarendon to Mr. Perley	(No. 3) August 14, — 3
7. Mr. Perley to the Earl of Clarendon	(No. 4) October 6, — 3
8. The Earl of Clarendon to Mr. Perley	(No. 4) October 25, — 5
9. Mr. Perley to the Earl of Clarendon One Inclosure.	(No. 5) April 5, 1856 5
10. The Earl of Clarendon to Mr. Perley	(No. 1) May 21, — 8
11. Mr. Perley to the Earl of Clarendon Two Inclosures.	(No. 6) May 19, — 9
12. The Earl of Clarendon to Mr. Perley	(No. 2) June 4, — 10
13. The Earl of Clarendon to Mr. Perley	(No. 3) June 27, — 11
14. Mr. Perley to the Earl of Clarendon	(No. 7) July 23, — 11
15. Mr. Perley to the Earl of Clarendon	(No. 8) July 24, — 12
16. The Earl of Clarendon to Mr. Perley	(No. 4) August 13, — 13
17. The Earl of Clarendon to Mr. Perley	(No. 5) September 5, — 13
18. Mr. Perley to the Earl of Clarendon Three Inclosures.	(No. 9) October 7, — 14
19. Mr. Perley to the Earl of Clarendon	(No. 10) October 8, — 17
20. The Earl of Clarendon to Mr. Perley	(No. 6) October 21, — 17
21. The Earl of Clarendon to Mr. Perley	(No. 1) January 8, 1857 17
22. Mr. Perley to the Earl of Clarendon Three Inclosures.	(No. 11) December 27, 1856 18
23. Mr. Perley to the Earl of Clarendon	(No. 12) December 29, — 19
24. Mr. Hammond to Mr. Perley	February 3, 1857 20
25. Mr. Perley to Mr. Hammond	February 10, — 20
26. Mr. Hammond to Mr. Perley	February 13, — 20
27. Mr. Hammond to Mr. Perley	February 25, — 21
28. Mr. Perley to Mr. Hammond	March 10, — 21
29. Mr. Perley to the Earl of Clarendon	(No. 14) March 9, — 21
30. Mr. Perley to the Earl of Clarendon	(No. 15) March 10, — 22
31. Mr. Hammond to Mr. Perley	March 25, — 22
32. Mr. Perley to the Earl of Clarendon	(No. 16) April 4, — 22
33. Mr. Perley to the Earl of Clarendon	(No. 17) April 6, — 23
34. Mr. Hammond to Mr. Perley	April 15, — 23
35. Mr. Perley to Mr. Hammond	April 15, — 24
36. Mr. Perley to the Earl of Clarendon	(No. 18) April 16, — 24
37. Mr. Hammond to Mr. Perley	April 21, — 25
38. Memorandum respecting Convention with France relating to Newfoundland Fisheries	May 10, — 25
39. Mr. Hammond to Mr. Perley	May 11, — 30
40. Mr. Perley to the Earl of Clarendon	(No. 19) May 14, — 31
41. Mr. Hammond to Mr. Perley	May 16, — 31
42. Mr. Perley to Mr. Hammond	May 19, — 32
43. Mr. Hammond to Mr. Perley	May 25, — 32
44. Mr. Perley to the Earl of Clarendon	(No. 21A) June 1, — 32
45. Mr. Perley to the Earl of Clarendon	(No. 21B) June 2, — 33
46. The Earl of Clarendon to Mr. Perley	(No. 2) July 14, — 33
47. Mr. Perley to the Earl of Clarendon One Inclosure.	(No. 22) July 15, — 33

No.						Page
48.	The Earl of Clarendon to Mr. Perley	(No. 3)	August	26, 1857	35	
49.	Mr. Perley to the Earl of Clarendon	(No. 23)	October	19, —	35	
	One Inclosure.					
50.	Mr. Perley to the Earl of Clarendon	(No. 24)	October	20, —	54	
51.	The Earl of Clarendon to Mr. Perley	(No. 4)	November	5, —	55	
52.	Mr. Perley to the Earl of Malmesbury	(No. 25)	May	15, 1858	55	
53.	Mr. Perley to the Earl of Malmesbury	(No. 26)	May	18, —	56	
54.	Mr. Perley to the Earl of Malmesbury	(No. 27)	May	18, —	57	
55.	Mr. Gray to the Earl of Malmesbury		May	15, —	57	
56.	Mr. Hammond to Mr. Gray		June	4, —	57	
57.	Mr. Hammond to Mr. Merivale		June	4, —	58	
58.	Mr. Hammond to Mr. Merivale		June	5, —	58	
59.	Mr. Merivale to Mr. Hammond		June	24, —	58	
60.	Mr. Merivale to Mr. Hammond		June	24, —	58	
61.	The Earl of Malmesbury to Mr. Perley	(No. 1)	June	25, —	59	
62.	The Earl of Malmesbury to Mr. Perley	(No. 2)	June	25, —	59	
63.	The Earl of Malmesbury to Mr. Perley	(No. 3)	June	25, —	59	
64.	The Earl of Malmesbury to Mr. Perley	(No. 4)	June	28, —	60	
65.	Mr. Perley to the Earl of Malmesbury	(No. 28)	June	28, —	60	
	One Inclosure.					
66.	The Earl of Malmesbury to Lord Napier	(No. 89)	July	15, —	61	
67.	Mr. Hammond to the Earl of Carnarvon		July	15, —	61	
68.	The Earl of Carnarvon to Mr. Hammond		July	30, —	62	
69.	The Earl of Malmesbury to Mr. Perley	(No. 5)	August	2, —	62	
70.	The Earl of Malmesbury to Mr. Perley	(No. 6)	December	15, —	62	
71.	Mr. Perley to the Earl of Malmesbury	(No. 29)	December	13, —	62	
72.	Mr. Perley to the Earl of Malmesbury	(No. 30)	December	13, —	63	
73.	The Earl of Malmesbury to Mr. Perley	(No. 7)	December	30, —	63	
74.	Mr. Perley to the Earl of Malmesbury	(No. 31)	May	16, 1859	63	
75.	Mr. Hammond to the Earl of Carnarvon		June	2, —	64	
76.	The Earl of Malmesbury to Mr. Perley	(No. 1)	June	14, —	64	
77.	Mr. Elliot to Mr. Hammond		June	14, —	65	
78.	Lord Lyons to Lord J. Russell	(No. 250)	November	8, —	65	
	Four Inclosures.					
79.	Lord Lyons to Lord J. Russell	(No. 263)	November	22, —	68	
	Six Inclosures.					
80.	Mr. Perley to Lord J. Russell	(No. 32)	November	22, —	71	
	Three Inclosures.					
81.	General Cass to Mr. Dallas		November	5, —	73	
82.	Lord J. Russell to Mr. Dallas		December	8, —	74	
83.	Mr. Hammond to Mr. Merivale		January	25, 1860	74	
84.	Lord J. Russell to Mr. Dallas		January	25, —	74	
85.	Mr. Dallas to Lord J. Russell		January	26, —	74	
86.	Mr. Dallas to Lord J. Russell		January	30, —	75	
87.	Mr. Hammond to Mr. Merivale		February	7, —	76	
88.	Lord J. Russell to Earl Granville	(No. 32)	February	9, —	77	
89.	Lord J. Russell to Mr. Dallas		February	9, —	77	
90.	Mr. Merivale to Mr. Hammond		February	17, —	77	
91.	Lord J. Russell to Mr. Perley	(No. 1)	February	21, —	78	
92.	Mr. Merivale to Mr. Hammond		March	8, —	78	
93.	Lord J. Russell to Mr. Perley	(No. 2)	March	22, —	80	
94.	Mr. Hammond to Mr. Merivale		March	22, —	80	
95.	Lord J. Russell to Lord Lyons	(No. 77)	March	22, —	80	
96.	Mr. Hammond to Mr. Perley		March	23, —	81	
97.	Mr. Elliot to Mr. Hammond		April	9, —	82	
98.	Lord Lyons to Lord J. Russell	(No. 144)	April	16, —	82	
99.	Mr. Perley to Lord J. Russell	(No. 33)	May	1, —	82	
	Two Inclosures.					
100.	Mr. Gray to Lord J. Russell		April	30, —	84	
101.	Mr. Perley to Mr. Hammond	(Private)	May	1, —	86	
102.	Mr. Hammond to Mr. Elliot		May	22, —	86	
103.	Mr. Elliot to Mr. Hammond		June	25, —	87	
104.	Mr. Elliot to Mr. Hammond		June	25, —	87	
105.	Lord J. Russell to Mr. Perley	(No. 3)	July	7, —	89	
106.	Lord J. Russell to Lord Lyons	(No. 167)	July	7, —	88	
107.	Lord J. Russell to Lord Lyons	(No. 168)	July	7, —	89	
108.	Lord Wodehouse to Mr. Elliot		July	7, —	89	
109.	Lord Lyons to Lord J. Russell	(No. 255)	July	21, —	89	
	One Inclosure.					
110.	Mr. Irvine to Lord J. Russell	(No. 4)	August	6, —	90	
	One Inclosure.					
111.	Mr. Hammond to Mr. Elliot		August	30, —	94	
112.	Mémoire of grounds upon which Her Majesty's Government consented to the principle that Mr. Gray could be removed from his office of Umpire, under the Treaty with the United States, of June 5, 1854				94	
113.	Lord J. Russell to Mr. Perley	(No. 4)	September	21, —	95	
114.	Mr. Hammond to Mr. Elliot		September	21, —	95	
115.	Mr. Perley to Lord J. Russell	(No. 34)	November	25, —	95	
116.	Lord J. Russell to Lord Lyons	(No. 260)	December	14, —	96	
117.	Lord J. Russell to Mr. Perley	(No. 5)	December	14, —	97	

LIST OF PAPERS.

v

No.								Page
118.	Mr. Hammond to Mr. Elliot ..	..	..	..	..	..	December 14, 1860	97
119.	Mr. Elliot to Mr. Hammond ..	..	..	..	..	..	December 22, —	97
120.	Lord Lyons to Lord J. Russell ..	..	..	..	..	(No. 329)	December 31, —	97
121.	Mr. Perley to Lord J. Russell ..	..	..	..	..	..	April 1, 1861	98
	Three Inclosures.							
122.	Mr. Hammond to the Secretary to the Admiralty ..	..	..	..	..	..	April 17, —	147
123.	Mr. Hammond to Sir F. Rogers ..	..	..	..	..	..	April 17, —	147
124.	The Secretary to the Admiralty to Mr. Hammond ..	..	..	..	..	..	April 20, 1861	147
125.	Earl Russell to Mr. Perley ..	..	..	..	..	(No. 1)	April 20, —	147
126.	Mr. Perley to Earl Russell ..	..	..	..	..	(No. 36)	February 15, 1862	147
127.	Mr. Perley to Earl Russell ..	..	..	..	..	(No. 37)	February 17, —	148
128.	Mr. Perley to Earl Russell ..	..	..	..	..	(No. 38)	February 17, —	149
	One Inclosure.							
129.	Sir F. Rogers to Mr. Hammond ..	..	..	..	..	..	August 12, —	149
	Two Inclosures.							
130.	Memorandum relative to the claim of Mr. Perley to a salute as British Fishery Commissioner in North America ..	..	..	..	..	..	August 18, —	150
131.	Mr. Layard to Sir F. Rogers ..	..	..	..	..	..	August 27, —	151
132.	The Secretary to the Admiralty to Mr. Hammond ..	..	..	..	..	..	September 3, —	151
	One Inclosure.							
133.	Mr. Hammond to the Secretary to the Admiralty ..	..	..	..	..	..	September 6, —	151
134.	Mr. G. H. Perley to Earl Russell ..	..	..	..	..	..	September 12, —	152
	Two Inclosures.							
135.	Mr. Gray to Earl Russell ..	..	..	..	..	..	September 15, —	154
136.	Mr. Archibald to Earl Russell ..	..	..	..	..	..	September 25, —	154
137.	Mr. Archibald to Mr. Bergue ..	..	..	..	..	..	October 6, —	155
138.	Mr. Elliot to Mr. Hammond ..	..	..	..	..	..	September 30, —	155
	One Inclosure.							
139.	Mr. Hamilton to Mr. Hammond ..	..	..	..	..	..	September 30, —	156
140.	Mr. Hammond to Mr. Hamilton ..	..	..	..	..	..	October 1, —	156
141.	Mr. Elliot to Mr. Hammond ..	..	..	..	..	..	October 2, —	156
	Two Inclosures.							
142.	Mr. Elliot to Mr. Hammond ..	..	..	..	..	..	October 2, —	157
	One Inclosure.							
143.	Mr. Hammond to the Secretary to the Admiralty ..	..	..	..	..	..	October 10, —	158
144.	Mr. Elliot to Mr. Hammond ..	..	..	..	..	..	October 22, —	158
	Two Inclosures.							
145.	Mr. Tobin to Earl Russell ..	..	..	..	..	..	September 16, —	159
146.	Mr. Haliburton, M.P., to Earl Russell ..	..	..	..	..	..	October 29, —	160
147.	Memorial from Citizens of St. John, New Brunswick ..	..	..	..	..	..	..	160
147.*	The Duke of Newcastle to Earl Russell ..	..	..	..	..	..	December 31, —	160
	One Inclosure.							
148.	Mr. Hammond to Messrs. McWily, McGrath, and others ..	..	..	..	..	..	December 12, —	161
149.	Mr. Hammond to Mr. Kent ..	..	..	..	..	..	December 12, —	162
150.	Mr. Hammond to Mr. Haliburton ..	..	..	..	..	..	December 12, —	162
151.	Mr. Hammond to Mr. Archibald ..	..	..	..	..	..	December 12, —	162
152.	Earl Russell to Mr. Howe ..	..	..	..	..	..	December 12, —	162
153.	Mr. Hammond to Mr. G. H. Perley ..	..	..	..	..	..	December 12, —	163
154.	Mr. Hammond to Mr. Warren ..	..	..	..	..	..	December 12, —	163
155.	Mr. G. Perley to Mr. Hammond ..	..	..	..	..	..	March 16, 1863	163
156.	Mr. Howe to Earl Russell ..	..	..	..	..	..	May 9, —	154
	Four Inclosures.							
157.	Earl Russell to Mr. Howe ..	..	..	..	..	..	May 30, —	166
158.	Mr. Howe to Earl Russell ..	..	..	..	..	..	July 8, —	166
	One Inclosure.							
159.	Mr. Howe to Earl Russell ..	..	..	..	..	..	October 14, —	166
160.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	October 15, —	168
161.	Mr. Hammond to Mr. Howe ..	..	..	..	..	..	November 21, —	168
162.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	February 2, 1864	168
	One Inclosure.							
163.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	February 16, —	171
	One Inclosure.							
164.	Mr. Hammond to Mr. Howe ..	..	..	..	..	..	March 11, —	175
165.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	April 13, —	175
166.	Mr. Hamilton to Mr. Hammond ..	..	..	..	..	..	June 30, —	176
167.	Mr. Howe to Earl Russell ..	..	..	..	..	..	July 25, —	176
168.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	July 25, —	176
169.	Mr. Howe to Mr. Hammond ..	..	..	..	..	..	July 26, —	177
170.	Mr. Hammond to Mr. Howe ..	..	..	..	..	..	August 24, —	177
171.	Mr. Howe to Earl Russell ..	..	..	..	..	..	November 28, —	177
172.	Mr. Hammond to the Secretary to the Admiralty ..	..	..	..	..	..	December 21, —	178
173.	Mr. Hammond to Sir F. Rogers ..	..	..	..	..	..	December 1, —	178
174.	Earl Russell to Mr. Burnley ..	..	..	..	..	..	March 11, 1865	178
175.	Mr. Hammond to Sir F. Rogers ..	..	..	..	..	..	March 11, —	179
176.	Mr. Hammond to Mr. Hamilton ..	..	..	..	..	..	March 11, —	179
177.	Earl Russell to Mr. Howe ..	..	..	..	..	..	March 11, —	179
178.	Mr. Howe to Earl Russell ..	..	..	..	..	..	April 12, —	179
179.	Mr. Hammond to Sir F. Rogers ..	..	..	..	..	..	April 28, —	180
180.	Earl Russell to Sir F. Bruce ..	..	..	..	..	(No. 38)	April 28, —	180

LIST OF PAPERS.

No.						Page
181.	Sir F. Bruce to Earl Russell ..	..	..	..	(No. 327) June	1, 1865 180
	Two Inclosures.					
182.	Mr. Hammond to Sir F. Rogers	..	..	..	.. June	19, — 181
183.	Mr. Howe to Mr. Hammond ..	..	..	..	.. November	8, — 181
184.	Mr. Childers to Mr. Hammond	..	..	..	.. November	30, — 182
185.	Mr. Howe to the Earl of Clarendon	..	..	..	.. March	19, 1866 182
	One Inclosure.					
186.	Mr. Hammond to Sir F. Rogers	..	..	..	.. April	11, — 186
187.	Mr. Howe to the Earl of Clarendon	..	.	..	.. April	26, — 186
	One Inclosure.					
188.	Mr. Howe to the Earl of Clarendon	..	..	..	.. July	4, — 189

CONFIDENTIAL.

Correspondence with Mr. Perley respecting British North American Fisheries.

No. 1.

The Earl of Clarendon to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, May 25, 1855.

I HAVE to acquaint you that Her Majesty's Government have recommended you to the Queen for the appointment of Commissioner on the part of Great Britain under the 1st and 2nd Article of the Treaty concluded between Great Britain and the United States on the 5th of June, 1854. They have been induced to make choice of you for that appointment by the intelligence and local knowledge which you displayed in your communications with Her Majesty's Minister at Washington while the Treaty was under negotiation; and they feel confident that in intrusting to you the duties to be performed under those Articles of the Treaty, they place them in good hands.

I transmit to you your Commission under the Royal Sign-Manual, together with a printed copy of the Treaty. You will perceive from the latter, that your duties will be, to proceed, in conjunction with the Commissioner of the United States, to examine the coasts of the North American Provinces and of the United States, embraced within the provisions of the 1st and 2nd Articles, and to designate the places reserved by those Articles from the common right of fishing therein.

The Government of the United States has appointed G. G. Cushman, Esq., of Maine, to be the Commissioner on its part. You will forthwith put yourself in communication with him, and arrange for the immediate commencement of the operations of the Commission.

You will attend to any instructions which you may receive from Her Majesty's Minister at Washington, and will from time to time report to him, as well as to me, the course of your proceedings.

If it should become necessary, in consequence of a difference of opinion between you and your American colleague, to name an arbitrator or umpire, as contemplated by the Treaty, you will not agree to the selection of a person to act in that capacity without first consulting Mr. Crampton thereupon, and receiving his directions.

I am, &c.

(Signed) CLARENDON.

No. 2.

The Earl of Clarendon to Mr. Perley.

(No. 2.)

Sir,

Foreign Office, May 25, 1855.

HER Majesty's Government have assigned to you an allowance of 500*l.* by way of remuneration for the performance of your duties as Commissioner under the Treaty of June 5, 1854, on the supposition that those duties will not extend over more than a single season.

You will be allowed to charge to Her Majesty's Government, in addition, the amount of travelling expences incurred in the performance of your duties.

I presume that any expences which may be incurred by the Commissioners jointly, will be borne in equal proportions by the two Governments.

You are authorized from time to time to order bills at thirty days' sight upon George Lenox Conyngham, Esq., the chief clerk of this office, on account of your allowance and expences. You will keep an accurate account of those expenses and of the sums which you may draw for on account, and you will, at the close of your Commission, transmit the same to me, with proper vouchers for your expenditure, and certificates of the rate of exchange which you may have obtained for your bills.

The joint expences which may be incurred by the Commissioners will, of course, be matter for settlement at the close of their operations.

I am, &c.
(Signed) CLARENDON.

No. 3.

Mr. Perley to the Earl of Clarendon.—(Received July 7.)

(No. 1.)

My Lord,

St. John, New Brunswick, June 21, 1855.

I HAVE the honour to acknowledge the receipt, through Mr. Crampton, of your Lordship's despatches, No. 1 and No. 2, of 25th May, conveying the information that Her Majesty's Government had recommended me to the Queen for the appointment of Commissioner on the part of Great Britain, under the 1st and 11th Articles of the Treaty concluded between Great Britain and the United States, on the 5th of June, 1854, and giving instructions for my guidance.

Agreeably to the instructions in despatch No. 1, I have lost no time in communicating with Mr. Cushman, the Commissioner on the part of the United States. I propose leaving here for Washington on the 25th instant, in order to confer with Mr. Crampton, and thus save time; and I have invited Mr. Cushman to meet me at Washington, where our course of procedure can be more conveniently and speedily arranged than elsewhere.

The manner in which Her Majesty's Government have been pleased to confer this appointment upon me is exceedingly gratifying, and I trust I shall be able so to conduct the business of the Commission as to justify their belief in my fitness for the duties.

The Commission under the Royal Sign Manual has not yet reached me, probably delayed by being first sent to Washington. I trust your Lordship will be pleased to direct that hereafter letters may be addressed to me at this place, as in such case they will generally reach me in twelve or thirteen days after the mail leaves London, *via* Halifax.

I have, &c.
(Signed) M. H. PERLEY.

No. 4.

Mr. Perley to the Earl of Clarendon.—(Received July 16.)

(No. 2.)

My Lord,

Tremont House, Boston, July 3, 1855.

I HAD the honour of addressing your Lordship on the 21st June, to which I beg to refer. Instead of being joined by Mr. Cushman, on my arrival here, as I had anticipated, I was informed by him, that through some misapprehension or neglect, he had not been furnished with any instructions whatever.

I represented this to Mr. Crampton on whose intimation, the United States' Secretary of State sent an order to Mr. Cushman to proceed to Washington, and there receive his instructions.

Mr. Cushman now advises me by telegraph that he will be here to-morrow morning, ready to go on immediately; and I shall therefore proceed at once to Washington.

Before leaving St. John I drew on George Lenox Conyngham, Esq., chief clerk, at thirty days' sight, for the sum of 2,000*l.* sterling, on account of expenses, as directed by your Lordship's despatch No. 2.

I learn here, that many American vessels have already gone to the coasts of Nova Scotia and the fishing-grounds within the Gulf of St. Lawrence, to which I am anxious that Mr. Cushman and myself should repair as speedily as possible.

I have, &c.
(Signed) M. H. PERLEY.

Mr. Perley to the Earl of Clarendon.—(Received August 13.)

(No. 3.)

My Lord,

Halifax, N. S., August 2, 1855.

I HAVE now the honour to report to your Lordship my arrival here, after visiting Washington, and there assisting Mr. Crampton in completing certain arrangements with the United States' Government for conducting the business of this Commission.

Of the nature of those arrangements your Lordship has no doubt been advised by Mr. Crampton. In pursuance of them, and at the instance of Mr. Crampton, the brigantine "Halifax," of 100 tons, has been selected by Admiral Fanshawe, which vessel I have chartered for the service of the United States' Commissioner and myself, and of the gentlemen who will assist us.

The brigantine is now being fitted out at this port, and in getting her ready for sea Admiral Fanshawe kindly gives his personal assistance.

Mr. Cushman agreed with me to leave Boston in the Cunard steamer of yesterday, and which will be here to-morrow. He will be accompanied by Mr. Hall, an ex-Member of Congress, as his Secretary, and by an officer of the United States' Topographical Engineers as his Surveyor.

My son, Mr. George Hayward Perley, will accompany me as secretary and surveyor; and, owing to the relationship, I beg your Lordship's permission to state, that after studying for the profession of a civil engineer he commenced his labours in the field with Mr. Beatty, the well-known engineer of the Balaclava Railway. With Mr. Beatty he served two years in New Brunswick and Nova Scotia, and would probably have followed him to the Crimea, but for an engagement by the Government of New Brunswick to assist in running a line across that Province of 110 miles to the Bay of Chaleur, which was accomplished last season.

My son's map of New Brunswick is considered one of the best yet published, and I have the honour of inclosing to your Lordship a copy of the second edition.

As soon as possible after the arrival of Mr. Cushman and his party, we shall embark and proceed to the Gulf of St. Lawrence, resorting first to those grounds where the fishing vessels are chiefly assembled, and there commence our labours.

It was hoped both by Mr. Maney and Mr. Crampton that our mere presence there would have the effect of preventing collisions or disputes among the fishermen of the two countries; but if any difficulty should arise we are then to offer our mediation. Nothing shall be wanting on my part to press the business of the Commission during the present season.

Before leaving St. John I drew on the chief clerk of the Foreign Office for the 300*l.* sterling, on account of expenses which will be incurred in the charter and outfit of the "Halifax," in which vessel I hope to sail from here in a few days.

I have, &c.

(Signed) M. H. PERLEY.

No. 6.

The Earl of Clarendon to Mr. Perley.

(No. 3.)

Sir,

Foreign Office, August 14, 1855.

I HAVE received your despatch No. 3 of the 2nd instant, and I have to state to you that I approve of the arrangements which you have made, as reported in that despatch, for conducting the business of the Commission.

I am, &c.

(Signed) CLARENDON

No. 7.

Mr. Perley to the Earl of Clarendon.—(Received October 23.)

(No. 4.)

My Lord,

St. John, New Brunswick, October 6, 1855

REFERRING to my despatch No. 3, dated Halifax, August 2nd, I now have the honour to report to your Lordship that the United States' Commissioner, instead of keeping his appointment, did not arrive at Halifax until the 20th August. He was

accompanied by Mr. Cutts, of the United States' Coast Survey Department, a gentlemanly person of superior attainments. Meantime, I had put the cutter "Halifax" in excellent order, and on the 29th August we sailed to the eastward. After entering the Gulf of St. Lawrence we visited Charlotte Town, Prince Edward Island, and thence sailed for Miramichi; but heavy weather obliged us to put into Buetouche, on the New Brunswick coast, and it was agreed to commence our labours there.

2. We surveyed the harbour of Buetouche, at the mouth of the rivers of that name, with the view of settling certain principles which should guide us in determining the mouths of other rivers emptying into the Gulf, of almost similar character. But the United States' Commissioner and myself differed widely as to what should be considered the mouth of the Buetouche, and we then proceeded to the Miramichi, a large river, with the view of endeavouring to settle other principles there. Here again we differed; and the weather becoming cold and stormy, Mr. Cushman and his surveyor left me at Miramichi, on the 28th September, and returned overland to the United States. I sent the cutter back to Halifax, on arriving at which port her charter will expire.

3. The United States' Commissioner appears desirous of placing the mouth of each river as far up it as possible, in order to give American vessels the right to enter the harbours at their mouths, without question or hindrance, under pretence of fishing. In order to countervail this, I have demanded that the harbour of New York shall be examined and passed upon this season; and after some demur, Mr. Cushman has agreed to meet me there early next month. The principles which he wishes to apply to the Colonial rivers would give us the Hudson for 200 miles from the sea. I shall not trouble your Lordship at present with plans and statements showing our disagreement, as it is quite possible Mr. Cushman may recede from his pretensions after visiting the Hudson.

4. I regret being obliged to state to your Lordship that Mr. Cushman is a person of very little education, of vulgar manners, and disagreeable habits. He had never seen the sea until we sailed from Halifax, and had never before made a trip in a sailing-vessel; of course he suffered much from sea-sickness. He does not even know the names of the fishes caught on these coasts, and has very crude and imperfect ideas of the modes of conducting the fisheries generally. It would almost seem that he had been appointed Commissioner with special reference to his unfitness for the office in every respect.

5. At Halifax I placed myself in communication with Lieutenant-Governor Sir Gaspard Le Marchant, and received a list of twenty-seven rivers, in Nova Scotia, the mouths of which it is considered necessary to define, and the names of seven other places respecting which there may be some doubt as to their coming within the operation of the Treaty.

6. At Prince Edward Island I communicated with Lieutenant-Governor Daly, and had a long interview with his Council. As it appeared that I was well acquainted with the principal rivers of this island I was furnished with an official map of the Colony, and the defining of the rivers was referred to myself.

7. I now propose visiting Toronto, to obtain from the Governor-General a list and description of the rivers of Canada, which will require to be visited. From thence I shall proceed to Montreal, to confer with the officers of the Hudson's Bay Company, as to the rivers on the long line of coast between the Saguenay and Labrador, which are leased by the Crown to the Company, in order to ascertain what may be necessary in that quarter. This duty I expect to accomplish before meeting Mr. Cushman at New York.

8. At Charlotte Town I found Her Majesty's sloop "Espiegle," which had been prudently despatched to the Gulf of St. Lawrence by Rear-Admiral Fanshawe, in case difficulties should arise between British and American fishermen. I was happy to learn from Commander Lambert, of the "Espiegle," that he had seen several hundred fishing vessels on the fishing-grounds in the vicinity of Prince Edward Island, and that the utmost harmony appeared to prevail between the fishermen of the two countries while diligently pursuing their calling.

9. It was understood between Mr. Marcy and Mr. Crampton, while I was at Washington, that it would be an important part of the duty of the Commissioners to inquire into the local negotiations affecting the fisheries in each Colony, with the view of preparing some general rules for the guidance of the fishermen of both countries, when they met on the same fishing-grounds. But Mr. Cushman's entire ignorance of all matters relating to the fisheries rendered it impossible for anything to be done in this very essential matter.

10. I have up to this time defrayed all expenses connected with the cutter "Halifax," and all other expenses necessary for conducting the business of the Commission. At the close of the season I will render to Mr. Crampton a statement of the expenses which ought to be borne jointly by the two Governments, in order that he may claim a moiety

from the United States' Government. Mr. Cushman stated that he had no instructions to pay until further orders from his Government, and therefore paid nothing.

I have, &c.
(Signed) M. H. PERLEY.

No. 8.

The Earl of Clarendon to Mr. Perley.

(No. 4.)

Sir, *Foreign Office, October 25, 1855.*
I HAVE received your despatch No. 4 of the 6th instant, and I have to state to you that I approve of your proceedings, as therein reported, with a view to carrying out the objects of the Commission.

I am, &c.
(Signed) CLARENDON.

No. 9.

Mr. Perley to the Earl of Clarendon.—(Received April 21.)

(No. 5.)

My Lord,

St. John, New Brunswick, April 5, 1856.

I HAVE the honour to state to your Lordship that in Canada I received all the assistance and information possible from his Excellency the Governor-General, and the officers of his Government. Since my return my time has been devoted to collecting, collating, and compiling information relative to the rivers of these Provinces, in order to determine which of them fall within the intent and meaning of the Treaty.

2. I have now settled a list of the rivers of Canada, New Brunswick, Nova Scotia, and Prince Edward Island, which, from present information, will require to be visited by the Commissioners and have their mouths defined. A copy of this list is inclosed, and your Lordship will observe that the rivers in question amount to 191 in all. It is quite possible that some of these rivers, on being visited, may not prove of sufficient size or importance to occupy much time, but it is equally possible that other rivers may well be added to the list.

3. The list inclosed does not include the rivers of Newfoundland, which has recently come under the operation of the Treaty. The Governor of that island, through the Attorney-General, has expressed a wish to see me at St. John's as early in the present season as convenient, and the Attorney-General has intimated his intention of forwarding to me a list of the rivers of Newfoundland, the mouths of which will need to be defined. He also raises some questions respecting the joint and several rights of French and American fishermen on the coasts of Newfoundland and in its rivers, under various Treaties, and the Convention of 1818 with the United States.

4. I therefore propose visiting Newfoundland at the earliest convenient moment, and in order to a correct understanding of the several fishing rights in that Colony, I have very respectfully to request that your Lordship will be pleased to furnish me with copies of any correspondence (should such exist) between Her Majesty's Government and that of France or the United States since 1818, which relates to the fishing in rivers, or mouths of rivers, in Newfoundland.

5. As one reason for this request, I beg to state to your Lordship that the Americans have recently cast a longing eye upon Newfoundland. Of this I feel assured, as well from what I have myself heard in the United States, as from the address of Mr. Chandler White (American Manager of the Newfoundland Electric Telegraph Company) to the people of the United States, calling for the annexation of Newfoundland to the Union. Should Cuba by any means fall into the possession of the United States, the next movement would be upon Newfoundland, for reasons which will be obvious to your Lordship; and any dispute as to fishing privileges in its rivers would readily be made the pretext for taking possession of portions of its territory by lawless fishermen, with the view of ultimately obtaining possession of the whole.

6. When I visited the Hudson Bay House at La Chine, the Governor of the Company, Sir George Simpson, was in England, but his officers furnished me with all the information they possessed. Since his return Sir George has forwarded to me a statement of the several claims of the Company to the fisheries in rivers, and mouths of rivers, on the north side of the St. Lawrence, and on the coast of Labrador, under various grants

and titles, seignorial and territorial. At the same time he thanks me very kindly for the inquiries I prosecuted in Canada, and the interest manifested for the rights of the Hudson's Bay Company, and he offers me all the assistance that Company can give whenever I may visit their territory within the Gulf of St. Lawrence.

7. I have just learned from Mr. Crampton that it is quite possible I may have to act again this season, with Mr. Cushman as my colleague, however unsatisfactory it may be. As it would be a mere waste of time and money to take Mr. Cushman again to the Gulf of St. Lawrence, I shall intimate to him my desire to visit the coasts of the United States during the present season, in order to define the mouths of some of its principal rivers, and request him to furnish the vessel and outfit, as I did last season. The absurdity of the claims set up by Mr. Cushman with respect to our rivers would readily be seen when applied to such a river as the Hudson, and I have a strong desire also to exhibit Mr. Cushman to the intelligent people of New York and Boston, with a view to the appointment of some more fit person.

8. There are several important harbours on the coasts of these Provinces in which there is no river, properly so called, such, for instance, as the harbour of Halifax, into which it will not answer to give American fishermen a free right of entry. On the coasts of the United States there are also first-class harbours in the same predicament, such as Boston, Portland, Salem, and others.

9. With respect to these harbours without rivers, some Convention or agreement will need to be made, to guard the rights of both the High Contracting Parties, and prevent unnecessary or wilful intrusion. I do not doubt that with an intelligent and proper American Commissioner an agreement could be made which would meet all difficulties, and with your Lordship's permission I will do all in my power to bring about an arrangement that will obviate the necessity of entering into negotiations, or of making a formal Convention on the subject, unless such should be deemed absolutely necessary.

I have, &c
(Signed) M. H. PERLEY.

Inclosure in No. 9.

List of Rivers to be visited in the British North American Provinces by the Commissioners, under the Treaty signed at Washington on the 5th day of June, 1854.

Rivers of Canada.

ON the north side of the St. Lawrence, within "the King's Posts," and in the Seignory of Mingan, under the control of the Hudson's Bay Company:—

- | | |
|-------------------------|--|
| 1. Bergeron. | 16. Rock. |
| 2. Esquemin. | 17. St. Margaret. |
| 3. Mille Vaches. | 18. Rivers in the Bay of Seven Islands. |
| 4. Port Neuf. | 19. Moisie. |
| 5. Rivers in Laval Bay. | 20. Tront. |
| 6. Betsiamitz. | 21. Bason. |
| 7. Aux Outards. | 22. Manitou |
| 8. Maniconagan. | 23. Shallop, Sandy, Sawbill, and Magpie. |
| 9. St. Pancras. | 24. St. John's. |
| 10. St. Nicholas. | 25. Mingan. |
| 11. Yodbout. | 26. St. Genevieve. |
| 12. Trinity. | 27. Nabesippi. |
| 13. Calumet. | 28. Agawanas. |
| 14. Pentecost. | 29. Natashquan. |
| 15. Lobster Bay. | |

In the Island of Anticosti:—

- | | |
|------------------|--------------|
| 30. Jupiter. | 33. Beescie. |
| 31. Pavilion. | 34. Bear. |
| 32. Observation. | 35. Fox. |

On the south side of the St. Lawrence, and within the Bay of Chaleur:—

- | | |
|--------------------|-----------------|
| 36. Trois Pistoles | 41. Matane. |
| 37. Rimouki. | 42. Chatte. |
| 38. Metis. | 43. St. Anne's. |
| 39. Tarigou | 44. Mont Louis. |
| 40. Blanche. | 45. Madeleine. |

- | | |
|-------------------------------|-------------------------|
| 46. Grande and Petite Vallée. | 54. Malbay, two rivers. |
| 47. Ance de l'Etang. | 55. Grand Percé. |
| 48. Little Fox. | 56. Grand Pabos. |
| 49. Great Fox. | 57. Port Daniel. |
| 50. Dartmouth. | 58. Nouvelle. |
| 51. Griffin's Cove. | 59. Bonaventura. |
| 52. York, } Gaspé Bay. | 60. Little Cascapediae. |
| 53. St. John, } | 61. Great Cascapediae. |

Rivers of New Brunswick.

Within the Bay of Chaleur, and in the Gulf of St. Lawrence:—

- | | |
|--------------------------|-----------------------------|
| 1. Restigouche. | 9. Miramichi, |
| 2. Eel. | 10. Kouchibouznal. |
| 3. Jacquet. | 11. Richibucto. |
| 4. Bathurst. | 12. Buctouche. |
| 5. Caraquette. | 13. Coiagne. |
| 6. Pokemouche. | 14. Shechac. |
| 7. Tracadie, two rivers. | 15. Shemogue. |
| 8. Talusintac. | 16. Gaspereau ; Baie Verte. |

Within the Bay of Fundy:—

- | | |
|-------------------|-------------------|
| 17. Sackville. | 23. Musquash. |
| 18. Peticodiac. | 24. Lepreau. |
| 19. Shepody. | 25. Popologan. |
| 20. Upper Salmon. | 26. Magaguadarie. |
| 21. Mispick. | 27. Digdequash. |
| 22. St John. | 28. Bocabec. |

Rivers of Nova Scotia.

Within the Bay of Fundy:—

- | | |
|-------------------|------------------|
| Cumberland Basin— | 11. Gaspereau. |
| 1. Napan. | 12. Cornwallis. |
| 2. Macan. | 13. Habitant. |
| 3. Hebert. | 14. Pereaue. |
| 4. Apple. | Annapolis Basin— |
| Basin of Mines— | 15. Annapolis. |
| 5. Pansborough. | 16. Moose. |
| 6. Economy. | 17. Bear. |
| 7. Folly. | |
| 8. Salmon. | 20. Yarmouth. |
| 9. Shubenacadie. | 21. Tusket. |
| 10. Avon. | 22. Pubnico. |

On the Atlantic Coast of Nova Scotia:—

- | | |
|---------------------------------|----------------------|
| 23. Barrington. | 37. Cole Harbour. |
| 24. Clyde. | 38. Salmon. |
| 25. Roseway. | 39. Lawrence Town. |
| 26. Sable. | 40. Chenetcook. |
| 27. Great Port Joly. | 41. Musquadoit. |
| 28. Liverpool. | 42. Sedore. |
| 29. Port Medway. | 43. Ship Harbour. |
| 30. La Havre. | 44. Street Harbour. |
| 31. Gold, Mahone Bay. | 45. Liscombe. |
| 32. Ingram's, } Margaret's Bay. | 46. St. Mary's. |
| 33. Indian, } | 47. Country Harbour. |
| 34. Nine Mile, Slag Bay. | 48. Catherine's. |
| 35. Prospect. | 49. Torbay. |
| 36. Halifax. | 50. Whitehaven. |

Within Chedabucto Bay, Canso South:—

- | | | |
|-------------|----------------|--------------------|
| 51. Salmon. | 52. Guysboro'. | 53. Goose Harbour. |
|-------------|----------------|--------------------|

Within George's Bay, Canso North:—

- | | | |
|---------------|-------------|-----------------|
| 54. Tracadie. | 55. Pomket. | 56. Antigonish. |
|---------------|-------------|-----------------|

Within the Gulf of St. Lawrence, Straits of Northumberland :—

- | | |
|------------------|--------------|
| 57. Merigomishe. | 61. Wallace. |
| 58. Pictou. | 62. Pugwash. |
| 59. John. | 63. Philip. |
| 60. Futmagouche. | 64. Tidnish. |

In the Island of Cape Breton :—

- | | |
|---|-----------------|
| 65. Inhabitants. | 69. St. Anne's. |
| 66. Miré. | 70. Cheticamp. |
| 67. Sydney. | 71. Margaree. |
| 68. Great and Little Bras d'Or, the outlets of numerous rivers flowing into the Bras d'Or Lake. | 72. Mabou. |

Rivers in Prince Edward Island.

- | | |
|---------------------------|-------------------------------|
| Hillsboro' Bay— | 15. Moret, St. Peter's Bay. |
| 1. Hillsboro'. | 16. Winter, Tracadie Harbour. |
| 2. York. | 17. Hunter, Rustico Harbour. |
| 3. Elliot. | 18. Stanley, Grenville Bay. |
| Orwell Bay— | 19. Ellis, Richmond Bay. |
| 4. Seal. | 20. Cascumpeque, Holland Bay. |
| 5. Vernon. | Egmont Bay— |
| 6. Orwell. | 21. Pierre Jaques. |
| 7. Pinette. | 22. Brac. |
| 8. Murray. | 23. Percival. |
| Cardigan Bay— | 24. Enmore. |
| 9. Cardigan. | 25. Ox. |
| 10. Brudenell. | 26. Huldiland. |
| 11. Montague. | 27. Dunk, Bedeque Bay. |
| 12. Boughton. | 28. Tryon. |
| 13. Fortune. | 29. Crapaud. |
| 14. Souris, Colville Bay. | 30. Sable. |

SUMMARY.

							Rivers.
Canada ..	..	..	..	..	..	..	61
New Brunswick ..	..	..	..	..	..	..	28
Nova Scotia ..	..	..	..	..	..	..	72
Prince Edward Island ..	..	..	..	..	..	..	30
Total ..	..	..	..	..	..	..	191

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*

April 5, 1856.

No. 10.

The Earl of Clarendon to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, May 21, 1856.

I HAVE communicated to Her Majesty's Secretary of State for the Colonial Department your despatch of the 5th ultimo, in which, with reference to the duties in which you are engaged, under the 1st Article of the Reciprocity Treaty between this country and the United States, you suggest the expediency of being furnished with copies of the correspondence since the year 1818, upon the subject of the rights of fishery on the coasts of Newfoundland enjoyed by French and American subjects; and I have to state to you, in reply, that a compliance, to the full extent with your request, is attended with considerable difficulty, but that Mr. Secretary Labouchere has informed me that he will authorize the Governor of Newfoundland to allow you to see, confidentially, everything which is on record in the archives of the Newfoundland Government on this subject, on your arrival at St. John's; and, moreover, to take copies of the documents to any extent to which the Governor may not object.

I am, &c.

(Signed) CLARENDON.

Mr. Perley to the Earl of Clarendon.—(Received June 2.)

(No. 6.)

My Lord,

St. John, New Brunswick, May 19, 1856.

1. REFERRING to my despatch No. 5 of April 5, I now have the honour to state to your Lordship that I have visited Washington for the purpose of making arrangements for conducting the business of the Fishery Commission during the present season.

2. The unfitness and incapacity of Mr. Cushman were admitted on all hands; but, as from party and political reasons, his appointment could not at present be disturbed, it was agreed between Mr. Crampton, Mr. Marcy, and myself, at a meeting held at the State Department, that he should be put under the guidance of Mr. Cutts, the American surveyor, a gentleman of ability, Mr. Marcy stated that instructions, as stringent as possible without being actually offensive, should be sent to Mr. Cushman, directing him in future to be governed by the advice and opinions of Mr. Cutts, with whom the business of the Commission would chiefly rest.

3. I claimed the right of commencing this season on the coast of the United States, which was conceded, and a Memorandum was drawn up and signed by Mr. Cutts and myself as to the time and place of meeting and mode of operation, a copy of which is inclosed. This agreement was approved both by Mr. Crampton and Mr. Marcy.

4. Your Lordship will perceive that the Members of the Commission meet at Boston on the 27th instant, and proceed to examine the mouths of such rivers as may be agreed upon, between Cape May, in New Jersey, and York River, in the State of Maine. During the heat of summer it is proposed that the Commissioners shall work upon the coasts of the Colonies, returning to the United States in the autumn, and working southwardly as long as the season will admit. This season I do not contemplate employing a vessel, except occasionally for short periods, but hope to do much work in places which can be easily reached without one.

5. In another season it will be absolutely necessary to employ a vessel, in order to reach the St. Lawrence, the Labrador coast, and other remote localities. It has been proposed by the United States' Government to purchase or build, or equip a fit vessel for the service, at the joint expense of the two Governments; and, with this view, an estimate has been submitted to Congress, a copy of which is inclosed. A vote has been taken for the American portion of this estimate, say 11,625 dollars, equal to 2,400l. sterling; and I have now to ask your Lordship's permission to join in the expense to an equal amount. It is proposed to purchase or build a vessel during the present season, and fit her up in the winter, so as to be ready at the earliest moment next spring for a long season at the north. The draft of an agreement for the management of this vessel has been submitted to me, which I will forward when revised and reduced to a more formal shape.

6. My son, as Surveyor to the Commission, accompanied me to Washington, and remains there engaged with Mr. Cutts at the Coast Survey Department, in copying and preparing the various plans of survey of rivers in the United States, which will hereafter be required by the Commissioners.

7. Mr. Cutts, on the part of the United States, has intimated his readiness to come to an amicable understanding with respect to important harbours in which there are no rivers, so as to prevent vexatious intrusions by pretended fishermen on either coast. I trust we may be able, at Boston, to establish such principles with reference to Boston harbour as will be a guide thereafter, and enable us to overcome what at first appeared a formidable difficulty.

8. If, after the 1st of July, it is found that we cannot work with advantage on the United States' coast, I shall propose visiting Prince Edward Island, in the immediate vicinity of which there are very valuable fishing-grounds. The rivers of that island are numerous, but easy of access by land; and the business of the Commission can be advantageously prosecuted there until it is time to return to the United States in the autumn.

9. I beg leave to say that the pay of Mr. Cutts, as an officer of the Coast Survey, is 2,500 dollars per annum, to which is added 4 dollars per day while attached to the Fishery Commission, thus making his whole salary about 820l. sterling per annum.

I have, &c.

(Signed)

M. H. PERLEY

Inclosure 1 in No. 11.

Memorandum.

IT is proposed that the Commissioners under the Reciprocity Treaty shall commence the business of the present season by meeting at the city of Boston, on the 27th of the present month.

They will then complete their arrangements for designating the mouths of rivers lying between York river, in the State of Maine, and Cape May, on the coast of New Jersey, or so many of those mouths as the mouths of May, June, October, and November will allow them to act upon.

A room shall be engaged at Boston for the use of the Commissioners, wherein to transact their official business.

During the months of July, August, and September the labours of the Commission shall be devoted to the coasts of the British Provinces, at such part as may be most convenient and accessible, depending upon the engagement of a vessel or not.

Dated at Washington, May 8, 1856.

(Signed)

M. H. PERLEY.
RICHD. D. CUTTS.

Inclosure 2 in No. 11.

ESTIMATE for Expenses to June 30, 1856.

	Dols.
For the purchase or building of a topsail schooner or brigantine, fully rigged and equipped for sea service, and with all the necessary accommodations for the Members of the Commission, officers, and crew, and to supply the same with boats and general outfit	15,000
For pay and subsistence of sailing-master, pilot, mate, cook, and hands for the months of May and June 1856	1,300
Total	16,300

This amount to be divided between and expended jointly by the Commissioners of the two Governments.

ESTIMATE for the fiscal year ending June 30, 1857.

	Dols.
For seven months' sea service of brigantine, at 650 dollars per month.. .. .	4,550
For laying up vessel, five months, at 180 dollars per month	900
For contingencies attending vessel and the surveys	1,000
For probable pay and expenses attending the arbitrator	500
Total	6,950

This amount to be divided between and expended jointly by the Commissioners of the two Governments.

ESTIMATE of the amount required for the joint expenses of the American and British Commissioners.

	Dols.
For purchase of vessel, outfit and expenses, during May and June 1856, $\frac{16,300}{2}$	8,150
For expenses for the year ending 30th June, 1857, $\frac{6,950}{2}$	3,475
Total	11,625*

No. 12.

The Earl of Clarendon to Mr. Perley.

(No. 2.)
Sir,

Foreign Office, June 4, 1856.

I HAVE to state to you that I approve of the arrangements which you have made, as reported in your despatch, No. 6, of the 19th ultimo, for conducting the business of the Fishery Commission during the present season.

I have referred to the Lords Commissioners of Her Majesty's Treasury your request

The sum of 11,625 dollars is equal to 2,400*l.* sterling.

that a sum equal to that voted by the United States' Congress, namely, 2,400*l.*, should be granted by Her Majesty's Government for the construction or purchase and maintenance of a vessel for the service of the Commission, and I have recommended their Lordships to authorize the issue of that sum on this account.

I am, &c.
(Signed) CLARENDON.

No. 13.

The Earl of Clarendon to Mr. Perley.

(No. 3.)

Sir,

Foreign Office, June 27, 1856.

I HAVE to state to you, that having referred to the Lords Commissioners of Her Majesty's Treasury your despatch, No. 6, of the 19th ultimo, requesting that an equal sum to that voted by the Congress of the United States, namely, 11,625 dollars, may be allowed by Her Majesty's Government for the building or purchasing and maintenance of a vessel for the use of the Commissioners appointed under the 1st Article of the Fisheries Convention between Great Britain and the United States, of June 5, 1854, their Lordships have informed me that they concur in the proposed contribution of 2,400*l.* towards providing, jointly with the United States, a vessel for the above-mentioned purpose.

You will, however, report to me by the first opportunity how the vessel is to be manned and commanded, and how the joint duties are to be carried into effect.

I am, &c.
(Signed) CLARENDON.

No. 14.

Mr. Perley to the Earl of Clarendon.—(Received August 12.)

(No. 7.)

My Lord,

St. John, New Brunswick, July 23, 1856.

1. I HAVE to acknowledge your Lordship's despatches, No. 2 and No. 3 of 14th and 27th June, with reference to providing a vessel jointly with the United States' Government for the use of the Fishery Commission, and desiring that I would report to your Lordship, by the first opportunity, how such vessel is to be manned and commanded.

2. I beg respectfully to report to your Lordship, that it is proposed to buy or build a brigantine of about 150 tons for the service, but as it is already ascertained that a vessel of the peculiar description required (great breadth of beam with light draught of water) is not likely to be met with on sale, it will be necessary to build during the coming autumn and winter. This will probably be best done at New York, where there are persons well acquainted with building yachts and small vessels for the Government service.

3. A copy of the official specification for building a revenue cutter for the United States' service is inclosed, which will give a general idea of the mode of building and finishing those vessels, and of the care bestowed upon them. The United States' Government owns a small fleet of such vessels, which are employed as revenue cruisers and in the coast survey. This specification, with such changes as may be necessary to adapt it to the vessel required, will very likely be adopted.

4. It is proposed that the months of April, May, October, and November, shall be devoted to designating the reserved places on the coast of the United States, and that the months of June, July, August, and September shall be devoted in like manner to the coasts of the British North American Provinces. The months of December, January, February, and March to be devoted to office work, and to obtaining the decision of an umpire in cases where the Commissioners differ.

5. It was arranged last season that the cutter employed, while in British waters, should be commanded by Her Majesty's Commissioner, and that while so commanded the British ensign should be hoisted at the main, and the American flag at the fore. When in American waters the United States' Commissioner to command, and the position of the flags to be reversed, that is, the United States' flag at the main and the British ensign at the fore. It is proposed to continue this arrangement hereafter, as it was found to work very well last year, and there was not the slightest difficulty while I commanded in

the Gulf of St. Lawrence, although, in addition to the cutter "Halifax," I had for a time Her Majesty's ship "Espiegle" under my orders.

6. It is proposed that the joint or international vessel shall have comfortable cabin accommodation for six persons, and the officers shall occupy a separate apartment from the Commissioners and the gentlemen that accompany them.

7. With respect to expenditures, it is proposed that the cost of the vessel and its equipment, the pay and subsistence of officers, pilot, and crew, with all other expenses and contingencies, shall be borne equally by the two Governments. All disbursements to be made by the Surveyors attached to the Commission, and vouchers in the name of the Joint Commission to be taken in duplicate for every expenditure. Accounts in duplicate to be made out at the end of each quarter, or as soon thereafter as practicable, and this quarterly account to be adjusted and settled by the respective Commissioners.

8. The mess expenses of the Commissioners while on board the vessel to be matter of arrangement between them.

9. During those months in which the vessel is not employed, it is proposed that she shall be laid up in charge of a ship-keeper, either at the Dockyard in Halifax or at the Navy Yard in Boston, as may be most convenient.

10. If in the course of a few weeks it is found that the Commissioners cannot purchase a vessel of the proper build and dimensions, it is proposed that they shall forthwith contract for the building of such vessel, in order that she may be fully equipped and ready for sea in April next. It is understood that another Commissioner in place of Mr. Cushman will, in all probability, be appointed after the 4th March next, when the new President of the United States comes into office.

11. The appropriation for purchasing, or building and equipping the international vessel has been made by Congress, and the amount has already been drawn from the Treasury for that service by Mr. Cutts, who is ready to proceed at once. I have therefore to inquire on whom, and in what form, I shall draw for the amount required on the part of Her Majesty's Government, up to 2,400*l.*, which your Lordship has been good enough to say will be advanced by the Lords of the Treasury for this special purpose.

I have, &c.

(Signed) M. H. PERLEY.

No. 15.

Mr. Perley to the Earl of Clarendon.—(Received August 12.)

(No. 8.)

My Lord,

St. John, New Brunswick, July 24, 1856.

1. I HAVE the honour to report to your Lordship, that the members of the Joint Fishery Commission, according to previous arrangement, assembled at Boston on the 28th May, and proceeded at once to their duties. The requisite plans on the part of the United States was furnished by Mr. Cutts, after which, with my surveyor, I examined carefully the mouth of the Piscatagua River, known as the Harbour of Portsmouth, New Hampshire. I next visited the Merrimac, known as Newbury Port Harbour; then the Ipswich, the Sangus, the Charles, the Mystic, the Neponset and Taunton Rivers, all in Massachusetts; and the Seekonk, or Providence River, in Rhode Island.

2. After deliberation and full discussion, awards were agreed upon between Mr. Cutts and myself, as respects the Piscatagua, Merrimac, Ipswich, Taunton, and Seekonk Rivers. These awards were then formally drawn up and signed, in duplicate, by the United States' Commissioner and myself; plans in duplicate, to accompany the awards, were also signed and interchanged. Our labours on the United States' coast, so far, have terminated amicably and satisfactorily.

3. The United States' Commissioner withdrew the Sangus River (Lynn Harbour), as too small for consideration; and also the Charles, Mystic, and Neponset Rivers, which fall into Boston Harbour, for the like reason.

4. The Commission adjourned on the 3rd instant, to meet again at Charlotte Town, Prince Edward Island, on the 26th instant, and proceed with the examination of the rivers of that island. The United States' Commissioner and Mr. Cutts have proceeded to the islands, whither I follow them to-morrow. We shall probably be employed there until the middle or latter part of September; after which we return to the United States, to finish some rivers in Massachusetts not yet examined, and then go on with the rivers of Connecticut.

5. I hope to procure at Charlotte Town a sufficient number of copies of Captain Bayfield's charts of the rivers and harbours of Prince Edward Island, for the use of the

Commission. I find it necessary to have four copies of the chart of each river mouth on our coast. When these cannot be had of an official character, an actual survey must be made. The United States' Government undertakes to furnish all the charts and plans of their coast which may be required, certified by the Coast Survey Department; and they agree to accept Bayfield's surveys, or Admiralty charts of rivers and harbours on the coasts of these Provinces as sufficient authority.

6. It is necessary to procure from the Admiralty four copies of each of such engraved charts as may exist of the places the Commissioners will visit on the British North American coast, as well as manuscript copies of the plans that have not yet been engraved. Some surveying instruments will also be required, to be used when we visit the northern rivers of the Gulf of St. Lawrence and the coast of Newfoundland.

7. In order to procure these plans and instruments, and obtain a variety of information which can only be had at the Hydrographical Department of the Admiralty, I wish to visit that Department personally as I feel assured that the labours of the Commission would thereby be rendered more effective, and considerably shortened. I also wish to examine the whole of the documents at the Colonial Office relative to the Newfoundland fisheries, before visiting Newfoundland, as great care and caution will need to be exercised in that quarter, to prevent a difficulty which the Americans expect to create between Her Majesty's Government and that of France, and by which they hope to benefit.

8. If therefore your Lordship sees no objection, I will visit London, for the purposes stated, after the labours for the present season are closed, and arrangements completed for having the joint vessel ready for service early next spring.

I have, &c.
(Signed) M. H. PERLEY.

No. 16.

The Earl of Clarendon to Mr. Perley.

(No. 4.)

Sir,

Foreign Office, August 13, 1856.

I HAVE received your despatch No. 8, of the 24th ultimo, and I approve of your coming to London, after your labours for the present season are completed, for the purpose stated in that despatch.

I am, &c.
(Signed) CLARENDON.

No. 1..

The Earl of Clarendon to Mr. Perley.

(No. 5.)

Sir,

Foreign Office, September 5, 1856.

I HAVE referred to the Lords Commissioners of Her Majesty's Treasury your despatch No. 7, of the 23rd of July, requesting to be informed on whom and in what form you should draw for the sum of 2,400*l.* which Her Majesty's Government have agreed to contribute towards providing, jointly with the United States, a vessel for the use of the Commissioners appointed under the 1st Article of the Reciprocity Treaty between Great Britain and the United States, and I have to state to you that the Lords of the Treasury have informed me in reply, that the best way of supplying the funds required for this purpose, as far as the share of Her Majesty's Government is concerned, will be for the Consular Officer, at the port where the vessel is being built or equipped, on being applied to for that purpose by you, to draw bills from time to time, as money is required, on Her Majesty's Paymaster-General at thirty days' sight, and that their Lordships, when apprized of the name of the Consular Officer who is to draw the bills, will give the necessary instructions for the acceptance and payment thereof, up to an amount not exceeding 2,400*l.*

You will report to me, for the information of the Lords of the Treasury, at what port of the United States the vessel in question is to be built or equipped, in order that the Consular Officer at such port may be furnished with instructions for his guidance in this matter.

You will be careful to furnish me with detailed accounts of the expenditure incurred, accompanied by the necessary vouchers.

I am, &c.
(Signed) CLARENDON

Mr. Perley to the Earl of Clarendon.—(Received October 21.)

(No. 9.)

My Lord,

New York, October 7, 1856.

1. REFERRING to my despatch No. S of July 24, I have now the honour to report to your Lordship, that I proceeded to Charlotte Town, Prince Edward Island, and there found the United States' Commissioner and Mr. Cutts. Previous to my arrival, Mr. Cutts had examined some of the rivers of the island; and I was met with a proposition from him to quit the island at once, as the rivers in it were too small to be worthy of consideration. This proposal I rejected promptly; and, as a reply, declared my determination not only to inspect the estuaries of all the rivers in the island, but also to examine each river in its course, in order to ascertain the volume of fresh water which it discharged into the sea.

2. Early in August, I commenced this fatiguing task, and finished the first week in September, after examining as many rivers as possible by land; and concluding my labours by employing a small steamer to visit such places as were not readily accessible, except by water.

3. Mr. Cutts left the island about three weeks before me; the United States' Commissioner remained nearly as long as I did, amusing himself with "swopping" horses, and trading for other animals.

4. In the course of my inquiries upon the island, I learned that an American fisherman from Cape Cod had "squatted" within the estuary of one of its rivers, where he was prosecuting the mackerel-fishery with extraordinary success and great profit. This furnishes a clue to the unwillingness of Mr. Cutts to admit the rivers of the island as worthy of consideration, and may, to some extent, explain what has since taken place.

5. By appointment, I met the United States' Commissioner and Mr. Cutts, at Bangor, in Maine, on the 23rd September, when we proceeded to consider the rivers just examined, thirty in number. It was first asked if I intended to withdraw any of them, to which I replied, that I expected each and all of them to be marked under the Treaty.

6. It was then proposed to "off-set" the rivers in the peninsula between the Delaware and Chesapeake Bay, against the rivers of Prince Edward Island, none to be marked on either side. The peninsula in question was said to be about the same size as Prince Edward Island, with rivers and inlets very similar in character. This offer I peremptorily declined.

7. Next, it was proposed to "match" the rivers of Prince Edward Island with rivers in New England, that is, rivers of equal size in each country, to be selected and "matched" against each other, and not marked with any restraining line, but left free and open to the fishermen of both countries. This proposal I rejected most positively, not only as exceedingly unfair, but as directly contrary to the Treaty.

8. These proposals were urged upon me almost offensively; and until I was obliged to refuse hearing anything more on the subject. Mr. Cutts then proceeded to mark the rivers of the island. We agreed as to the line marking the mouth of the Dunk (an unimportant river as regards the fisheries), and also as to lines marking the mouths of the Elliot and Montague, under protest. The remaining rivers of the island were wholly rejected, as not being rivers at all under the Treaty.

9. The necessary documents were prepared and signed, as part of the records of the Commission, copies of which are inclosed. The plans were also signed, and the United States' Commissioner then furnished me with a list of rivers on the coast of the United States, which he wished examined and marked during the present session. This I declined, on the ground that the wholesale rejection of rivers in Prince Edward Island rendered it necessary, before proceeding further, that a decision should be obtained, as to what does, or does not, constitute a river within the intent and meaning of the Treaty. A copy of the United States' Commissioner's letter to me, and a copy of my reply, are inclosed, to which I beg to refer.

10. The principles I laid down, at the outset, for defining the mouths of rivers, were readily adopted by Mr. Cutts and the United States' Commissioner, on the coast of the United States, where there was no disagreement between us; but on the coast of British North America those principles were evaded as long as possible, until at length the United States' Commissioner was driven to denying our rivers altogether. It thus becomes quite certain, that there is a determination not to exclude American fishermen from any of our waters where there are fisheries, if it be possible; and to hold out to the last against imposing any restraint upon them in the rivers or harbours of the Colonies.

11. Your Lordship will perceive, that if I had proceeded to designate the reserves

in the rivers of the United States, the Americans would soon have obtained all they desired, and then probably have refused to consider the Colonial rivers at all. Hence the stand I have been obliged to take, in order to compel the business of the Commission being conducted in a fair and equal manner; and I now await your Lordship's instructions as to my further proceedings.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure 1 in No. 18.

Extract from Records of the Commission.

WE, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Dunk River, emptying into Bideque Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide, that a line, bearing north (magnetic) drawn from the northern end of India Island to Green Shore or Wharf, as shown on the Plan No. 8, Record Book No. 2, shall mark the mouth or outer limit of the said Dunk River, and that all the waters within, or to eastward of such line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at Bangor, in the State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

WE, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the coasts of Prince Edward Island, one of the British North American Colonies, are unable to agree in the following respect;

Her Majesty's Commissioner claims that the undermentioned places are rivers, and that their mouths should be marked and defined, under the provisions of the said Treaty:—

Seal,	Winter,
Vernon,	Hunter.
Orwell,	Stanley.
Pinnetti,	Elli.
Murray,	Foxley.
Cardigan.	Pierre Jacques.
Boughton,	Brac.
Fortune,	Perival,
Souris,	Enmore,
St. Peter's (designated St. Peter's Bay in the map of the Island),	Ox.
Tryon,	Halimand,
Crapaud,	Sable.

The United States' Commissioner denies that the above-mentioned places are rivers, or such places as are intended to be reserved and excluded from the common liberty of fishing.

Dated at Bangor, in the State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

WE, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Elliot River, emptying into Hillsborough Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide that a line, bearing north 85° east (magnetic) drawn from Block House Point, to Sea-trout Point, as shown on the Plan No. 8, Record Book No. 2, shall mark the mouth, or outer limit of the said Elliot River; and that all the waters within, or to the northward

of such line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Elliot, York, and Hillsborough Rivers.

The United States' Commission agrees to the above line as the mouth of the Elliot River only, not recognizing or acknowledging any other river.

Dated at Bangor, in the State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

WE. the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Montague River, emptying into Cardigan Bay, on the coast of Prince Edward Island, on the British North American Colonies, do hereby agree and decide, that a line, bearing north 72° east (magnetic) drawn from Grave Point to Cardigan Point, as shown on the Plan No. 8, Record Book No. 2, shall mark the mouth, or outer limit of the said Montague River; and that all the waters within, or to the westward of such line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Montague and Brudenell Rivers.

The United States' Commissioner agrees to the above line, as marking the mouth of the Montague only, not recognizing or acknowledging any other river.

Dated at Bangor, State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

Inclosure 2 in No. 18.

Mr. Cushman to Mr. Perley.

Sir,

Bangor, September 28, 1856.

IN pursuance of the Agreement entered into by yourself and Richard D. Cutts, Esq., on the part of the Undersigned, at Washington on the 8th of May last, I herewith inclose a list of rivers lying to the westward of the Providence River, the mouths of which it is hoped may be examined and designated during the months of October and November.

Will you inform me when and where it will be convenient for you to meet me, for the purpose of proceeding with the above work, and of arranging any other matter connected with our duties? I would suggest New London, and the time, the 6th of October.

I am, &c.

(Signed)

G. G. CUSHMAN, *United States' Commissioner.*

LIST of Rivers in the States of Rhode Island, Connecticut, New York, and New Jersey, to be examined in accordance with the Ist and IInd Articles of the Reciprocity Treaty between the United States and Great Britain.

Pawcatuck,
Mystic.
Thames,
Connecticut,
Quinnipiac,
Saugatuck,
Norwalk,
Hudson,
Raritan.

It is understood, that the United States' Commissioner reserves the right of adding other rivers to the above list, should he hereafter, on examination of the coasts of these States, deem it necessary.

(Signed)

G. G. CUSHMAN

Inclosure 3 in No. 18.

Mr. Perley to Mr. Cushman.

Sir,

Boston, September 30, 1856.

I HAVE to acknowledge your letter of the 28th instant, inclosing a list of rivers which you hope may be examined and designated during the months of October and November.

Of the thirty rivers of Prince Edward Island lately presented by me for examination, you have marked three only, rejecting all the others. This wholesale rejection renders it necessary, before proceeding further, that a decision should be obtained as to what does or does not constitute a river within the intent and meaning of the Treaty.

Until this decision is obtained I decline visiting the places designated by you as rivers, in the list inclosed in your letter.

I have, &c.
(Signed) M. H. PERLEY.

No. 19.

Mr. Perley to the Earl of Clarendon.—(Received October 21.)

(No. 10.)

My Lord,

New York, October 8, 1856.

1. I HAVE the honour to acknowledge the receipt of your Lordship's despatches up to No. 5, of September 5th, 1856.

2. I have visited Boston and New York, at the present time, to examine yachts and other small vessels, and procure information as to the cost of purchasing, or building and equipping them, in order to a comparison with the cost and qualities of similar vessels, which I hope to have an opportunity of inspecting when I visit England. Until that occurs, I do not propose to join either in buying or building a vessel for the joint use of the Commissioners.

3. I am the less inclined at present to fix definitely upon a vessel, from the almost absolute certainty that after the 4th of March next, when the new President of the United States takes office, Mr. Cushman will cease to be Commissioner, and very likely some other person will be appointed as surveyor in the place of Mr. Cutts. It is quite possible that the gentlemen who are then appointed may have different views from Mr. Cushman and Mr. Cutts, and it is to be hoped may be more fair and reasonable men.

I have, &c.
(Signed) M. H. PERLEY.

No. 20.

The Earl of Clarendon to Mr. Perley.

(No. 6.)

Sir,

Foreign Office, October 21, 1856.

I HAVE to acquaint you that under the circumstances stated in your despatch No. 10, of the 5th instant, I approve of your delaying the purchase of a vessel, in conjunction with your American colleagues, for the purposes of the Commission for carrying out the Reciprocity Treaty.

I am, &c.
(Signed) CLARENDON.

No. 21.

The Earl of Clarendon to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, January 8, 1857.

I TRANSMIT to you herewith, for your information, a copy of the amended Laws and Regulations relative to fisheries in British North America, which have been communicated by Her Majesty's Secretary of State for the Colonial Department.

I am, &c.
(Signed) CLARENDON

Mr. Perley to the Earl of Clarendon.—(Received January 15, 1857.)

(No. 11.)

My Lord,

St. John, New Brunswick, December 27, 1856.

AFTER I had the honour of addressing your Lordship from New York, on the 8th October last, I received from Mr. Cushman, at Boston, a letter, copy of which is inclosed. A copy of my reply to this letter is also inclosed, and likewise a copy of Mr. Cushman's rejoinder, to which I made no answer.

2. While at Boston, I avoided a personal interview with Mr. Cushman, and since then have heard nothing from him.

3. Should the President elect, on assuming office, appoint a fit person as Commissioner, I doubt if there will be any necessity for that umpirage to which President Pierce has alluded to in his last Annual Message. The definition of a river in Webster's great American dictionary would be almost sufficient to guide any reasonable man to a proper conclusion.

4. When in England, I hope to have the satisfaction of consulting the hydrographer to the Admiralty as to the rivers of Prince Edward Island, and have the advantage of his opinion on the question of rivers generally.

5. Beyond obtaining precise information as to the cost of building and equipping a fit vessel for the use of the Joint Commission, I have taken no step in that matter; and I am gratified to learn by your Lordship's despatch No 6 of 21st October that this course has met your Lordship's approval.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure 1 in No. 22.

Mr. Cushman to Mr. Perley.

Sir,

Bangor, October 2, 1856.

I RECEIVED this morning your note of 30th September, in which you decline proceeding further with the work of our Commission until a decision should be obtained as to what does or does not constitute a river within the intent and meaning of the Treaty.

From the positive tone of your letter I infer that you wish an immediate reference to an arbitrator or an umpire of the cases of disagreement between us. For this purpose, and with the view of avoiding all further delay, I will meet you at Boston at the earliest day you will name.

It is to be regretted that a time and place of meeting should not have been indicated in your reply, as requested in my note of 28th of September.

It was partly to arrange this very matter that my letter of that date was addressed to you, although I thought then, and I still think, that, in pursuance of our agreement of May last, it is our duty to avail ourselves of this favourable season to continue the field work, reserving cases for arbitration for the winter months.

My address is "American House, Boston, Massachusetts."

(Signed) GUSTAVUS G. CUSHMAN,
United States' Commissioner.

Inclosure 2 in No. 22.

Mr. Perley to Mr. Cushman.

Sir,

Boston, October 10, 1856.

I HAVE just received your letter of the 2nd instant, and, in reply, beg to say that I am not at present in a position to nominate an umpire, under the provisions of the Reciprocity Treaty; but so soon as I am, I will communicate to you the name of the gentleman whom I may propose for that office.

For the reasons stated in my letter of 30th September, I decline proceeding further at this time with the business of the Fishery Commission, and I respectfully request

that any further communication with reference to such business may be in writing, and addressed to me at St. John, New Brunswick.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*

Inclosure 3 in No. 22.

Mr. Cushman to Mr. Perley.

Sir,

Boston, October 11, 1856.

I HAVE received your note of yesterday, in which you say you "are not at present in a position to nominate an umpire under the provisions of the Reciprocity Treaty, and that for reasons stated in your note of 30th September, you decline proceeding further at this time with the business of the Fishery Commission."

In your note of 30th September you say that I "have marked three only of the thirty rivers (you mean seven of the thirty) presented by you for examination on Prince Edward Island, and that this wholesale rejection renders it necessary before proceeding further that a decision should be obtained as to what does, or does not, constitute a river within the intent and meaning of the Treaty."

The matter of difference between us as to the rivers on Prince Edward Island, or elsewhere, is one, as I understand it, which the Treaty contemplates to be submitted to an umpire.

The question to be determined is, not the general question as to what does or does not constitute a river, within the meaning of the Treaty, but the question arising on each particular case in which the Commissioners differ in opinion.

As you are not now in a position to nominate an umpire, or to proceed further at present with the business of the Commission, will you be kind enough to advise me at what time you shall be able to do so, as it is very important that the business of the Fishery Commission should be closed at the earliest possible period? I will meet you at the earliest moment you shall designate for that purpose.

(Signed) G. G. CUSHMAN, *United States' Commissioner.*

No. 23.

Mr. Perley to the Earl of Clarendon.—(Received January 15, 1857.)

(No. 12.)

My Lord,

St. John, New Brunswick, December 29, 1856.

I HAVE the honour to state that, in pursuance of your Lordship's despatch No. 4 of the 13th August last, approving of my visiting England after the labours of the season were completed, I propose leaving for Liverpool in the steamer that sails from Boston on the 14th January.

2. The Government of New Brunswick being informed of my intention to proceed to England, has thought fit to intrust me with the execution of some important duties in the United Kingdom, with the view of promoting a large and healthy emigration to the Province. I have the honour to inclose, for your Lordship's information, a copy of my general instructions; further special instructions will be furnished me before I leave.

3. I beg to state to your Lordship that this movement with respect to emigration is undertaken in connection with regulations, recently established, for facilitating the sale of Crown lands to actual settlers, copies of which I have also the honour to inclose.

4. The tracts of land selected for settlement are all of superior quality, and in favourable positions. I took the liberty of suggesting the name of "Clarendon" for one of these tracts, containing 9,000 acres, distant only thirty-five miles from this city and sea-port. It forms part of a very fine sweep of country, much intersected with lakes and streams, and it may be increased to 100,000 acres, or even more, from ~~unsurveyed~~ land of good quality in its vicinity. At present this district is covered with a dense forest, through parts of which I have hunted. The game consists of Moose (American Elk), Carriboo (American reindeer), and the common red deer (*Cervus Virginianus*). The lakes and streams abound with trout. Being so near a sea-port that is open at all seasons, affording a ready market, this will probably become a favourite settlement, and be first taken up.

5. There are now two railways in progress in New Brunswick, each of which will

tend greatly to open up the country, and render its numerous resources and natural capabilities available to settlers. It is hoped that many British emigrants, instead of proceeding to a foreign country, may be induced to direct their steps to this favoured Province, and while retaining their allegiance to Her Majesty, will lend their aid to promote the advancement of a Colony among the nearest to England, and offering many inducements and advantages to settlers.

I have, &c.
(Signed) M. H. PERLEY.

No. 24.

Mr. Hammond to Mr. Perley.

Foreign Office, February 3, 1857.

MR. HAMMOND presents his compliments to Mr. Perley, and is directed by the Earl of Clarendon to acknowledge the receipt of his letter of the 30th ultimo, announcing his arrival in this country, and requesting an interview with his Lordship.

Lord Clarendon regrets that a press of business will prevent him receiving Mr. Perley, but Mr. Hammond, by his Lordship's directions, will be ready to see him at the Foreign Office any day after two o'clock.

No. 25.

Mr. Perley to Mr. Hammond.

Sir, *Burlington Hotel, Cork Street, February 10, 1857.*

I BEG leave to say that as Lord Napier is now in town, I shall have great pleasure in waiting upon him, if you will kindly send me a note stating his address, and the proper time for waiting upon his Lordship.

I spoke to Mr. Blackwood respecting the inspection at the Colonial Office of correspondence, plans, and documents relative to the British North American fisheries, and he said they would be open to me, on receiving an official communication from your Department. I therefore beg that you will be pleased to address the necessary official request to the Colonial Office.

Captain Washington has been particularly kind at the Admiralty, and when we have settled the various matters of detail there, I will address you officially on the subject.

In the Convention with France relative to the Newfoundland fisheries, I perceive that provision is made for the settlement of fishery bounds, by Commissioners, precisely as in the Reciprocity Treaty with the United States. It occurs to me that I could perform this duty with a French Commission, as several of the bounds are precisely such as I shall have to determine with the United States Commissioner. One vessel might answer for both Commissions, and thus much expense would be saved in every way, and there would be less correspondence. I believe I may say that the Colonial Office would support me for this further appointment, and it may, therefore, be matter for consideration at the proper time.

I have, &c.
(Signed) M. H. PERLEY.

No. 26.

Mr. Hammond to Mr. Perley.

Sir, *Foreign Office, February 13, 1857.*

WITH reference to your letter of the 10th instant, I am directed by the Earl of Clarendon to inform you that he has requested Mr. Secretary Labouchere to cause the necessary facilities to be afforded to you for inspecting the correspondence, plans, and documents respecting the British North American fisheries which are deposited in the Colonial Office, and that he has also informed Lord Napier of your wish to be placed in communication with his Lordship with reference to the service in which you are employed.

I am to add, with respect to your suggestion, that you should be appointed Commissioner on the part of Her Majesty's Government under the Convention relative to

the Newfoundland fisheries recently concluded with France, that the recommendation of an officer for the appointment in question will rest with the Colonial Government.

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

No. 27,

Mr. Hammond to Mr. Perley.

Sir, *Foreign Office, February 25, 1857.*
WITH reference to my letter of the 13th instant, I am directed by the Earl of Clarendon to acquaint you that Mr. Secretary Labouchere has stated to his Lordship that every facility will be afforded to you to inspect the correspondence, plans, and documents deposited in the Colonial Office which relate to the British North American fisheries.

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

No. 28.

Mr. Perley to Mr. Hammond.

(Private.)

Sir, *Burlington Hotel, Cork Street, March 10, 1857.*
I BEG to say that I am making progress at the Colonial Office with the examination of papers relative to the Newfoundland Fisheries, with which I find it necessary to become thoroughly acquainted, in order to avoid difficulties with my American colleague, whoever he may be. I now wait a quantity of printed papers, which are to be sent to me for perusal.

You are doubtless aware of the extreme anxiety of the Americans to possess Newfoundland, and meantime to secure a position there. They commenced their operations with the Electric Telegraph Company, and succeeded in obtaining from the Government of Newfoundland a monopoly of telegraphic communication in that island for fifty years, with a grant of about 3,000*l.* in money and 30,000 acres of land, on completing the line of telegraph from St. John's, by the southern coast, to Cape Ray, and thence by submarine cable to Cape Breton. They thus obtained the desired footing in Newfoundland, and are selecting the land in the most favourable positions for mining and other purposes. But I am now informed that, having secured their object, they propose abandoning the overland line of 100 miles in Newfoundland, and landing the Atlantic cable in Trinity Bay, taking a line across the narrowest part of the island, and thence by another cable direct to Nova Scotia, touching at the French islands of St. Pierre and Miquelon, and placing those islands in telegraphic communication with Paris.

The United States' Commissioner will be most anxious to extend the privileges conceded by the Reciprocity Treaty in Newfoundland to their utmost limits; and, if possible, involve the Governments of England and France in a dispute. Hence the necessity for great care and caution at the outset.

I am, &c.
(Signed) M. H. PERLEY.

No. 29.

Mr. Perley to the Earl of Clarendon.—(Received March 11.)

(No. 14.)

My Lord,

Burlington Hotel, Cork Street, March 9, 1857.

I HAVE the honour to inclose a list of the charts, already published, of British North American coasts and rivers, which, after examination, I find will be required for the use of the Fishery Commission.

I have therefore to request that your Lordship will be pleased to direct that a requisition be made upon the Admiralty for four copies of each of the charts mentioned,

the Government of the United States having undertaken to furnish the like number of charts of the coasts and rivers of that country.

I beg to state that two copies of each chart are required for the awards (which are made in duplicate), and two copies are required for use at each river, and for the umpire, when his services are required.

I have, &c.
(Signed) M. H. PERLEY.

No. 30.

Mr. Perley to the Earl of Clarendon.—(Received March 11.)

(No. 15.)

My Lord,

Burlington Hotel, Cork Street, March 10, 1857.

WITH reference to the communications I have already addressed to your Lordship on the subject of a cutter to be purchased or built for the use of the Fishery Commission, and to be owned jointly by Her Majesty's Government and that of the United States as an international vessel, I now beg leave to say that, after much deliberation, and some conversation with Captain Washington at the Admiralty, I have doubts whether such a vessel could be managed in a satisfactory manner without Acts of Parliament and of Congress, and much negotiation as to details.

I therefore beg to submit to your Lordship that my original proposition, of each Government furnishing a vessel on its own coast, and sharing the expenses, should be adhered to, as the better arrangement, and more likely to avoid difficulty.

A small steamer, of light draught of water, would be best adapted for the service on shores of Nova Scotia and Newfoundland, and within the Gulf of St. Lawrence, to be commanded by a Lieutenant in the Navy, assisted by a master's mate and a crew to be hired in the Colonies, as required.

If your Lordship approves this suggestion, I then propose that, instead of drawing upon the Treasury for a large sum to procure a cutter, inquiry be made at the Admiralty whether a small steam-vessel, of wood or iron, with screw or paddle-wheels, drawing not more than 8 feet of water (without armament), and having accommodation for six persons, besides the officers and crew, could be furnished for this service from among Her Majesty's steam-vessels now unemployed.

I have, &c.
(Signed) M. H. PERLEY.

No. 31.

Mr. Hammond to Mr. Perley.

Sir,

Foreign Office, March 25, 1857.

WITH reference to your letter of the 10th instant, suggesting that it would be advisable that the British and American Fishery Commissioners should each have a vessel at its own disposal for conducting the business of the Commission, instead of a joint one as at present arranged, and submitting whether a suitable vessel could not be provided by the Admiralty, I am directed by the Earl of Clarendon to acquaint you that having communicated your suggestion to the Lords Commissioners of the Admiralty, their Lordships have informed me, in reply, that there is not a vessel of the description required at their Lordships' disposal. And I am to request that you will state to Lord Clarendon what you would suggest under these circumstances.

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

No. 32.

Mr. Perley to the Earl of Clarendon.—(Received April 7.)

(No. 16.)

My Lord,

Burlington Hotel, London, April 4, 1857.

WITH reference to Mr. Hammond's letter of 25th March, informing me that the Lords Commissioners of the Admiralty have stated that there is no vessel of the

description required, at their Lordship's disposal, for the use of the Fishery Commission and requesting me to state what I would suggest under the circumstances, I have now the honour to state to your Lordship that, as the duties of the Commission will this season be resumed at Prince Edward Island, with the view of determining in the first instance what constitutes a river under the Treaty, and will probably be continued on the coast of the neighbouring Colonies and the shores of the United States, where a vessel may not be absolutely necessary, I propose that no expense should be incurred at present in procuring or maintaining a vessel specially for the service.

If it should happen that an outlying district, not accessible by land, should require to be visited, a fit vessel might be hired for the particular service, and thus a large saving would be effected, with only the disadvantage, perhaps, of some slight discomfort to the Commissioners.

I have, &c.
(Signed) M. H. PERLEY.

No. 33.

Mr. Perley to the Earl of Clarendon.—(Received April 7.)

(No. 17.)

My Lord,

Burlington Hotel, London, April 6, 1857.

I BEG very respectfully to state, that by your Lordship's despatch of May 25, 1855, I was informed that Her Majesty's Government had assigned me an allowance of 500*l.* by way of remuneration for the performance of my duties as Commissioner under the Treaty of 5th June, 1854, on the supposition that those duties would not extend over more than a single season.

Since that despatch I have received no intimation from your Lordship of the amount to be allowed for my services in 1856, or for any future services.

I beg permission to state that the United States' Commissioner and Surveyor have received the sum of 6,000 dollars in each season, for their services, equal to 1,250*l.* sterling. Of this sum one-third has been allowed to the Commissioner, and the other two-thirds to the Surveyor, who has been the real Commissioner, and has done most of the duty.

I have paid to my Secretary and Surveyor, the sum of 300*l.* in each season for his services, which have been performed efficiently. Considering that the duties occupy nearly the whole year, this allowance must be increased.

The preparation of all documents connected with the business of the Commission, including agreements, minutes, awards, and all the records of the proceedings, have been prepared by me, owing to the incapacity of the United States' Commissioner, and his Surveyor not being accustomed to that style of work.

I have now very respectfully to ask that your Lordship will be pleased to fix an allowance for the performance of the important duties of the Commission, taking into consideration the great extent of coast to be traversed, the varieties of climate between North Carolina and Labrador, the fatiguing nature of the work, and the attention it has required, and will require, throughout nearly the whole year until completed.

I have, &c.
(Signed) M. H. PERLEY.

No. 34.

Mr. Hammond to Mr. Perley.

(Private.)

My dear Sir,

Foreign Office, April 15, 1857.

BEFORE I answer your letter of the 6th, respecting your allowances, I should be glad to learn from you whether the United States' party, besides the sums assigned as salary, are allowed to charge their travelling expenses? whether I am to understand that you have received nothing in the way of salary beyond the 500*l.* assigned for the first season, and are therefore in arrear for the last (I believe you have been employed

two seasons)? from what source the money paid to the British surveyor has been drawn, and how long you consider that the Commission is likely to last?

I am, &c.

(Signed) E. HAMMOND.

No. 35.

Mr. Perley to Mr. Hammond.—(Received April 21.)

(Private.)

My dear Sir,

Burlington Hotel, April 15, 1857.

IN reply to your private note of this date I beg to say that the United States' party, in addition to the sums assigned as salary, are allowed their travelling expenses, for which the sum of 3,000 dollars was voted by Congress the first season, and a much larger sum the second season.

At the close of the first season I drew for the sum of 500*l.*, as directed by Lord Clarendon's despatch. At the end of the year 1856, during which I was employed almost continuously, and underwent much fatigue, I drew for 500*l.* on account of allowance for my own services, and there the matter stands.

My surveyor has been paid for his services up to the close of 1856, from the sums I have drawn on account of the expenses of the Commission.

As to the time the Commission is likely to last I really cannot answer, so much will depend on the activity and energy of the Commissioners, and their desire to finish the work.

I learn from Washington that a new Commissioner is to be appointed, and that Mr. Albion R. Parris, of Maine, will probably be my colleague hereafter. I know very little of Mr. Parris personally, but believe he has held some high offices in his State, and is considered a man of business. If so, we may get on faster than with the present most unfit Commissioner.

Along the coast of the United States, from North Carolina to the boundary at St. Croix, I do not anticipate any difficulty or disagreement; but in the infinity of rivers from thence northwardly to Labrador, there may occasionally be some disagreement, unless the United States' Commissioner should faithfully abide by the principles I have already laid down on the United States' coast, and to which *there* no objection has been made.

I am, &c.

(Signed) M. H. PERLEY.

No. 36.

Mr. Perley to the Earl of Clarendon.—(Received April 17.)

(No. 18.)

My Lord,

Burlington Hotel, London, April 16, 1857.

I HAVE the honour to state to your Lordship that I have carefully examined the whole of the Private and Confidential papers relating to the Newfoundland fisheries, from 1773 down to the present time, submitted to me by the Colonial Office; and I have also read attentively the various Parliamentary papers having reference to the same subject.

I have reason to believe that during the present season I shall be called upon by the United States' Commissioners to visit the rivers of Newfoundland, and that this demand will be made with the view of determining to what portions of the coast of that island American fishermen may hereafter have free access.

In order to define my present impression of the claims of French and American fishermen on the shores of Newfoundland, I have marked (in blue) on the accompanying chart the extent of coast, usually called the "French Shore," near which, under the Treaty of 1783, France claims an "exclusive" right of fishing, which has been rendered practically such by the occupation of the whole of the north-eastern coast by French fishermen, and by their driving off all other fishermen from the entire western coast down to Cape Ray.

On the same chart, to which I beg to refer, I have marked (in pink) that portion of the coast upon which the fishermen of the United States claim the liberty of taking fish, of every kind, for ever, in common with the subjects of Her Majesty, under the Con-

vention of 1818, the limits extending from the Ramean Islands, on the south coast, westwardly to Cape Ray, and thence northwardly to the Quirpon Islands.

The liberty of taking fish of every kind, except shell-fish, salmon, and shad, on the remaining portion of the coast of Newfoundland (uncoloured on the chart) is now claimed by the United States, under the Treaty of 5th June, 1854. The liberty thus given will enable the American fishermen to supply the French, at St. Pierre and Miguelon, with all the bait they require, unless the Government of Newfoundland speedily agrees to furnish such bait for a reasonable equivalent.

With respect to the portion of coast last mentioned, namely, from the Ramean Islands, south-eastwardly, to Cape Race, and thence northwardly to Cape St. John, I presume there is no doubt of the right of the fishermen of the United States to exercise their calling there, in common with the subjects of Her Majesty. The mouths of rivers on the whole of this extensive line of coast must therefore be defined, as all those rivers abound with valuable fish.

But I have to ask your Lordship's instructions as to visiting the other portions of the Newfoundland coast with the United States' Commissioner, more especially that part between Cape St. John and the Quirpon Islands, near which the Americans had not the liberty of taking fish under the Convention of 1818, but to which they will now set up a claim under the Treaty of 1854, as such part is considered the best fishing-ground in all Newfoundland.

Your Lordship will perceive that I have not referred to the Fishery Convention recently entered into between Her Majesty and the Emperor of France, and I beg very respectfully to be informed what effect, if any, it will have on my proceedings with the United States' Commissioners.

I have, &c.
(Signed) M. H. PERLEY.

No. 37.

Mr. Hammond to Mr. Perley.

Sir,

Foreign Office, April 21, 1857.

I AM directed by the Earl of Clarendon to inform you that, having had under his consideration your letters of the 6th and 15th instant, he is willing to increase the amount of remuneration assigned to you as Commissioner under the Treaty between this country and the United States, of June 5, 1854, from 500*l.* to 750*l.*, for the current season, and to your Surveyor the sum of 500*l.* for the same period.

You will draw for these sums in the manner pointed out in my letter of the 25th of May, 1855.

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

No. 38.

Memorandum respecting Convention with France relating to Newfoundland Fisheries.

THE rights of fishery on the coasts of Newfoundland at present secured to the French by Treaty, consists of the right to catch fish and dry them on land undisturbed by British competition ("concurrency"), between Cape St. John and Cape Ray, passing by the north; (the French fishing district, or, as it is usually called, the "French Shore," thus comprising the entire western coast 300 miles long, and about 100 miles in direct distance of the eastern, or, in all, about half the entire circuit of the island;) the right to the removal of all British fixed settlements ("établissements fixes" between the same limits; the right to erect wooden stages and huts for drying purposes; and the right to cut wood for the repair of these erections and of their fishing vessels. The French are bound to adhere to the plan of fishery "at all times acknowledged," and not to winter in the island.

These are the provisions of the Treaty of Utrecht (1713) as renewed, with certain changes, mostly in favour of the French, by the Treaty and Declaration of September 3, 1783, which latter engagements were renewed with peace in 1814 and 1815 (as they had been in 1802 at the Peace of Amiens); the Treaty of Peace of 1814, renewed by that of 1815, having replaced "the French right of fishery upon the great bank of Newfound-

Treaty of Utrecht,
Article XIII.

Declaration of
1783.

Declaration of
1783.

Declaration of
1783.

Definitive Treaty,
Paris, May 20,
1814, Article XIII.

land, upon the coasts of the island of that name, and of the adjacent islands in the Gulf of St. Lawrence, on the footing on which it stood in 1792."

In the working of these Treaty privileges of the French on the British coasts of Newfoundland, there have arisen various questions of right, and points of practical difficulty and inconvenience:—

1. In the first place, there is the question whether the French right of fishery is exclusive or concurrent.

This question, which is often supposed to have sprung from the ambiguous language of the engagements of 1783, in reality goes much further back. The Treaty of Utrecht, and after it the Peace of 1763 (which in this respect simply renewed the former), gave the French their right to fish and dry, without terming this right either exclusive or concurrent. The French frequently attempt to treat it as exclusive, but without success. The British Government, while these Treaties remained unchanged, denied any but a concurrent right, and the British fishermen, though not without serious collisions and contests for possession with the French, continued to use various portions of the "French shore" up to 1783. In the peace negotiations of 1783 the French Government began by pressing for the recognition of their exclusive claim, but they finally gave up the word "exclusive," and accepted instead the guarantee in the declaration, against "disturbance by competition." But the Treaty of 1783 was no sooner made than the whole question arose in this new shape, "What was the difference between a fishery thus guaranteed against competition and an exclusive fishery?" The local authorities were left for the first year or two without instructions, and the consequence was that the old collisions and contests for drying sites were renewed. To put an end to these, orders were given to the Governor by the King in Council, in 1786, to remove all British subjects with their vessels and property from the French limits, leaving the coasts in exclusive possession of the French. And in 1788, an Act of Parliament, 23 Geo. III, cap. 35, was passed to authorize the measures of removal, some doubt of the legal power of the Crown to adopt them having arisen. The French preserved their exclusive possession, thus began in 1786, till 1793, when war broke out again; were restored to it in 1802, at the Peace of Amiens, by proclamation of the Governor; again in 1814, by similar proclamation; and again in 1813, by the spontaneous departure of the British fishermen, without any proclamation; and they have preserved the same exclusive possession to the present time. The British fishing firms of Newfoundland, on the ground of there being no proclamation or law (which, in fact, there has not been to this present time since 1815), nor any express provision of Treaty requiring their relinquishment of the fishery, have from time to time, since 1815, made various attempts to fish within the French limits. But the French cruizers have always driven off the vessels by force; and our Government at home, though denying the exclusive right of the French in the abstract, and also their right to use force against our fishing vessels, have never practically interfered; the French fishermen continuing to the present time to enjoy their exclusive possession, and the French authorities to enforce it, between Cape St. John and Cape Ray.

The unsettled state of the claim, and the determination of the colonists (which is not surprising) to keep it alive, have at times produced considerable anxiety, though no serious difference has yet arisen with the French Government on the subject. The British carry on a considerable herring-fishery on the western coast, which being mostly a winter or early spring fishery, is generally finished before the French arrive on the coast. In 1852 a French cruizer arrived earlier than usual—perhaps purposely—on this coast, and drove out to sea a large number of British vessels, from Newfoundland and other Colonies, employed in the herring-fishery in St. George's Bay. Serious complaint was made from the Colony, and much anxiety was felt at home on the subject, but the matter was not pursued by our Government.

2. Another difficulty in the application of the Treaty engagements relates to the British obligation to remove fixed Settlements. This question, like the last, though the stipulation first occurs in 1783, goes back to an earlier period.

Newfoundland was at first colonized like other parts of British America, under successive charters from the Crown, beginning from the time of Queen Elizabeth. But by a series of instructions of the last century from the King in Council, founded upon the provisions or supposed intentions of various Acts of Parliament of the same period relating to the Newfoundland fisheries, all fixed residence and fixed property whatever, and everything like colonization, British or French alike, was prohibited throughout the island, French and British portion alike (with certain exceptions to meet the case of Settlements, such as St. John's, formed before this policy was adopted); the object being to keep Newfoundland as a fishing station for vessels from Europe, and so to make it a nursery for our home seamen, instead of its becoming a Colony of local fishermen. This

See Office Memorandum of 1787; and Mr. Fox to Duke of Manchester June 1783.

Royal Instructions, June 1786.

policy dates from the Act of 9 and 10 Wm. III, which first gave the adventurers from Europe rights, to the exclusion of the settled inhabitants of the island.

The regulations required that the coast should be left entirely vacant in the winter, and that the several fishing vessels from Europe, British or French, should have the choice of drying sites according to priority of arrival in each season; but, practically, there was a tendency to fixed Settlements, especially on the part of the British. The French frequently obtained orders from the British Government, before 1783, for the discontinuance of such Settlements, which kept out the French fishermen; and the Declaration of 1783 confirmed the French right to their removal, whenever formed within the French district, in express terms. The system being at the time what it was, viz., one prohibitory of all fixed property whatever, it was of course not thought necessary in 1783 to specify any description of Settlements, or any limits inland, for the right to removal.

This peculiar system of fishery from Europe, with prohibition of local Settlements, which must have been at all times difficult strictly to enforce, and to which, as above mentioned, exceptions had been from the first, and of necessity, tolerated, fell into general disuse, in the long war between 1793 and 1815; and though the Acts of Parliament and Instructions discouraging local fisheries and prohibiting settlement were not entirely repealed till 1824, a Colony had, in fact, grown up long before that date, whose fishermen were gradually replacing those of the United Kingdom in the local fisheries.

It was thus found, in 1815, that a certain amount of population with fixed buildings had grown up on the French Shore, as in other parts of the Colony. Orders were given by the Secretary of State, in 1815, that these buildings were not to be disturbed for the present. Not having been since objected to by the French (beyond occasional instances of removal of fences or other erections by French officers), the Settlements have continued to increase, and now comprise some thousands of inhabitants for the whole French Shore between Cape St. John and Cape Ray. The principal Settlement, which contains about 1,500 persons, is at St. George's Bay. Our Government, with some hesitation as to the Treaty permitting it, has latterly (since 1849) authorized resident police authorities to be established for these Settlements, which were for a long time without them, and it was only in the year 1854, and after similar hesitation, that they were induced in the electoral districts of the Colony, a local Act having been disallowed in 1835 because it contained provisions for this purpose. The population of the Settlements carry on a certain fishery, in the French season, but this being done for their own consumption and not for the export trade, the French do not seem to object to it, though at times levying a tribute in the shape of a portion of the British catch.

Though no serious question has as yet arisen with the French Government on the subject of these Settlements, it has long been considered a matter on which an arrangement by Treaty was desirable, not only in order to prevent dispute, but to liberate from the defect of title, hanging over all occupation of portions of the coast (which the lower 100 or 150 miles of the western coast is) of a highly improvable character, and better adapted by climate and fertility for colonization than almost any other part of the island.

3. Another point on which the operation of the Treaties has been attended with difficulty, is as to salmon and other river fisheries.

The French, as our own Law Officers have admitted, and as the practice seems to have always been, are not limited to any particular kind of fish, and may therefore take salmon as well as cod. The question is as to their right to enter rivers, and to what distance, for the purpose. Nothing is said in any of the Treaties on the point, the French fishery being only described as one "on the coasts." But the series of Royal Instructions sent out to the Governor between 1783 and 1793, authorize the French being allowed to fish half-a-mile above the mouths of rivers, but no further; the Governor being required to seize French nets and implements beyond that point.

There is a considerable salmon fishery carried on by the British, in the rivers between Cape St. John and Cape Ray, principally, it appears, by the fixed population; and serious complaints have been at times made of French interference with this fishery. Our Government appears to have adopted no measure of protection, since the Peace, in the matter, and it is to be feared that there is much French encroachment in rivers, not justified by the Treaties, though long usage may now be pleaded for it.

4. Again, a question has arisen whether the French rights of fishery extend to the smaller islands, three of some importance—North Belle Isle, South Belle Isle, and Grouais, adjoining the main island of Newfoundland; this island alone being mentioned in the Treaties, and not any other.

As to South Belle Isle and Grouais, which lie within the direct line between Cape St. John and the northern extremity of Newfoundland, the exclusive possession of the French

has extended to these islands, with but little disturbance from our fishermen. A fishing establishment was formed on one of them a few years since by a Mr. Crockwell, and became the subject of complaint from the French, and of correspondence between the Home and Colonial Governments. The local Attorney-General was of opinion that the Government had no legal power to remove "fixed Settlements," except on the Island of Newfoundland itself; but no practical difficulty arose, Mr. Crockwell having abandoned his establishment, it appears, in the midst of the discussion.

As to North Belle Isle, the French at one time fished there also, but they were driven off by our cruizers in 1841, and have not since re-occupied this fishery.

5. The French are bound by the Treaties to quit the coast "for the winter," without any dates being fixed for their departure or arrival. Some anxiety has been felt in the Colony, lest they should gradually advance their period of arrival, so as to enable them to undertake the seal fishery, which is an early spring fishery; but no practical question has as yet arisen on the point.

6. Another subject, not involving any question of right with the French, but which has been much under discussion with the French claims, is that of bait. The French supply themselves with herring and caplin as bait for their bank fisheries to the southward of Newfoundland by purchase from the British fishermen on the southern coast, where these fish abound, and where the French are without right to fish. This traffic was prohibited by an Act of Parliament of the last century, now obsolete. To replace that Act, a Local Act was passed in 1845 imposing a heavy export duty on bait, to prevent or check the traffic: but this law has never been practically enforced, the traffic going on to the present time without interruption. The French pay our fishermen for bait, it is said, as much as 20,000% annually. There is now less probability than ever that the prohibitory law will ever be enforced, the fishermen of the southern coast having now their representatives in the Assembly, and also because of the recent extension to Newfoundland of the Reciprocity Treaty of 1854, with the United States, under which the Americans can now take every kind of fish throughout the southern coast. Governor Darling observed, in 1856, that the only effect of enforcing the law now, would probably be, not to stop the traffic, but only to take it out of the hands of our fishermen, and throw it into those of the Americans.

The Americans, by the Convention of October, 1818, obtained the right to take fish of every kind "in common with British subjects" (but without any right to land) on the entire western coast, from Cape Ray to the Quirpon Islands. This arrangement, which is still in force (the provisions of the Reciprocity Treaty of 1854 being "an addition" to those of 1818), complicates the question of the French exclusive right. Several American vessels, in 1821 and 1822, endeavoured to fish on the western coast in pursuance of the Convention, but they were driven off by the French cruizers, like our own. A diplomatic protest was made by the United States' Government against this proceeding, but the attempt to fish has not been renewed since.

The recent Convention with France was designed to put an end to the various inconveniences and questions of right above described, including, as far as might be, the complication as to the United States, and, generally, to define all uncertain points in the fishery relations of the French and British on the coasts of Newfoundland.

Negotiations, with a view to an arrangement on the subject, were begun so far back as 1844, when Commissioners were appointed by the two Governments to discuss the matter in Newfoundland, the French Commissioner being Captain Le Fabvre, of the French navy, and ours, Mr. Thomas, a Newfoundland merchant of eminence. No result having ensued, the negotiations were next removed to Paris, where Commissioners met in 1846, Captain Le Fabvre, as before, on the part of the French, and Sir A. Perrier, British Consul at Brest, on ours. This meeting was again without result. In 1851 (nothing having been done in the meantime) the French proposed the resumption of the negotiations in consequence of a recent collision between the British and French fishermen, the object being, as Count Walewski observed, "pour mettre une terme à ces luttes incessantes, et déterminer nettement les droits de chacun." Sir A. Perrier accordingly met at Paris in 1852, a new French Commissioner, M. le Bon, who, however, only produced entirely inadmissible proposals. After this, a prolonged discussion took place, developing great difference of opinion between the Colonial and Foreign Departments, the Local Government, and Sir A. Perrier, as to counter-proposals to be made to the French Government in reply to those of M. Le Bon. In the summer of 1856, the matter being still no further advanced, it was agreed between the Governments to resume the negotiations in London. Captain Pigéard, of the French navy, arrived as French Commissioner, and after a prolonged negotiation, the result was the Convention signed on the 14th January, 1857, and ratified two days afterwards.

This Convention, according to provisions within it, being held subject to adoption by the Local Legislature of Newfoundland, it was sent out for their decision in a despatch from Mr. Labouchere dated the 16th January. It was rejected unanimously by resolutions of both Houses of the Legislature in the course of February.

The principal changes from the existing state of things, provided for in the Convention, consist of the admission of the British to the right of concurrent fishing (but without use of strand above Rock Point) on the entire western coast, from which they are now excluded; except at five reserved harbours, where the French are maintained in their exclusive right to a distance of three miles from the centre of each harbour, thus opening about 270 miles of coast to the British and reserving 30; and the admission of the French, on the other hand, to the right of concurrent fishing at North Belle Isle, with use of the shore jointly with the British, and on about 80 miles of Labrador, without use of the shore, on which coasts—both Labrador and the island—they have at present no fishery rights.

The Local Legislature strongly object to these changes, partly because of the inferiority of the cod-fishery on the western coast to that on the Labrador and at North Belle Isle, and also on the ground that there is practically no difference between concurrent rights and exclusive rights in the hands of the French. It is argued that our fishermen are unable to pursue the organized and superior system of fishery, fostered by the French bounties, and that wherever the French and British come together the former will sweep the coast of fish with their large nets and "bultows," and leave none for the latter. The withdrawal of the British fishermen, since (about) the year 1824 from the Banks (which are open to both parties) is cited as an instance of the inability of the British to maintain a concurrent fishery with the French.

A more favourable reception of these provisions by the Colony might have been expected for the following reasons:—

1. The Colonial Legislature, by their Act of 1855, adopting the Reciprocity Treaty with the United States, admitted the Americans, who are also supported by bounties (if of less value) to all the British sea fisheries throughout Newfoundland.

2. Mr. Archibald, the local Attorney-General, who advised the Colonial Office on the subject in 1853, saw no objection to concurrent rights on the western coast.

3. Mr. Thomas, of Newfoundland, when opposing concurrent rights in 1844, did not do so on the ground now taken in Newfoundland, but only because of their tending to collision. Now collision is provided against, in the Convention, by the regulations to prevent it, to be framed by Commissioners, and also by the assignment to the parties of entirely separate portions of strand, on which to dry and cure (with the slight exception of North Belle Isle). The old contests, be it observed, were for drying sites rather than for sea room.

4. The comparatively little use of the banks by the British (which is observable from a very early period) may be attributed to their finding the shore-fishery more profitable; and whatever bank-fishery they have relinquished since 1824 has been more than made good by the immense extension of the seal-fishery.

5. The fishermen of Bryant's Cove, Newfoundland, represented to the Local Legislature, some years since, that certain regulations only were required to enable them to use the bultow, which they called "the poor man's friend." It would be in the power of the Commissioners under the Convention to frame such regulations.

6. A considerable extent of concurrent fishery has long been practised by the French on the Labrador, by agreement with the British fishermen, the French usually giving the latter the cod's livers as the price of the permission to fish. A report of 1856, from Captain D'Eyncort, of Her Majesty's ship "Pylades," stated that this went on with a perfect understanding between the two sets of fishermen.

7. Against the inferiority of the cod fishery on the western coast has to be set the value of the herring fishery, which would be no longer limited to the winter, and the fact that the coast opened to the British, if inferior as fishing ground, is far greater in extent: 270 miles of extent being opened to the British by the Convention, and to the French only 80, together with North Belle Isle.

The Legislature particularly object to the proposed concurrent fishery at North Belle Isle, because the fish strike in there on their way to the Labrador; and the French, it is alleged, will be able to intercept them, if exercising the proposed right. Yet Mr. Thomas, who was well acquainted and personally connected with the fishery interests of the Colony, offered the French, in 1844, not merely a concurrent, but an exclusive, fishery at North Belle Isle.

The Convention recognises the French exclusive right from Cape St. John to Cape Norman at the northern extremity of the island, including the islands of South

Belle Isle and Groais. This is only a confirmation of the existing state of possession, which has lasted, as above explained, since 1786. Yet the Legislative Council, standing on their extreme claims, complain that by this arrangement "the subjects of Great Britain are to be deprived of all their concurrent rights between Cape St. John and Cape Norman."

The Convention substitutes for the indefinite French right under existing Treaties to use the shore, with removal of all British fixed settlements, an exclusive right to use, for fishery purposes, a strand half a mile wide from Cape St. John to Rock Point: all the fertile and improvable coast below that point to Cape Ray being relieved of all restrictions, except at the reserved harbours, where a strand of one-third of a mile in width, and co-extensive with each harbour, is reserved to the French. In the rivers, the right of the French is recognized as high as the salt-water between Cape St. John and Rock Point; but below that point, only up to half a mile above the mouth. The French officers are at liberty, under the Convention, to expel British vessels and remove buildings, where the exclusive French right is recognized, but only in the absence of British authority; and the full value of buildings of older date than five years must be paid by the French Government before they can be disturbed. The French right to cut wood, at present quite indefinite, is limited by the Convention to unoccupied land between Cape St. John and Rock Point, and to the specific distance of three miles from the centre of each reserved harbour below that point.

These various arrangements, which are mostly definitions rather than changes, are all considered injurious innovations by the Local Legislature, particularly that for the removal of buildings, or, as the Assembly term it, for the expulsion of British subjects from their homes. The Local Legislature do not advert to the provision for compensation, the effect of which would undoubtedly be to prevent the removal of any existing building of five years' date. In 1853, Governor Hamilton and his Executive Council expressed his concurrence in the nearly identical arrangements then proposed; and he added that the proposed powers of summary removal by French officers appeared as guarded, unobjectionable, though he considered them unnecessary. Mr. Archibald, the Attorney-General, fully concurred in giving the powers, as a better arrangement than the inevitable alternative of their being exercised, as heretofore, without legal authority.

The Convention fixes the French season, at present undefined, at six months, to begin 5th April and end 5th October. This is complained of by the Legislature as "an extension;" but Governor Darling reported in 1856, in a Memorandum concurred in by his Executive Council, that "by immemorial practice" the French season began about the 15th April and ended about the 10th October. There is, therefore, no real extension.

Lastly, the Convention secures to the French the right of purchasing bait, with the right to fish for it themselves, if the supply by purchase fails; and the British Admiral on the station considers their claim to do so, good. These provisions were intended only to make the French secure of the continuance of the existing practice of supply; but they are strongly objected to by the Local Legislature. The Assembly observe, that "to require that we should consent to legalize a traffic so suicidal to our interests is most unreasonable." This opinion, agreed to unanimously by the House, was, perhaps, the least to be expected of all the objections urged against the Convention, as Governor Darling proposed in a despatch only last year, that the traffic should be legalized, as it could not be stopped, and this proposal, it would appear from another despatch, met, at the time, with the unanimous concurrence of the Executive Council, who command a majority in the House.

May 10, 1857.

Sections 19 and 20 of Governor Hamilton's despatch No. 67, September 28, 1853.

Memorandum of Governor, inclosure in despatch No. 66, July 23, 1856.

Address to Mr. Labouchere, March 1857.

Governor Darling's No. 66, July 23, 1856.

Governor Darling's No. 70, July 28, 1856.

No. 39.

Mr. Hammond to Mr. Perley.

Sir,

Foreign Office, May 11, 1857.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 16th ultimo stating that you have reason to believe that you will be called upon by the United States' Commissioner to visit the rivers of Newfoundland during the present season, and giving your views on the subject of the claims of French and American fishermen on the shores of that Colony; and I am to state to you in reply that Lord Clarendon is not aware of any reason for not at once acceding to such a request on the

part of the United States' Commissioner, so far as regards the southern coast of Newfoundland and the adjoining eastern coast up to Cape St. John; but as regards the other portion of the coasts of the island, to which the French rights of fishery apply, viz., the western coast, and the northern and eastern coast above Cape St. John, it will be expedient that, before arranging to visit those coasts with your colleague, you should make a preliminary inspection of them by yourself, in order that you may have an opportunity of referring to Her Majesty's Government any question arising out of the co-existent rights of the three nations, or the usages prevailing on those coasts, on which you may wish to receive instructions before you enter upon your labours with the United States' Commissioner.

With regard to your inquiry as to what effect (if any) the recent Fishery Convention with France will have on your proceedings with the American Commissioner, I have to acquaint you, that that Convention having been rejected by the Newfoundland Legislature, whose concurrence was requisite to give it effect, your proceedings with the United States' Commissioner need not be affected by its provisions.

I am, &c.
(Signed) CLARENDON.

No. 40.

Mr. Perley to the Earl of Clarendon.—(Received May 19.)

(No. 19.)

My Lord,

Burlington Hotel, London, May 14, 1857.

I HAVE the honour to acknowledge Mr. Hammond's letter of the 11th instant, informing me, by your Lordship's direction, that it is expedient I should visit the western coast and the northern and eastern coast of Newfoundland, to which the French rights of fishery apply, before visiting those coasts with my colleague, to make a preliminary inspection by myself, in order that I may have an opportunity of referring to Her Majesty's Government any question arising out of the co-existent rights of the three nations, or the usages prevailing on those coasts, upon which I may wish to receive instructions before entering upon my labours with the United States' Commissioner.

With reference to that, I beg to state to your Lordship that I expect to resume the business of the Fishery Commission, at Prince Edward Island, by the middle of next month, either with my present colleague and an umpire, or with a new colleague, whom, it is believed, the President of the United States will appoint. In either case, while the umpire or my new colleague is visiting the rivers I have already examined carefully, and respecting which the difference of opinion exists, I shall have leisure to inspect the neighbouring coasts of Newfoundland within the six weeks in July and August to which the short summer of the northern region is limited, and during which alone it can be visited with safety or advantage.

As the Admiral on the North American Station usually despatches one or two ships of war each season for Halifax or the Gulf of St. Lawrence, one of which visits the western coast of Newfoundland and Labrador, I have respectfully to request that your Lordship will be pleased to take the necessary steps for causing directions to be sent to Admiral Sir Houstoun Stewart, at Halifax, to give me a passage in the vessel of war to be sent to the west coast of Newfoundland during the present season, and thus enable me to visit the French Shore, without incurring the delay and expense of hiring and fitting out a vessel specially for the service.

I beg to suggest that the lightest class of vessel (a brigantine if possible), with the least draught of water, would be the best adapted for visiting the coasts in question, as such vessel could enter the smaller harbours, from whence the fisheries are chiefly prosecuted.

I have, &c.
(Signed) M. H. PERLEY.

No. 41.

Mr. Hammond to Mr. Perley.

Sir,

Foreign Office, May 16, 1857.

WITH reference to your letter of the 14th instant, requesting that a vessel may be placed at your disposal to visit the coast of Newfoundland, I am directed by the Earl of

Clarendon to acquaint you that application had already been made to the Board of Admiralty to that effect; and that that Department has stated, in reply, that the Commander-in-chief of Her Majesty's naval forces on the North American Station shall be instructed accordingly; but that it is very doubtful whether Sir Houstoun Stewart will have a vessel at his disposal for this purpose.

Under these circumstances, I am to request that you will inform Lord Clarendon what course you consider it will be advisable to pursue in the event of no ship of war being found available for your conveyance to Newfoundland.

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

No. 42.

Mr. Perley to Mr. Hammond.—(Received May 20.)

Sir,

Burlington Hotel, May 19, 1857.

IN reply to your letter of the 16th ultimo, requesting me to state, for the information of Lord Clarendon, what course I consider it advisable to pursue in the event of no ship of war being found available for my conveyance to Newfoundland, I beg to say that in such case it will not be possible for me to inspect the coast in question during the present season, as it will be too late to hire and fit out a merchant-vessel for the service, or to procure a competent master and crew for that coast.

It would be exceedingly desirable, and, in fact, absolutely necessary, that I should have the aid of competent naval officers when first visiting a coast of which so little is known; and if a vessel of war cannot at present be spared for the service, I see no other course but to defer the examination until another season.

I have, &c.
(Signed) M. H. PERLEY.

No. 43.

Mr. Hammond to Mr. Perley.

Sir,

Foreign Office, May 25, 1857.

WITH reference to your letter of the instant, I am directed by the Earl of Clarendon to transmit to you the accompanying copy of a letter from the Board of Admiralty.*

As that Department will not be able to supply you with officers or men for any vessel which you may hire to convey you to the coasts of Newfoundland, I am to request that you will state, for Lord Clarendon's information, what you consider will, under the circumstances, be your best mode of proceeding to that Colony, in case it should turn out that Sir Houstoun Stewart cannot provide you with the means of doing so.

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

No. 44.

Mr. Perley to the Earl of Clarendon.—(Received July 13.)

(No. 21A.)

My Lord,

Halifax, July 1, 1857.

I HAVE the honour to report to your Lordship that I arrived here from England on the 2nd day of June, and finding Admiral Stewart had not arrived, I addressed a letter to him at Bermuda, stating the duty I had to perform on the coast of Newfoundland, and requesting him to furnish me with a vessel of light draught of water for the service.

I then proceeded to my residence at St. John, New Brunswick, and advised Lord Napier of my readiness to resume the duties of the Fishery Commission with the United States Commissioner. At the same time, I submitted, for his Lordship's approval, the name of the Honourable John Hamilton Gray, late Attorney-General of

New Brunswick, as that of the person I should propose to nominate as umpire under the 1st Article of the Treaty.

I have also written to Mr. Cushman, intimating my readiness to resume the duties of the Commission, and desiring him to name a time and place of meeting. I am under the impression, however, from private information I have received, that another Commissioner, in place of Mr. Cushman, will be appointed at Washington this day.

But whoever the Commissioner may be, I shall lose no time in proceeding with him to Prince Edward Island, and there make such arrangements as will enable me, without delaying the business of the United States' Commission, to proceed to Newfoundland on the special duty assigned to me there.

I have, &c.
(Signed) M. H. PERLEY.

No. 45.

Mr. Perley to the Earl of Clarendon.—(Received July 13.)

(No. 21B.)

My Lord,

Halifax, July 2, 1857.

I HAVE the honour to acknowledge Mr. Hammond's letter of May 25th, transmitting copy of a letter from the Board of Admiralty, and requesting me to state what I would consider the best mode of proceeding to Newfoundland, in case Admiral Stewart could not provide me with the means of doing so.

I am happy to inform your Lordship that Admiral Stewart has this day placed Her Majesty's cutter "Netley" at my disposal, for the purpose of visiting those portions of the coast of Newfoundland to which the French rights of fishery apply. This vessel is 140 tons burthen, and will be furnished with officers and a crew from the flag-ship "Indus."

The "Netley" will be ready for sea to-morrow evening, and will proceed at once to Charlotte Town, Prince Edward Island, from whence I will proceed in her to Newfoundland so soon as I have arranged with the United States' Commissioner for going on with his work during my absence, which will not be a moment longer than is necessary to carry out your Lordship's instructions.

I have, &c.
(Signed) M. H. PERLEY.

No. 46.

The Earl of Clarendon to Mr. Perley.

(No. 2.)

Sir,

Foreign Office, July 14, 1857.

I HAVE to acquaint you that, I approve of your proceedings with reference to the business of the Fishery Commission, as reported in your despatch of the 1st instant.

I am, &c.
(Signed) CLARENDON.

No. 47.

Mr. Perley to the Earl of Clarendon.—(Received August 24.)

(No. 22.)

My Lord,

Charlotte Town, Prince Edward Island, August 1, 1857.

I HAVE now to state, for your Lordship's information, that by arrangement with the United States' Commissioner, Mr. Cushman, I met him at Eastport, in the State of Maine, on the 17th July, and proceeded to appoint an umpire, to settle the differences between us. Having previously obtained the approval of Lord Napier, I proposed the Honourable John Hamilton Gray, late Attorney-General, and leader of the Government in New Brunswick. Mr. Cushman proposed Bion Bradbury, Esquire, of Eastport. The choice was then decided by lot, as provided by the Treaty, and fell upon Mr. Gray, whom the United States' Commissioner admitted to be an unexceptionable person.

Mr. Cushman accompanied me to St. John, and there, on the 22nd July, Mr. Gray took and subscribed the solemn declaration required by the 1st Article of the Treaty, in

presence of us, and before the Mayor of the City, and the United States' Consul at that port.

A wish having been expressed by Mr. Cushman, and Mr. Cutts, his Surveyor, to proceed with the examination of the rivers of New Brunswick during the present season, I furnished them with a list of twenty-six rivers in that Province, which require to be examined and marked, together with copies of the Admiralty Charts and Provincial Maps relating to the same.

Mr. Cushman left St. John on the 23rd July, apparently satisfied in every particular. He proposes to commence with the rivers on the northern side of the Bay of Fundy, and when these are finished, to proceed to Baie Verte, in the Gulf of St. Lawrence, and examine the rivers from thence northwardly to the Canadian boundary at the River Restigouche.

It was agreed between Mr. Cushman and myself that we should meet at Boston, the last week in September, to make our awards on the rivers of New Brunswick (with which I am perfectly familiar), and receive the decisions of the umpire upon the cases submitted to him; with the understanding that after the 1st of October we should proceed with the examination of rivers on the American coast in the States of Connecticut and New York.

The arrangements being completed, and all necessary documents signed, I left immediately for this place, with Mr. Gray and my Surveyor, and arrived here yesterday morning. On my intimating to the Lieutenant-Governor of this island the nature of Mr. Gray's duties, he issued a Proclamation—copy of which is inclosed. My Surveyor will accompany Mr. Gray over this Colony, and point out to him the several localities and rivers in dispute, an arrangement to which Mr. Cushman offered no objection. They commenced their labours this day.

I found here Her Majesty's cutter "Netley," under the command of Lieutenant J. G. Mead, R.N., with officers, and a crew of picked men from Sir Houstoun Stewart's flag-ship the "Indus," all ready for my trip to those parts of the coast of Newfoundland to which the French rights of fishery apply.

I shall put to sea in the "Netley" without delay. Admiral Bayfield happens to be here, and has recommended a competent pilot for the wild coast we are to visit.

In order to procure the information desired, I shall probably make the entire circuit of Newfoundland. Under favourable circumstances, I hope to return to Halifax by the 15th or 20th of September, and meantime shall have much rough work to perform.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure in No. 47.

A Proclamation.

By his Excellency Sir Dominick Daly, Knight, Lieutenant-Governor and Commander-in-chief in and over Her Majesty's Island Prince Edward, and the Territories thereunto belonging, Chancellor, Vice-Admiral and Ordinary of the same, &c.

(L.S.) D. DALY, *Lieutenant-Governor.*

To all Sheriffs, Justices of the Peace, Revenue Officers, and others, inhabitants of this Island, greeting.

WHEREAS it has been officially notified to me, that the Honourable John Hamilton Gray, of the Province of New Brunswick, has been appointed Arbitrator or Umpire, under the 1st Article of the Treaty relative to Fisheries, and to Commerce and Navigation, concluded at Washington, on the fifth day of June, in the year One thousand eight hundred and fifty-four, between Great Britain and the United States of America, in order to determine differences of opinion which have arisen between the Commissioners appointed by Her Majesty and the United States of America, under the said Treaty; and Her Majesty's Commissioner having reported to me, that the said Arbitrator or Umpire is about to visit the coasts and rivers of this island, in the discharge of his duties, I have thought fit to direct and require, and I do by these presents require you, and each of you, to give to the said Arbitrator or Umpire such information and aid as he, in the execution of his duties, may request from you.

Given under my hand and the great seal of this Island, at Charlotte Town, this first day of August, in the year of our Lord one thousand eight hundred and fifty-seven, and in the twenty-first year of Her Majesty's reign.

By command,
(Signed) GEORGE COLES, *Colonial Secretary.*

God save the Queen !

No. 48.

The Earl of Clarendon to Mr. Perley.

(No. 3)

Sir, *Foreign Office, August 26, 1857.*
I HAVE to convey to you my approval of the selection of Mr. Gray as Arbitrator to decide on the question at issue between yourself and Mr. Cushman, the United States' Commissioner, and of the arrangements which you had made for carrying out the survey of the rivers of Newfoundland, as reported in your despatch No. 22 of the 1st instant.

I am, &c.
(Signed) CLARENDON

No. 49.

Mr. Perley to the Earl of Clarendon.—(Received November 2.)

(No. 23.)

My Lord, *St. John, New Brunswick, October 19, 1857.*
I HAVE the honour to report, that on the 4th of August last, I sailed for Charlotte Town, in Her Majesty's cutter "Netley," and, proceeding to Newfoundland, commenced my inquiries on its West Coast at Cape Ray. Thence I followed up the coast northwardly, examining its bays and harbours, until reaching the Straits of Belle Isle, which I crossed to Forteau on the Labrador coasts, and thence followed that coast northwardly to Red Bay.

At Labrador, I met the two Newfoundland Government cutters, which had been sent with a member of the House of Assembly in each, to take the census of the east and west coasts respectively. This duty they had severally performed, and were then engaged, with other vessels, in protecting the fisheries at Labrador. From Mr. Kelley I received a copy of the information he had gathered as to the British population, and their fisheries, on the west coast; and a similar return from Mr. Prendergast for the east coast, as well as returns of the French fisheries there this season. The information obtained from Mr. Prendergast rendered it unnecessary for me to visit the east coast; and we sailed from Labrador on the 1st of September, on our return, the weather then very cold, the sails and rigging stiff with frost. We had seen the preceding week an iceberg off Red Bay, aground in the Straits of Belle Isle, in 40 fathoms water.

In coming down the west coast of Newfoundland on my return, I visited several harbours which I had not been able to enter going up, owing to heavy weather; and thus my information as to that coast became tolerably complete.

During this cruise, the weather was unusually stormy, one heavy gale succeeding another with but brief intermission. The "Netley" rode out one terrific gale under the cliffs near Red Island, when for thirty hours we expected every moment to be dashed to pieces. After being severely tempest-tossed in the Gulf for several days, we reached the harbour of Pictou, in Nova Scotia, on the 9th of September, where I left the "Netley," which proceeded thence to Halifax, to rejoin the Admiral. The night before we entered Pictou Harbour was the most terrific I ever encountered at sea, although tolerably well accustomed to the ocean. Sleep, dry clothes, or a comfortable meal, for a week previously, had been quite out of the question.

The officers and crew of the "Netley" had been well selected by Admiral Sir Houstoun Steward, and but for the superiority of all in their respectful stations I should not now have the honour of writing this despatch to your Lordship.

The information obtained on this cruise as to the east and west coasts of Newfoundland, I have embodied in the two memorandums and papers annexed, sent herewith, which I beg to submit with great difference to your Lordship. It appears to me unnecessary to

point out specially the various assumptions of the French beyond Treaty stipulations, as those will readily be perceived by your Lordship.

The rivers of Newfoundland which I examined have nearly all the same character. They are rapid, rocky streams, taking their rise in very high land, and descending by a succession of falls to the sea, which they almost invariably enter with a fall of some height, or a powerful rapid, called in Newfoundland "the rattle."

I cannot conceive, therefore, that anything is to be gained by marking the mouths of rivers which nature has clearly defined already. I, therefore, respectfully submit to your Lordship as my opinion, that it will not be necessary to visit with the United States' Commissioner, or to mark the mouths of any of the rivers of Newfoundland, between Cape Ray and Quirpon, or thence to Cape St. John, on the East Coast; and this opinion, I trust, will met with your Lordship's approval.

I heard of few American vessels on the Newfoundland coast. When they fish there, they generally do so in company with Colonial vessels, without showing any colours. If they hoist their colours, and they are seen by a Frenchman, the American is immediately ordered off, the French alleging that citizens of the United States have no right whatever to fish there. A case of this kind occurred at New Ferolle, on the West Coast during the present season, and the American went quietly away as they have always done previously. But at some unexpected moment, an obstinate American fishing-captain, especially if in the midst of good fishing, may refuse to go, and then a collision and difficulty will arise.

I have procured some interesting information as to the fisheries of Labrador, which are intimately connected with those of Newfoundland, from the migration of the cod and the caplin, and other causes.

This information I propose to submit to your Lordship hereafter, in another memorandum.

I have, &c,
(Signed) M. H. PERLEY.

Inclosure in No. 49.

Memorandum of information relative to the French Fisheries of Newfoundland.

THERE are at Newfoundland three distinct fisheries for cod, prosecuted by the fishermen of France, under various Treaties and Agreements with England.

The first of these is the fishery upon the Grand Bank of Newfoundland, and upon the lesser banks near St. Pierre and Miguclon, which is carried on in the open sea, at some distance from land, in vessels of large size, and may properly be designated the "sea fishery."

The second is the fishery in harbours upon the east coast of Newfoundland, between Cape St. John and Cape Norman. The cod are always found in these harbours during the season, and from the fixed character of the fishing, it is called by the French the "sedentary fishery."

The third is the fishing in the bays and along the west coast of Newfoundland, from Cape Ray to Cape Norman, as also in the Gulf of St. Lawrence. From the incessant movements and migrations of the cod in the gulf, it is necessary to pursue them to their various feeding and spawning grounds. Hence the taking of cod on the west coast, and within the gulf, is designated by the French a "nomade fishery," and the mode of fishing is styled "en défilante le golfe."

Each of these fisheries is fostered and sustained by the following bounties, established and made payable by a Law of France, passed 22nd July, 1851, which will continue in force until the 30th June, 1861.

1. For each man employed in the cod-fishery (with drying), whether on the coast of Newfoundland, at St. Pierre and Miguclon, or upon the Grand Bank, 50 francs.

2. For each man employed in the cod-fishery on the Grand Bank, without drying, 30 francs.

3. For dried cod, of French catch, exported directly from the place where the same is caught, or from the warehouse in France to French Colonies in America or India, or to the French establishments on the west coast of Africa, or to trans-Atlantic countries, provided the same are landed at a port where there is a French Consul, per quintal métrique (equal to 220½ lbs. avoidupois) the sum of 20 francs.

4. For dried cod, of French catch, exported either direct from the place where

caught, or from ports in France, to European countries or foreign States within the Mediterranean, except Sardinia and Algeria, per quintal métrique 16 francs.

5. For dried cod, of French catch, exported either to French Colonies in America or India, or to trans-Atlantic countries, from ports in France, without being warehoused, per quintal métrique 16 francs.

6. For dried cod, of French catch, exported direct from the place where caught, or from the ports of France, to Sardinia or Algeria, per quintal métrique, 12 francs.

7. For cod-livers which French fishing-vessels may bring into France as the product of their fishery, per quintal métrique 20 francs.

The Bank or Sea Fishery.

The sea-fishery on the banks of Newfoundland is prosecuted either with or without drying the cod. When the fishery is without drying, the cod are salted on board the fishing-vessel, and each vessel sails for France as soon as its cargo is completed. The produce of this fishery is entirely consumed in France, and it is there called "la morue verte." This mode of fishing employs fewer men than the fishery with drying; but yet its returns are far more abundant.

When the sea-fishery is with drying, the cod are taken on shore, either at St. Pierre and Miquelon, or upon some part of the coast of Newfoundland where drying privileges are reserved, and are there cured in the ordinary manner.

The vessels engaged in the bank-fishery (thence called "bankers") are from 150 to 500 tons burthen and upwards. They are not permitted to sail from France before the 1st day of March in each season; and they first proceed to the Island of St. Pierre, where they procure a sufficient supply of salted herrings and caplin for bait. They then proceed to the banks, where they lie at anchor, in about forty fathoms water. Long lines, with several thousand hooks attached (called, by the English, "bultows," and by the French, "harouelles"), are sent out in every direction. Of all kinds of fishing, this is the rudest and most exposed. The boats are sent out every day, in the heaviest seas, to set, and again to take up, these long lines. It is alleged by the French that this fishery is the very best school for sailors, and that the men trained in it constitute the *élite* of the French navy.

By an official Return, published in France in 1851, it appears that, during the preceding five years, the number of vessels engaged on the Grand Bank in the fishery, without drying was 95, of the burthen of 13,703 tons, and employing 1,506 men. During the same period the average number of "bankers" engaged in the fishery with drying, was 43, of the burthen of 5,846 tons, employing 1,703 men. It is believed that, more recently, the number of vessels engaged in the bank fishery, with drying, has considerably increased; the latest Return the writer has been able to procure showing 51 vessels, of the burthen of 7,066 tons, employing 2,150 men. In the fishery without drying, the number is said to have increased even more largely.

The Coast Fisheries.

The French fisheries on the east and west coasts of Newfoundland are regulated by a Decree dated the 2nd of March, 1852, of which an abstract is hereunto annexed, marked No. 1. To this abstract special reference is made, as it describes with precision the various modes of conducting the fisheries both "nomade et sédentaire."

Under the provisions of this Decree, a meeting took place at St. Sevran on the 5th, 6th, and 7th of January, 1857, of the "armateurs" of vessels engaged in the Newfoundland fisheries, which was presided over by M. de Bon, Commissaire de Marine de première classe, and M. Mazères, Capitaine de Vaisseau, commandant la division navale de Terre Neuve. At the close of this meeting, during which many interesting discussions took place, there was the "tirage-général," for fishing stations on the east and west coasts of Newfoundland; such stations or places to be held for the next five years, or until 1862.

The number of vessels of all classes, entered for the "tirage-général," in 1857, was 117 only; whereas at the drawing of 1852, the number was 164; thus classed in each case:—

	January 1852.	January 1857.
Vessels of 1st series	91	82
" 2nd series	48	26
" 3rd series	25	9
Total	164	117

It must be remembered that, besides the fishing vessels thus attached to the fixed stations, there are many others that obtain license to fish in the bays and places where the fishery is common to all.

The East Coast.

By the annexed Return, marked No. 2, it will be seen that on the east coast of Newfoundland, from Cape St. John to Cape Norman the number of fishing stations offered at the drawing of January last, was 170; but that only 98 of these were actually occupied during the season of 1857. At each of these stations there was, this year, one vessel, chiefly brigs from 100 to 300 tons burthen, employing in the aggregate 783 boats, 158 seines, and 5,205 men.

From the best information the writer could obtain it is believed that the French catch of cod on this coast during the past season did not exceed an average of 40 quintals per man. This is stated to be below the usual average; and the deficiency is said to have arisen from the French having been effectually prevented this year from taking cod either at Belle Isle North, or on the coast of Labrador.

The fishing-vessels resorting to this coast cannot, by law, sail from France until the 20th of April in each year. They arrive on the coast at the end of May, bringing with them a supply of salt and all their implements for fishing. Having moored their vessels in safety, they commence the repairs of their houses, fishing-stages, and huts for the men. The large boats, which were hauled up in places of safety at the close of the preceding year's fishing, are repaired, launched, and fitted. Each vessel has from six to ten of these boats, according to the number of its crew. They are of large dimensions, being from twenty-five to thirty feet in length, with great breadth of beam, and all rigged alike, with two lug-sails. In each boat there are two men and a boy; they start early every morning for the fishing-ground, where they fish with hand-lines until the boat is filled with cod. With these they return to the landing-place, when the boats' crew are relieved, the shoresmen throwing the fish upon the stage, where they are split and dressed.

The fishing operations here are seldom or ever interrupted during the season by those dense fogs which prevail in the more southern parts of Newfoundland.

At several places on this coast there is good timber for small vessels, and the French build here many of the large boats used in their fishery.

Great quantities of small cod are taken early every season in seines; and this immense destruction of young fish is said to have a most injurious effect upon the cod fishery generally in this quarter. The use, also, of the "bultows," or long lines, is alleged to have still further injured that fishery, by destroying the spawning fish; and the French fishermen are by no means agreed as to the policy of using these long lines, to which many of them are opposed.

In 1852, the French erected at Quirpon a large manufactory for preparing manure from the offal of the cod. It consisted of stores, dwelling-houses, and four mills driven by small steam engines, with kilns for drying; the whole costing 400,000 fr. It was a permanent establishment, wholly contrary to Treaty stipulations. Two Frenchmen, subjects of France, were left in charge during the winter, and much fish manure was prepared at this establishment until within the last two years, when it was closed. During the past season the whole of the buildings, machinery, and plant, were removed, and carried back to France.

As the reason for breaking up this establishment, it was stated that the prepared manure did not contain sufficient ammonia to render it valuable, or its manufacture profitable. The British fishermen are of opinion, however, that the discontinuance took place in consequence of there not being a sufficient supply of offal to keep the manufactory in full operation; and that this deficiency arose from the French being driven off the prolific fishing-grounds at North Belle Isle, where those having stations at the northern part of Newfoundland were previously accustomed to get half their fares.

As an instance of the wanton waste and destruction of the French fishermen, when suffered to poach at North Belle Isle, it was mentioned to the writer that, some two or three seasons since, near the close of the fishing, the French took such immense quantities of cod near that island in their enormous seines, that they did not even attempt to cure them. They merely took out the livers, for their oil, and threw the fish over the stage-head at Quirpon into the sea, where they accumulated to such an extent that it became difficult for loaded boats to get up to the stage. This filling up of the harbour of Quirpon was brought under the notice of the French Government, by some of the French fishermen, as a grievance; and at the meeting of "armateurs" in January last an

official letter was read, stating that the obstruction had been fully removed, and the grievance no longer existed.

The French usually depart from this coast in the beginning of October, leaving their buildings, boats, and other property in charge of British settlers, whom they encourage to remain by giving them supplies of provisions. The assumption of the privileges of building, and leaving their boats on this coast, enables the French to prosecute their fisheries much more extensively than they could do otherwise. An experienced and intelligent naval officer,* who visited all the fisheries of Newfoundland some years since, has made the following observation :

“I am of opinion that a very great difference between the number of boats and men employed on the eastern coast and on any other, is in consequence of the French building large boats at the different harbours on the coast, and housing them under cover during the winter. This strikes me as a breach of the Treaty. If the boats were removed at the end of the season, not one-third of the number could be brought out annually.”

The West Coast.

The document No. 3, hereunto annexed, is a copy of the official list of places on the western coast of Newfoundland, from Cape Ray to Cape Norman, assigned as fishing-stations, and of bays left open to the fishery in common at the partition and general drawing for stations in January last.

The fishing on this coast being both “nomade et sédentaire,” the writer found it impossible to arrive at an exact statement of its results; but, as he visited the whole coast, its fisheries will be described in detail, commencing at Cape Ray, and proceeding thence to the northward.

The first French fishing-station on the west coast after passing Cape Ray is at Codroy Island. This island lies about two miles to the southward of Cape Anguille, close under the high land. It is a low, flat island, without wood, about two miles in circuit, crescent-shaped, with its inland curve toward the mainland, which also curves inwardly, thus forming a small but safe bar-harbour for vessels drawing less than 12 feet water.

The French occupy Codroy Island exclusively; and the fishery in its vicinity is specially reserved for the small schooners from St. Pierre and Miguelon. The buildings are extensive, and apparently in good condition; some new ones were put up this year. The number of Frenchmen employed there this season was 160, of whom 100 were fishermen, the rest shoresmen engaged in dressing and curing the fish. A French family (subjects of France) have constantly resided on this island during the last six years; they take care of the buildings, boats, and other property left there during the winter. Before this family came, a British settler on the mainland had charge of the island in winter, and acted as “gardien.” At present Codroy Island belongs, practically, to France, and is as much under its control as either St. Pierre or Miguelon. The “gérant” in charge of Codroy Island informed the writer that the average catch of cod, at that station, was 3,300 quintals each season; but there are reasons for believing that this is much below the quantity actually caught, this being an excellent fishing-station.

The fishery here is sedentary. The British fishermen, who reside on the mainland facing Codroy Island, take cod all the year round, except during the months of February and March, when the floating ice is driven in, and closes the place up. They are not molested by the French, who get whatever wood they require from the forest on the mainland, also without molestation. It is only when the French attempt to cut away the thick woods, in which the houses of the settlers are built, that they are resisted. It is mere wantonness to cut away these sheltering woods; without them the winter-houses become exposed to the piercing blasts and heavy snow-drifts of this bleak coast, and are rendered quite uninhabitable.

The next station in the official list is St. George's Bay, but the French do not now take cod there. Some years ago there was good fishing all over St. George's Bay, and the French took cod there in great quantities, by every possible device, and in the most reckless and destructive manner. They so over-fished the ground as almost to destroy the cod fishery completely, and then they abandoned it. A considerable period having since elapsed without the fish having been much disturbed, the fishing is now beginning to revive. The French at present only visit St. George's Bay for the purpose of procuring herrings, which they take in moderate quantities, to serve as bait for cod elsewhere.

The next French fishing-station is at Red Island, which lies five miles north-eastward

* Captain Milne, R.N., now one of the Lords of the Admiralty.

of Cape St. George, at the distance of little more than half-a-mile from the mainland. This island is about a mile and a half in length, and of considerable height; it is surrounded by steep cliffs of bright red sandstone. The fishing-station is at its north-eastern end, where there is a narrow beach between the base of the cliffs and the sea. The buildings are at the top of the cliffs, on a sort of plateau, about half the height of the island, and are reached by a long stair from the beach.

The writer was informed that there were 220 men at Red Island the present season, and that sixty-three *bâteaux* with two men in each were employed in the fishery. The fishing-ground is at one to two miles only from the island, and fish are often taken in 15 fathoms water. This is one of the best stations for the sedentary fishery on the whole west coast, the cod being abundant, not very distant from the curing place, nor in very deep water, while bait is usually plentiful, and readily procured. The fishing here during the present season was said to have been very good, and to have averaged more than 50 quintals per man, some time before the season closed.

The establishment at Red Island (which the French occupy wholly and exclusively), is left during the winter in charge of an Arcadian-French family from Cape Breton, who resides on the mainland. One of the daughters of this family is married to a French fisherman from Granville, who, it is said, received permission to marry and settle on this coast.

A permanent title to Red Island has been granted by the Government of France to the "Compagnie Générale Maritime de France." To this extraordinary grant of exclusive title strong objections were raised on the part of the "armateurs," at their meeting at St. Servan, in January last, as appears by the following extract from the *procès-verbal* of that meeting:—

" Séance du Mardi, 6 Janvier.

" M. le Menguonit reproduit sa proposition relative à l'occupation de l'Isle Rouge, à titre permanent, par la Compagnie Générale Maritime; il expose qu'un pareil privilège est contraire aux intérêts généraux des armateurs, tout comme à l'équité; il fait ressortir que dans la négociation suivie avec l'Angleterre au sujet des pêcheries de Terre Neuve, la situation fait aux concessionnaires de l'Isle Rouge pourrait entraîner des difficultés que l'on n'applanirait peut-être pas sans consentir à des sacrifices onéreux pour la France; il termine en demandant que l'Assemblée appelle sur ce point l'attention et la sollicitude du Ministre de la Marine, en insistant sur le danger des concessions de l'espèce.

" *Le Président.*—La place de l'Isle Rouge est compris parmi les havres réservés aux petites goëlettes de St. Pierre et Miguelon. Si le Gouvernement a cru devoir concéder cette place à la Compagnie Générale Maritime, c'est probablement dans le but de prévenir l'envahissement de l'Isle Rouge par les populations Anglaises qui occupent déjà la Baie St. Georges, et les côtes adjacentes.

" *M. Mazères.*—L'établissement de l'Isle Rouge est le plus beau de la côte de Terre Neuve, et il serait bien fâcheux de la supprimer."

Notwithstanding the endeavours of MM. de Bon and Mazères to prevent any movement in the matter, it was resolved that this exclusive grant to the "Compagnie Générale Maritime" should be brought under the consideration of the Minister of Marine.

The next fishing-station in the French official list is Port-à-Port, which is free and common to all French vessels fishing in the Gulf, but it did not appear to have been visited by any such vessels during the present season. Several American vessels fished on the bank off Port-à-Port early in the season during the migration of the cod, and succeeded very well.

Port-à-Port is a capacious bay, more than five miles wide at its entrance, and upwards of twelve miles in depth. Its upper portion is divided into two smaller bays, called respectively, East and West Bay. The head of East Bay is separated from Bay St. George by a low isthmus of sand and gravel, but little more than a quarter of a-mile in width, with a pond in the middle, into which the sea often dashes at high tides, especially during southerly gales. Fishing-boats are often hauled across from one of these bays to the other. The best fishing-ground is off Long Point, which is at the western entrance at Port-à-Port. Cod are said to be abundant on the bank there; but it is a wild, stormy, and unsafe place to fish. The French had a fishing-station formerly, just inside Long Point, but it was abandoned four years ago, and since then they have had no fixed station in Port-à-Port.

Next in order is Petit Port, a very small harbour, a little to the westward of the Bay of Islands, with rocks from 500 to 800 feet in height on either side. It is so small that not more than six fishing vessels could lie in it at the same time. By Article XXIII of the Imperial Decree, an aggregation of vessels there is absolutely forbidden; and

none but vessels having the right to a fishing-station within this harbour, can anchor in it. While fishing in this vicinity, the larger French vessels generally anchor in Lark Harbour, within the Bay of Islands, which is safe and commodious, and distant only four miles by land from Petit Port.

The fishing vessels from France usually arrive at Petit Port during the latter part of April, when the ice leaves, and fish there until the middle or end of June, when the cod move off to the northward in pursuit of the caplin, and the fishermen follow them. This season, there were 250 French fishermen at Petit Port; and during the two months they remained there, they took 5,000 quintals of cod, being an average of twenty quintals per man. It is alleged by the French that less than forty quintals per man will not constitute a profitable fishery; and the nomade fishermen here have relied formerly upon following the cod in their annual migration to the Labrador coast, without which they could rarely make out a good season, or a full fare. They were greatly annoyed with the vigilance displayed and exertions used to prevent their intrusion at Labrador and Belle Isle North, during the last and present year, as thereby they were prevented from procuring full fares. The usual fishing-ground is at the distance of three to four miles from Petit Port; but this season extraordinary exertions were used to take fish, and the boats went frequently as far as twelve miles to the westward, in pursuit of them.

The fishing station of Anse-à-Bois, is at the south-west point of Harbour Island, which lies at the entrance of the River Humber, within the Bay of Islands. It is known to British fishermen as Wood Harbour, and is regarded as altogether unfit for shipping. It was not occupied this season.

The Bay of Islands and Bonne Bay are both magnificent sheets of water, with safe anchorage in each. They are surrounded by lofty barren mountains, of the most striking and picturesque forms, but stern, savage, and desolate in the highest degree. On the northern slopes of the mountains at Bonne Bay, near the summits, large masses of snow lie perpetually, and add another striking feature to the grand and extraordinary scenery.

In the early part of the season, the French fish at the entrance of these remarkable bays, making their rendezvous at Lark Harbour, in the Bay of Islands, and at Havres des Roches, in Bonne Bay. The fish taken near these bays they salt on board their vessels, and at the close of the fishing in June, carry them to Old Ferolle, where there are admirable beaches for drying and curing. The French do not in general use the wooden flake or frame for drying their fish. They cure their cod on the higher part of the beaches, or the stone-covered slopes leading to the water. These they level for the purpose, removing the larger stones, and arranging the smaller ones smoothly and regularly, choosing them, as nearly as possible, of one size. If crowded with fish, and there is not sufficient prepared ground ("grève" is the term), they lay down fir branches on the natural surface, and cure the fish on these.

In the Bay of Ingarnachois there are three fine harbours, perfectly sheltered, and easy of access. The two fishing-stations within this bay, at Keppel Island and Port Saunders, were not occupied by the French this season, being probably at too great distance from the fishing-ground.

New Port-aux-Choix is a small harbour on the northern side of Point Riche, in which there is only 11 feet water at low water in ordinary tides. This is much less water than formerly, the harbour having been filled up greatly of late years, owing to ballast having been cast into it, to the immense quantity of cods' heads and offal thrown in annually, and the dunnage laid down for vessels to ground upon. Large vessels must lie head-and-stern, and take the ground at every tide. The writer was detained nine days in this harbour by stress of weather, and thus had an opportunity of becoming acquainted with the French mode of conducting the cod-fishery in all its details.

At New Port-aux-Choix there is the best sedentary fishery on the whole of the west coast, fully equalling, if not exceeding, that at Red Island. Of the four stations here, three only were occupied this season, and all of them were held by one wealthy "armateur" of St. Malo. This year, 120 men and boys were employed at this port, and they caught 9,000 quintals of fish, being an average of 75 quintals for each, which made a most profitable fishery. The Prud'homme, who has been fishing at this place for the last sixteen years, stated that this was the usual average. He uses chiefly the long lines, which are very successful here, the fishing being at two and three miles from the land, in 70 fathoms water, upon a bank much resorted to by large spawning-fish. The Prud'homme also uses the cod-seines occasionally in Ingarnachois Bay, but not very often, as he does not approve of it, from its destroying great numbers of young fish, and thus injuring the fishery. British fishermen equally object to the "bultows," which they aver are most successful with the large mother-fish on the spawning-beds, and thus most destructive, diminishing the fishery greatly.

Early in September, the fishing for the season being nearly at its close, there were two boats only attending the "harouelles," each of which laid down 300 fathoms of line, to which a hook was attached at every fathom. In favourable weather they brought in 1,600 large cod every morning, which would make 40 quintals of dried fish. The Prud'homme said, that in the early part of the season he had 30,000 fathoms of "harouelles" set at times, and when the fish were most abundant his men used the hand-lines also.

The French fishermen arrived at this port on the 28th of April last, which was immediately after the ice left the harbour. The fishing usually continues until the 10th or 15th of September, after which the weather becomes too boisterous, and the vessels generally leave at the end of the month; the fish last taken being carried away in salt, uncured. From the time of their arrival, until their departure, the labours of the fishermen and shoresmen are incessant. They pay not the slightest respect to the Sabbath; in fact, that day seemed to be one of more than usual bustle and exertion, as if devoted to bringing up all the arrears of business during the preceding week. The French fishermen said they only knew when the Sabbath came round by seeing the English fishermen cease from labour; and they ridiculed the English for abstaining from work, accusing them of laziness, and losing valuable time. The desecration of the Sabbath is universal in all the French fisheries at Newfoundland.

Although the French did not commence their fishery at Port-aux-Choix this season until the 1st of May, yet, on the 1st of July, they dispatched a vessel of 120 tons to Marseilles with a cargo of dried cod, for which a large price was expected, as the first fish in market. The same vessel was dispatched in July 1856 from this port to Marseilles with an early cargo, which brought 42 francs per quintal, a rate which must have yielded an enormous profit, the whole cargo producing 90,000 francs.

The French "shoresmen," who are employed in drying and curing the fish, and other labour on land, both men and boys, are a most miserable set. It was said that many of them came from the Poor Houses, and received no wages, getting their food only. This was scanty, and of the poorest description, on which an English fisherman could scarcely exist. The "fishermen" have very low wages in addition to their rations, and some none at all—only a small share of the fish caught: they engage in France to go out to the fishing-ground, whenever it can be done, with double-reefed sails.

The Prud'homme has an allowance of 2 francs for every quintal of fish caught after the first 1,000 quintals, and this causes him to drive the men to the uttermost. They require driving, however, for the moment they are left without inspection they leave off work to talk and smoke. It is said at Newfoundland that it requires three Frenchmen to do the work of one English fisherman. This saying struck the writer as having great force on all ordinary occasions; when a special service had to be performed, it appeared to require even a greater number of men in proportion.

The French dried cod are much inferior to those cured by British fishermen. The French tear off the head of the fish very clumsily, leaving the body quite ragged at top. Neither are the fish well or thoroughly split, so as to be perfectly flat; the backbone is also removed awkwardly, leaving a lump where the bone is broken off, and more bone is left than in British-cured fish. A greater quantity of salt is put upon them in pile than on British fish; they are not dried so thoroughly, and when dried, are much more soft and limp than dry fish of British cure, which are white, smooth, almost inflexible, and nearly translucent. One quintal of British-cured cod contains as many fish of equal size as a quintal and a quarter of French dried cod. The greater weight of the French cured cod adds considerably to the bounty they receive, which is paid on the weight of the dried fish. This inferiority of cure, however, operates against the sale of their fish in foreign markets; and although the French have endeavoured, during the last two or three years, to introduce their fish into Spain, they have not yet been successful, the Spaniards preferring the white, hard, well-dried British cod.

The subject of curing cod after the English manner was brought before the Assembly of "Amateurs," at St. Servan, last January. The President, M. de Bon, pointed out to the Meeting the advantages that would flow from drying and curing cod in the same mode as the English, and rendering the commodity of equal quality. He insisted upon the necessity of improving, in this manner, the value of the produce of the fisheries; so that if, in future, the Government should find it necessary to suppress the bounties, the fishing-business might be able to sustain itself, and struggle successfully against foreign competition.

The Prud'homme at Port-aux-Choix stated that there were many more fishing-vessels at Newfoundland this season than during the war with Russia, when great numbers of the fishermen were drafted into the naval service, to which they were liable from

having previously received the Government bounty as enrolled fishermen. According to this Prud'homme's statement, there were this year on the east and west coasts of Newfoundland, 90 vessels of the 1st class, 50 of the 2nd class, and 30 of the 3rd class, in addition to 300 large vessels employed as "bankers," some of them of the burthen of 500 to 600 tons. He also stated that the "Companie Générale Maritime de France" has exclusive title to Red Island; that it was a Company possessing much power and political influence, having a capital of 5,000,000 fr., and owning 300 ships and steamers, trading to all parts of the world.

The fishing-stages at Port-aux-Choix are conveniently arranged, and during the fishing-season they are neatly covered with canvas. The huts for the men are very wretched; they are lodged most miserably, very little, if at all, better than the Newfoundland dogs. The house for the Prud'homme, Surgeon, and fishing captains, is neat and comfortable, with good brick chimneys, and altogether of a permanent character. A large building was nearly finished on the 10th of September, in the lower part of which the large boats, or shallows, would be hauled up for shelter during the winter; and the upper part would be filled with the small boats, or bateaux. There is a small schooner on the stocks for repairs; and on the whole, the French act as if the country belonged to them entirely and exclusively. When the writer first landed at Port-aux-Choix, he was saluted by the Frenchman in charge, with "Welcome to my country!" as if it were part of the territory of France.

A little to the eastward of Port-aux-Choix is Boat Cove; it is a harbour for boats only, but is much exposed to northerly winds, which throw in a heavy sea. There is a small fishing-station here, which employed thirty men this season. They took 10,000 cod (making 1,600 quintals of dried fish), chiefly by bultow-fishing.

To the eastward of Boat Cove is Old Port-aux-Choix, with anchorage for large vessels all along its southern shore. This harbour has been surveyed by French naval officers during the present season, and distinguishing marks have been set up for the guidance of their vessels of war, which will resort to this port hereafter, instead of Port Saunders, as formerly. It is separated from New Port-aux-Choix by a neck of land only 300 yards across, and from the Cove in Ingarnachois Bay, called Grey Gamble, by another neck of land about the same width. A radius of three miles from New Port-aux-Choix would include the best fishing-grounds in its vicinity, as well as Boat Cove, Old Port-aux-Choix, Grey Gamble, and part of Ingarnachois Bay, thus securing everything desirable at this capital fishing-station.

The remaining French fishing-stations to the north-eastward are principally used as curing-grounds by the vessels engaged in the nomade fishery of the Gulf. There is but little fishing from Old Ferolle to Cape Norman, it being generally a low limestone coast, with shallow water, which the cod avoid by striking over at once to the opposite coast of Labrador when on their migration from the westward. These stations are now scarcely worth occupying. The French vessels attached to them have heretofore relied on stealing over to Labrador, and there completing their fares, which they are now unable to do.

At New Ferolle, the settlers stated that seventeen French vessels had been there during this season, having twelve bateaux, or more, attached to each vessel, and had left 100 bateaux in charge of one family there, to be reclaimed next season.

The French employ six armed vessels each season on the coast of Newfoundland for the protection of the fishermen and their vessels, and the maintenance of good order among them. Each of these vessels has a stated line of coast to guard. One schooner is usually stationed at the Island of St. Pierre, under the immediate orders of the Commandant there; a second moves along the coast from Codroy to Port-aux-Choix; a third from thence to Croque, where the senior naval officer on the station (Commodore Mazères, in the frigate "Sérieuse") usually stations himself, to receive reports and adjust disputes. A steamer is generally employed between Croque and Cape St. John, and an armed store-ship completes the naval squadron.

The Salmon Fishery.

In former days the salmon fishery on that part of the coasts of Newfoundland resorted to by the French was most abundant and valuable, but, owing to the destructive mode of fishing they have pursued, it has dwindled into insignificance, and now seems in a fair way of being wholly annihilated.

The document No. 4, heretofore annexed, is a copy of the official Table of salmon fisheries on the east and west coasts of Newfoundland, which were re-classed, and admitted to the "tirage général" in January last. At the meeting of "armateurs" then held, it was

stated by the President that, with one exception, all the salmon-fisheries of Newfoundland had fallen into the hands of the English. He proposed that every grantee of a salmon-fishery should be obliged to fish the same by Frenchmen exclusively, the first season after he drew it, under a fine; this, he thought, would revive the fishery, and take it out of the hands of the English. One of the "armateurs" said, that the salmon-fisheries had been invaded to such an extent by the English, that they would not now yield sufficient to pay the expenses of the French fishermen necessary to look after them, and, consequently, they had been abandoned. Commodore Mazères said that, in fact, the grantees of these fisheries let them to Englishmen, to receive half the produce. Very soon the English did not deliver the half, and ended by giving nothing at all. An "armateur" then stated, that two only of the Newfoundland salmon-fisheries had been sought at any time for the favourable results they might afford to the grantees. All the rest were merely asked in the hope of drawing some profit by re-letting them to the English. The proposed fine was rejected unanimously by the Meeting, and the President then delivered a strong opinion as to the impropriety of re-letting the salmon-fisheries to the English, and sharing the products; intimating, very plainly, that parties bringing into France the salmon so obtained, would run great risk of losing the bounty on their cargo of cod.

By Article XLII of the Imperial Decree, the mode of taking salmon at Newfoundland by the French, is expressly confined to "barrages" in the rivers and streams: they are not allowed to take salmon along the coasts. The "barrages" are frames of wood, very like an ordinary stable-rack, which are put directly across the streams, at their confluence with the tide, and effectually prevent either the ascent or descent of fish. To these "racks" are attached pounds or places in which the salmon are retained until taken out by the fishermen. The "racks" are put up early in the season, and allowed to remain until the end of September; in consequence, the female fish are prevented from ascending to their spawning-beds, and if they escape being taken, the ova drop from them in the tideway, and are lost. On the other hand, the "slinks," or spawned fish of the preceding year, are prevented from returning to the sea; and the writer was informed, by more than one fisherman, that, at times, hundreds of these spent salmon had been seen dead along the streams above the "racks," where they had perished from inability to reach salt-water. Anything more destructive than this mode of fishing by "barrages" can scarcely be conceived.

On the whole of the west coast the French themselves fished only one river this season; that was the River of Ponds, to the westward of the Bay of Ingarnachois, in Mal-Baie. The product of the season's fishing was brought to Port-aux-Choix, and weighed while the writer was there. It proved to be only 46 quintals, equal to 23 barrels of pickled salmon, a quantity not more than sufficient to pay expenses. When the French leave a salmon river at the close of their season, they usually leave the "racks" standing for the benefit of their "gardien," who keeps them up until the latest moment, getting what fish he can, and then storing the racks in safety until the succeeding season.

The Prud'homme at Port-aux-Choix this year let the salmon-fishery at the River of Castors to an English settler, on condition of receiving half the fish caught. This settler "barred" the river; but finding after a number of days that he got no fish, left it altogether. This River of Castors formerly abounded with salmon; and now none seem to exist in it.

Except the taking of small fishes for bait, the French prosecute no fisheries on the coast of Newfoundland but those for cod and salmon. It is, therefore, unnecessary to speak of any other fishery in connection with them.

(Signed)

M. H. PERLEY.

St. John, New Brunswick, October 19, 1857.

Memorandum of Information relative to the British Population and their Fisheries, on the East and West Coasts of Newfoundland.

THE document No. 5, hereunto annexed, is an abstract Return of British population and fisheries, in 1857, on the east coast of Newfoundland, from Cape St. John to Quirpon, including the Groaix and Horse Islands near that coast; and the document No. 6, also annexed, is a similar Return for the west coast, from Cape Ray to Quirpon.

By the first of these Returns it will be seen that the British population on the whole of the east coast specified amounts to 1,040 souls only, of whom 373 are rated as able fishermen. Their catch of cod for the year was 10,169 quintals only, being less, on the average, than 30 quintals per man. Their catch of salmon was but 188 barrels, with 834 barrels of herrings, and 6,526 seals. These last are much the most valuable article of

their take: from 25 to 35 seals, according to size, yield a tun of oil; and at the present high price of seal-oil, a seal and its skin may be valued at nearly 1*l.* sterling.

Neither the soil nor the climate of the east coast of Newfoundland is fitted for agriculture. All the settlers there are engaged more or less in the fisheries; but some families scarcely exert themselves to take fish, relying upon the provisions they receive from the French, to pay for their services as "gardiens" of the boats and other property left during winter. If those British fishermen residing here, who are industrious and energetic, were not kept in check by the French, and prevented, as much as possible, from fishing, they could do vastly better. This portion of Newfoundland would, in such case, soon be more thickly settled, and produce a much larger quantity of fish from its excellent fishing-grounds. There is a sufficient supply of timber and fuel on this coast for many more people than inhabited it at present.

By the Return No. 6, it will be seen that the British population of the west coast amounts to 2,337 souls. Of these, 531 are at the Codroy Settlements, near Cape Ray; at Bay St. George there are 1,047; and the remaining 758 are scattered in small numbers along the coast from thence to Quirpon. In this population there are 572 able fishermen, whose catch of cod this year was 24,915 quintals, being an average of 40 quintals per man. They took also 639 barrels of salmon, 19,165 barrels of herrings, and 7,540 seals.

There are at the Codroy rivers several families, speaking Gaelic only, that follow farming almost exclusively. They are emigrants from the Highlands and Islands of Scotland, who landed first at Cape Breton, and went thence to Codroy: these, with some settlers in Bay St. George, and a few on the Humber and at Cow-head, between Bonne Bay and Ingarnachoix, are all that pursue agriculture with any degree of success, and this only in the few favoured spots where the fertility of the soil compensates to some extent for the rigour of the climate.

Neither on the east nor on the west coasts are there any magistrates or other persons to enforce order, execute justice, or administer the laws. The people have no title to the land they occupy. They are not in any electoral district, and consequently are not represented in the Legislature of Newfoundland. There are no roads whatever, and there is no postal communication. There are but few clergymen for these extensive lines of coast, and their visits are unavoidably few and far between. It was said that at White Bay, on the east coast, there are settlers who never in their lives, until this year, had seen a clergyman of any denomination. There are no schools, and the children grow up in total ignorance: the writer was several times asked for spelling-books by young persons anxious to learn to read. It needs scarcely to be observed that all this represents a state of things sincerely to be deplored in a British possession.

The principal settlement on the west coast is at the head of Bay St. George, on a low sandy point forming one side of Sandy Bay, where there is a safe anchorage in ten and twelve fathoms water. During the month of May every year, immense shoals of herring enter Sandy Bay for the purpose of spawning, and large quantities are then taken, as well by the residents as by fishing-vessels from Nova Scotia, New Brunswick, and Prince Edward Island, with schooners from the United States occasionally. Some eight or ten years ago, and also two years since, the French Government cutter drove out American schooners found fishing there for herrings. The French naval officers have said to the British settlers, that although the French fishermen do not fish for herrings, they only permit the British to reside there and take herrings, *par courtoisie*, so long as they do not interfere with the cod-fishery. The settlers say they could carry on a profitable cod-fishery in Bay St. George (where, as already stated, the French do not now fish), but they fear to do so, lest they should arouse the French, who would, in such case, stop their herring-fishing, and perhaps drive them off altogether. So the fishermen of Bay St. George go to Labrador for their cod.

From the absence of all legal authority or proper regulations at Sandy Bay, the herring-fishing there is becoming diminished, and in danger of being destroyed. The fishing-vessels that come there from other Colonies and places are under no control; they fish as they please, and throw their offal upon the spawning beds, thus destroying vast quantities of spawn, and driving away the fish altogether.

Along the west coast, from Bay St. George northwardly, the settlers can only fish for cod before the French arrive and after they leave the coast. While they are on the fishing-grounds it is useless for the British fishermen to go out in their boats. So soon as they begin to haul cod the French boats crowd around them so closely as to prevent their fishing; and thus practically, yet without violence, they are hustled off the ground.

The British fishermen also set nets along this coast at places favourable for taking salmon; but whenever French fishermen find these nets they invariably plunder them of

their fish. At Petit Port a settler said he had given up his salmon-fishing, as the French took all the fish that struck his nets, and he had no redress. A settler at Port-aux-Choix said that the French would take from fifteen to fifty salmon out of his nets during one tide, and the Prud'hommes would not even listen to his complaints, thus tacitly sanctioning the plunder. In some places the settlers are not permitted to put out salmon-nets, on the ground that they will prevent the fish from entering the rivers in which the French claim the salmon-fishing as their exclusive property.

At Bay of Islands the settlers prosecute a fishery for herrings in August, which are then very fine. The Prud'homme there, when leaving this season, gave notice to the settlers that next year they would not be allowed to take these herrings for sale, but only so many as might be deemed necessary for their own consumption. This restriction, he said, was to be enforced in return for the French being excluded from Labrador.

The quantity of lobsters on the west coast is perfectly prodigious, and their white meat is used largely as bait for cod. Trout, up to four pounds weight, and sometimes larger, are found in countless multitudes, in nearly all the rivers and along the coast everywhere, especially where the mountain streams discharge their icy cold water into the sea. There they may be taken by fly-fishing in any number; and when the situation is favourable for drawing a seine, they are taken in large quantities, and salted for winter use, or for exportation.

Large shoals of mackerel were frequently seen along the west coast and in its large bays. But few of these are caught at any time, although they are of admirable quality. The unsettled state of men and things on this coast prevents any expenditure or preparation for this valuable fishery, which might, in all probability, under other circumstances, be prosecuted extensively, and with much profit.

(Signed)

M. H. PERLEY,

St. John, New Brunswick, October 19, 1857.

APPENDIX.

(No. 1.)

Abstract of the Decree of His Majesty the Emperor of France, dated the March 2, 1852, for regulating the Cod-fishery on the Coasts of Newfoundland.

ARTICLE 1 regulates the classification of harbours and fishing-grounds on the coasts of Newfoundland, in three series.

Art. 2 provides that every five years the "armateurs" of the different ports of France, who propose sending vessels to the Newfoundland fishery, shall send to the Chief of Marine at St. Servan a notice of the number of vessels they propose to send, and their tonnage.

Art. 3. The "armateurs," or their agents, shall meet at St. Servan on the 5th of January, to draw for the places they are to occupy, in the following classes:—

1st Class. Vessels of 158 tons and upwards, with fifty men at least.

2nd Class. Vessels of 100 to 158 tons exclusively, with thirty men.

3rd Class. Vessels under 100 tons, with twenty men; if they carry a seine, then twenty-five men.

Art. 4. After the drawing for places, beaches on the coast for drying fish will be conceded to those vessels that fish on the Grand Bank.

Art. 5. The salmon fisheries will be disposed of by lot to those who have drawn harbours, to which, according to their position, these fisheries correspond.

Art. 6 declares the form of the Table to be drawn up after the drawing.

Art. 7 provides for the verification and publication of this Table.

Art. 8. Each "armateur" will hold for five years the harbour and place assigned to him: he will continue to send the same number of vessels, of the like class, every year, and effectively occupy his station. He will hold for the same periods the scaffolds, "dépendances et grèves," which he will keep in repair. At the end of five years each captain will prepare a statement, attested by two neighbouring captains, of the state of the establishment he has formed and occupied, "lequel consistera dans le chafaud, ses orgages et ses tenailles, les cabanes et leur portes, les étaux, lavoirs, et garde-poissons." He will leave the establishment in as good a state as he found it.

Art. 9. At the end of five years another drawing will take place as before.

Art. 10. The Chief of the Marine Service at St. Servan will every year address to the administrators of the ports whence the fishing-vessels sail, the following:—

1. A statement of the partition of places on the east and west coasts.

2. A statement of the vessels of which the "armateurs" have declared their desire to fish in the bays common to all.

Art. 11 provides for the delivery of these lists to the "armateurs" of the vessels that have a right to fish. No vessel will sail without a license, stating the place where she is to fish. These licenses (according to the forms given), are to be exhibited to the Captains Prud'hommes of the places where they go to fish.

Art. 12. No "armateur" shall obtain for the same vessel a concession of places on both coasts.

Art. 13. If the "armateur" does not send his vessel he forfeits the place allotted to him, and must pay a fine of 4,000 francs for vessels of the first class; 3,000 francs for vessels of the second class; and 2,000 francs for vessels of the third class. A "banker" not going out, or occupying the drying-place assigned, pays a fine of 1,000 francs. This Article also contains directions as to the re-assignment of stations, transfer of vessels, &c.

Art. 14 regulates the places exempted from the general drawing.

Art. 15 provides for a partial drawing, on the 5th of January in each of the four years after a general drawing, of places that have become vacant.

Art. 16 provides that the oldest captain shall perform the duties of Prud'homme in the various bays and harbour. The captains "au long cours" take the priority over "maîtres au cabotage."

Art. 17 provides that the Captain Prud'homme shall be specially charged with maintaining discipline, police, and good order in the various bays and harbours. He shall assure to each captain under him the harbour, beach, and moorings assigned to him. He shall inspect the nets, and watch over the safety of the "mouillages et rades." He shall receive the complaints of the fishing-captains, and do right whenever he is competent to judge, after hearing proofs. He will preside at all meetings of the fishery-captains. He shall demand no compensation for his services from the parties. He will preserve Minutes of his decisions. He will prepare a statement of any contraventions of this Decree which take place during the fishery; he will sign this, and cause it to be signed by his officers. On his return he will deliver this to the "Commissaire de l'Inscription Maritime" at the port from whence he sails. He will deliver, also, a detailed report on the navigation, and everything relating to the advancement of the fisheries.

Art. 18. When the Captain Prud'homme is interested in a dispute, it must be referred to the captain at the next, or nearest, harbour.

Art. 19. The Captain Prud'homme must deliver to the Commanders of the vessels of war stationed on the coast a statement for each fishing-place in particular; whether it is, or is not, occupied according to rule; and if the law has been observed in all things. Every offence against discipline, and every infraction of the rules established for the government of the fisheries, and the mode of occupying the fishing-places, he will denounce to the said Commanders, who are charged to carry out this Decree.

Art. 20 provides for the trial of offences before the Prud'homme.

Art. 21 provides that the fishing-vessels shall not get their clearance-papers in France before the 1st day of March, if they sail for the Grand Bank or the west coast of Newfoundland; nor before the 20th day of April, if they sail for the east coast. If any captain sails before these dates, he shall pay a fine of 1,000 francs, for which the "armateur" shall be responsible.

Other fines are imposed by this Article for sending out boats when the vessel is not present.

Art. 22. No captain shall establish himself in any drying-place or harbour, except that described in his license, under a penalty of 500 francs, besides an interdiction from command; but amicable arrangements are permitted among the captains.

Art. 23 provides that the mode of fishing called "en défilant le Golfe" is authorized on the west coast of Newfoundland; and the fishery may be carried on, both "nomade et sédentaire," on that part of the coast between Port-à-Port inclusive up to Cape Norman. The fishery is reserved, and remains, as on the east coast, the exclusive right of the vessels occupying in all the harbours in the Table of partition, where there are places created for disposal by lot.

On the contrary, the fishery is free in all the bays on the west coast where no such special places are created, to the fishing-vessels sent to that coast; such places are marked in the Table "comme affectées à l'exploitation commune de la pêche." These

bays are: Port-à-Prince, with its several anchorages; Bay of Islands, with all its roadsteads; Bonne Bay; Sainte Marguerite; and l'Anse du Nouveau Ferolle.

In case all the places on the west coast are occupied, "armateurs" may, nevertheless, have a license for their vessels to fish in these bays.

Every captain that has a license of possession for the west coast has the right of establishing himself, and fishing, not only in the particular harbour or place assigned to him, but also in all the bays where there is no special concession, and which are open "à l'exploitation commune."

The goëlettes of St. Pierre and Miquelon have also this privilege.

The boats belonging to vessels that have no berths in Petit Port, are allowed to fish on the banks outside that port, but can neither dress nor salt their fish within the harbour. Aggregation of vessels is absolutely forbidden there. None but vessels that have the right can anchor there. It is understood that to occupy a berth on the west coast the vessel must anchor, once at least, in the harbour assigned to it. It is sufficient to appear among the fishers of the gulf, when there is only a license to fish. (Form No. 2.)

Art. 24. Each captain of a fishing-vessel must be furnished with a copy of this Decree, and of the Table of partition, besides his license of possession, or license to fish.

Art. 25. Captains are forbidden, under penalty of 500 francs, from throwing over ballast in harbours; from carrying off salt, oil, or any other things left the previous year; from breaking, carrying away, pulling down, or letting go to ruin, the stages, cabins, &c., of the places conceded to them. It is besides recommended to each captain to improve the place conceded to him.

Art. 26. Captains are forbidden to take away shallops, or bateaux, hauled up on the coast, without special leave of their owners, under penalty of paying their price, and 50 francs fine. But if owners of shallops or bateaux make no use or disposition of them, those who need them may use them in the fishery, by permission of the Prud'homme, on condition of their return, and paying their hire to the owner.

This Article defines clearly the mode of arranging for the use of shallops and bateaux, and for their return to a place of safety. Any boats, salt, or other things left on the coast, and not taken away by the owner, from the 1st to the 10th of September of the second year after they are left, shall be sold at auction by the Prud'homme, for the benefit of the owner; the purchaser to remove the articles in a fortnight after the sale.

Art. 27. Captains of fishing vessels must furnish to the Commanders of vessels of war all the information they demand, relative to the fisheries, their vessels, boats, and crews.

Art. 28. Every vessel having forty men or more must carry a surgeon; and a surgeon must be stationed at every harbour where fifty men or more are employed.

Art. 29. All French fishermen on the coast of Newfoundland are forbidden to have establishments "couverts-en pain," or to make use of the bark of trees in any way.

Art. 30. The use of nets called "hallopes,"* is prohibited in all the fisheries of Newfoundland.

Art. 31. The use of "lignes de fond," or "harouelles," is authorized both on the east and west coasts. They cannot be employed, however, "tant que les seines seront armées." Boats fishing with "harouelles" have not the right "de faire lever" the boats fishing with hand-lines, and reciprocally.

Art. 32. For taking caplin and lance as bait for cod, there shall only be used seines having 800 to 900 "mailles de hauteur," and 30 fathoms in length when they are mounted.

Art. 33. "Il est défendu de se servir de seines à caplan et à lançon, autrement qu'au moulinet, et sans jamais déborder à terre."

Art. 34. "Il est défendu de couler entièrement les seines, ou d'en ajouter deux ensemble."

Art. 35. The use of cod-seines is maintained.

Art. 36. These seines may be of any length or depth, but the mesh must not be less than "48 millimètres entre nœuds au carre." Seines with a smaller mesh may be seized and sequestered by the Prud'homme. The proving of seines will be by measuring 20 meshes in length, which ought to carry "1 mètre 920 millimètres."

Art. 37. "Il est défendu de se servir de seines à morue, autrement qu'au moulinet, et sans jamais déborder à terre."

Art. 38. The seine-boats shall have the right of choosing the place where they will

* The "hallope" is a small seine with a purse or bag, having very small meshes, most destructive to the fry of fishes.

land. Boats fishing with the hand-line must move away on being notified, as soon as the net is begun to be thrown out. If a boat does not then remove, it must pay 1,000 cod as damages.

Art. 39. Also, under penalty of giving 1,000 cod to the seine-boat, all other boats must abstain from anchoring within the circuit of the seine, after it has begun to be thrown out. Regulations are also made as to priority of seine-boats on the same fishing-ground by this Article.

Art. 40. Cod-seines are attached to fishing stations, and confined to the rank of the vessels to which they belong. Vessels of the first class may use two seines; those of the second and third classes cannot in any case have more than one seine.

This Article contains special directions for the use of seines generally.

Art. 41. Seines must not be hauled near Belle Isle South, or Groaix, unless they belong to a vessel anchored at one of those islands.

Art. 42. "La pêche du saumon ne pourra se faire qu'au moyen de barrages pratiqués dans les vaisseaux ou rivières."

Art. 43. No spirituous liquors shall be allowed on board fishing-vessels. A fine of 500 francs shall be paid by every "armateur" to whose men spirits are sold on his account. Empty vessels for containing liquors not allowed to be embarked.

Art. 44 relates to the levying of fines and penalties.

Art. 45. All contraventions of this Decree shall be punished according to its provisions. The forms of proceeding in France are given.

Art. 46 provides for the payment of all fines into the chest of the "Invalides de la Marine."

Art. 47 abrogates the Ordonnance of April 24, 1842.

Art. 48 charges the Secretary of State for Marine and the Colonies with the execution of this Decree, and provides for its insertion in the "Bulletin des Lois," and "Bulletin Official de la Marine."

(Signed by the Emperor.)

Form No. 1 is called—

"Bulletin de Mise en Possession."

Form No. 2 is called—

"Bulletin d'Autorisation de Pêche."

(No. 2.)

RETURN for the Year 1857, of French Fisheries on the North-East Coast of Newfoundland, from Cape St. John to Cape Norman.

Names of Harbours as in the French Official List.	Number of Places assigned for Stages.	Number Occupied in 1857.	Number of Bateaux in 1857.	Number of Scaues.	Number of Men.	English Names of Harbours, where different.
La Seie	6	6	70	11	388	
Le Petit Coup de Hache	3	..	..	..	..	Brent's Cove.
Le Grand Coup de Hache	2	..	..	..	..	Harbour Round.
Pasquet	5	2	26	4	136	Packet Harbour.
L'Île à Bois	1	..	..	..	..	Wood Island.
La Baie des Pins	2	1	12	2	69	Mings.
La Baie Verte (L'Anse du Pot d'Étain)	2	1	12	2	69	Coachman's Cove.
La Fleur-de-Lys	6	6	62	11	340	
Les Grands Vaches	1	..	..	..	..	Grandfather's Cove.
Les Petites Vaches	1	..	..	..	..
Orange	2	..	..	..	..	Harbour Deep.
Fourché	2	..	..	..	..	Fourchette.
Sans Fond	3	1	12	2	70	Hooping Harbour.
Le Dégrat du Cheval	1	1	12	2	66	Cut Cove.
Rainée	1	1	12	2	60	
Les Canaries	6	3	36	6	182	Canada.
Les Aiguillettes	4	..	..	..	..	Englee.
Boutiton	2	2	25	4	125	Hillyard's Harbour.
La Conche	9	4	32	8	244	
Cap Rouge	13	13	82	22	708	Cronse.
Anse du Pilier	1	..	..	..	..	Banquier.
Belle Isle	2	..	..	..	..	Belleisle South.
Anse aux Millions	1	..	..	..	..
Le Croc	5	4	39	8	267	Croque.
Iles des Saints Juliens	2	..	..	..	..
Grands Saints Juliens	3	2	26	4	145	
Petits Saints Juliens	2	..	..	..	..
Les Grandes Oies	3	1	10	2	74	
Les Grandes Ilettes	2	..	..	..	..
Les Petites Ilettes	4	2	15	4	132	
Trois Montagnes	3	3	20	4	139	
L'Anse à la Loup	1	..	..	..	..
Le Crémaillère	6	3	36	6	185	Cremallire.
Baie St. Antoine	7	4	22	6	179	
Grands Bréhats	3	3	22	6	182	Braha.
L'Anse Verte	1	..	..	..	..	Point Ferole.
Petits Bréhats	1	..	..	..	..	Little Braha.
Île Granchain	1	..	..	..	..
Baie Sainte Lunaire	6	1	13	3	90	
Les Criquets, et le Cap Blanc	12	3	20	6	195	Griquet and White Island.
Baie du Nord	3	1	8	2	68	Fortune.
Le Kirpon	18	14	103	21	735	Quirpon.
Baie aux Mauves	3	3	25	5	183	
Anse à Médée	1	1	10	2	69	
Baie du Sucre	2	..	..	..	..
Cap d'Oignon	1	1	10	2	68	Cape Onion.
Baie de Haha	1	..	..	..	..	Pistolet.
Havre de Cook	3	1	6	1	37	
Totals	170	88	783	158	5,205	

NOTE.—At each of the 88 fishing-places occupied in 1857, there was 1 square-rigged vessel, from 150 to 300 tons; in all, 88 vessels.

(No. 4.)

TABLEAU du Répartition des Saumoneries, qui ont admises au Tirage Général du mois de Janvier, 1857.

Côte Ouest.

	No.	
Petit Port	1. Rivière au Charbon	
Havre des Roches		2. Rivière aux Fruités, entre le Cap St. Georges et Bonne Baie.
Ile Keppel	4. Mal Baie, ou Rivière Pins.	
Port Sevender		
Nouveaux Port-aux-Choix		
Anse de Barbacé		
Ile des Sauvages		
Ile Saint Jean		
Vieux Férolle		
Baie de Ste. Barbe		
Point de l'Ancre	5. Rivière aux Castors.	
Anse-aux-Fleurs	6. Baie de Ste. Marguerite.	
	7. Baie de Ste. Gèneviève.	
	8. Baie Ste. Barbe.	

Côte Est.

	No.
Havre de Cook	9. Baie du Pistolet.
Baie de Iaha	
Cap d'Oignon	
Baie du Sucre	
Anse à Médée	
Baie aux Mauves	
Kirpon	
Trois Montagnes	
Petites Oies	
Fichot	10. Rivière aux Saumons dans la Baie des Lièvres.
La Four	
Petites Ilettes	11. Sainte Baie, idem, dite Saumonerie Jourdan.
Boutiten	
Aiguillettes	12. Bras de Bide, Baie du Canada.
Canaries	
Raincé	
Dégrat du Cheval	13. Le fond dans la Baie du Canada.
Sans Fond	
Fleur-de-Lis	14. Bras de l'Ouest, Baie Blanche.

(No. 5.)

ABSTRACT RETURN of British Population and Fisheries on the North-Eastern Coast of Newfoundland, from Cape St. John to Quirpon, including the Groaix and Horse Islands, during the season of 1857.

Localities.	Total Population.	Number of able Fishermen.	Quintals of Cod caught and cured.	Barrels of Salmon.	Barrels of Herrings.	Number of Seals.
La Scie	14	9	330	12	73	10
Brent Cove	21	8	370	32	20	..
Harbour Round	5	2	80	..	1	..
Pacquet	2	..	..	..	..	..
Mings	17	6	315	3	..	..
Coachman's Cove	21	6	220	..	10	..
Fleur-de-Lys	30	10	380	11	17	94
Lobster Harbour.. .. .	12	4	205	4	10	53
Seal Cove	17	4	344	1	4	80
Bide Cove	9	1	90	..	..	60
Fox Cove	4	1	70	..	..	2
Bear Cove	15	7	270	1	..	140
Wiseman Cove	6	3	70	..	13	39
Western Cove	32	11	140	1	108	81
Pomley Cove	8	3	60	1	..	30
Otter Cove	4	1	10	2	..	20
Chute's Brook	3	1	50	..	..	10
River Head	23	7	286	..	13	64
Sop's Island	29	9	460	7	..	203
Jackson's Arm	36	12	130	..	33	125
Coney Arm	33	18	870	1	66	200
Grandfather's Cove	16	4	360	1	8	100
Hooping Harbour	17	5	160	1	..	75
Cat Cove	4	2	20	..	..	15
Canada and Bay	26	12	320	6	..	6
Engleo	32	14	291	8	31	63
Hillyard's Harbour	5	3	90	1	..	15
Conche	100	30	523	32	25	642
Cronse	28	8	165	10	..	93
Croque	23	5	114	1	..	68
St. Julien's	13	4	110	..	4	60
Grands Oies	26	9	224	..	22	525
Havre-de-Fou	18	6	158	1	..	193
Fichot	37	12	333	..	14	465
Les Hettes	14	4	40	..	..	45
Western Brook	3	2	..	5	..	24
Ireland	28	12	289	1	91	159
Stark's Bight	10	3	20	..	9	36
Goose Cove	43	17	159	2	22	598
Three Mountains	5	1	12	1	..	113
Crémaillère	9	4	70	..	2	53
St. Antoine	71	26	447	26	157	787
Grand Braha	10	3	100	..	5	54
Little Braha	17	6	60	..	9	66
St. Lunaire	22	8	120	..	..	112
Criquet	18	8	200	..	8	151
Fortune	10	3	103	2	4	100
Kirpon	69	23	775	..	45	372
Grey or Gronix Islands	16	12	56	..	..	173
Horse Islands	9	4	130	14	30	100
Total	1,040	373	10,169	188	834	6,526

NOTE.—Of the above population of 1,040 souls, 579 are males and 461 are females. There are 604 Protestants, of whom 532 are of the Church of England and 72 are Wesleyans; the residue of the population, 436, are Roman Catholics. They own and employ 23 boats from 15 to 30 quintals, and 339 boats from 4 to 15 quintals.

ABSTRACT RETURN of British Population and Fisheries on the West Coast of Newfoundland, from Cape Ray to Quirpon, during the season of 1857.

Localities.	Total Population.	Number engaged in Catching and Curing the Fish.	Able-bodied Fishermen.	Quintals of Cod Caught and Cured.	Barrels of Salmon.	Barrels of Herrings.	Number of Seals.
Cape Ray :							
Red Rocks	22						
Codroy Island	170						
	192	94	48	4,800	10	..	200
*Great Codroy River	230	39	28	1,120	10	..	100
*Little Codroy River	109	54	37	2,220	8	..	200
St. George's Bay	1,049	397	251	10,000	400	14,000	..
Trout River and River Humber	156	63	41	1,230	156	1,640	..
Bonne Bay.. .. .	77	28	18	360	30	720	..
Cow Head.. .. .	55	23	15	450	12	525	..
Portland Creek	27	11	8	320	10	240	..
Port aux-Choix	37	14	11	220	..	200	..
Bay St. John	46	14	10	500	..	300	400
Ferolle to St. Barbe	74	18	16	800	..	480	640
St. Barbe to Anchor Point	30	14	11	..	3	330	550
French Island Harbour	70	36	24	1,200	..	480	960
French J. P. Harbour to Cape Norman	74	29	23	920	..	230	1,840
Cape Norman to Quirpon	111	45	31	775	..	..	1,550
Totals	2,337	879	572	24,915	639	19,165	7,540

* These settlers are chiefly farmers from the Isles and Highlands of Scotland, who speak Gaelic only.

NOTE.—Of the above population, 1,198 are Protestants, and 1,139 are Catholics. They own 475 boats, from 4 to 15 quintals; 9 boats from 15 to 30 quintals; and 8 boats of 30 quintals and upwards. They employ 1,254 nets and seines for fish; and 244 nets for seals.

No. 50.

Mr. Perley to the Earl of Clarendon.—(Received November 2.)

(No. 24.)

My Lord,

St. John, New Brunswick, October 20, 1857.

I HAVE the honour to inform your Lordship that after landing at Pictou on the 19th September, as reported in my last despatch, I proceeded overland through Nova Scotia and New Brunswick to this place, from whence I went by steamer and railway to Boston. There I met my colleague, the United States' Commissioner on the 2nd day of October instant, and at once proceeded with him to the consideration of the rivers of New Brunswick.

I am to inform your Lordship, that we agreed without dispute, and signed awards, as to the following rivers:—

Restigouche.

Bathurst.

Pokenouche.

Tracadie (2).

Tabusentac.

Konchibouqui.

Richibucto.

Peticodiac.

Sackville.

Musquasn.

Le Preau.

Magaquardarie.

We also agreed and signed an award as to the River Mindie, in Nova Scotia, which is near the boundary between that Province and New Brunswick.

With respect to the Rivers Caraquet, Cocagne, Shediac, and St. John, the United States' Commissioner and myself differed. The Caraquet is left open for a further examination, and in that week we may agree eventually. As regards the Cocagne, Shediac, and St. John we signed the record of disagreement, and the decision as to those three rivers will be left to the umpire. As to the mouths of the three last-mentioned

rivers, the United States' Commissioner receded from the principles he had admitted with reference to the other rivers of New Brunswick agreed upon, claiming much more, with the view, as it appeared to me, of securing free admission to the termini of the Government Railway from St. John to Shediac, now in course of construction, which will connect the waters of the Gulf of St. Lawrence with those of the Bay of Fundy.

This business being concluded, the United States' Commissioner furnished me with a list of the rivers of Maine, thirteen in number, which he wished me to examine, if possible, before the winter sets in. I have returned here to procure the necessary clothing and outfit for this duty, and shall proceed with it as soon as the weather, which during the past week has been very wet and stormy, will permit.

The United States' Commissioner now seems more tractable than formerly, and really desirous of proceeding with the work of the Commission. As I have become quite hardened by exposure since I left England in May, I will cheerfully go on with him until winter prevents further proceedings.

Mr. Gray, the umpire, has, with my surveyor, been over the whole of Prince Edward Island and examined all its rivers. At present he is on the Gulf shore of this Province, engaged in examining the rivers in dispute there. As yet I am not advised when he will be prepared to give his decisions, but I am certain they will not be delayed longer than necessary. The United States' Commissioner is desirous that he should take ample time, and examine every point thoroughly before deciding.

I have, &c.
(Signed) M. H. PERLEY.

No. 51.

The Earl of Clarendon to Mr. Perley.

(No. 4.)
Sir,

Foreign Office, November 5, 1857.

I HAVE to state to you that I approve of your proceedings for carrying on the business of the Fishery Commission, as reported in your despatch No. 24 of the 20th ultimo.

I am, &c.
(Signed) CLARENDON.

No. 52.

Mr. Perley to the Earl of Malmesbury.—(Received May 31.)

(No. 25.)
My Lord,

St. John, New Brunswick, May 15, 1858.

I HAVE the honour to state that on the 16th April I met Mr. Cushman, the United States' Commissioner, at Boston, by appointment, with the view of arranging the business of the Fishery Commission for the present season.

Prior to this meeting, I had informed Mr. Cushman, by letter, of my desire to examine and mark the mouths of rivers in Lower Canada during this season, commencing with the mouth of the St. Lawrence, as a basis for all the rest. This instruction was given in consequence of a communication to me from the Crown Land Department of Canada, inclosing extracts from the Report by the Superintendent of Fisheries in Lower Canada, setting forth his desire that the mouths of rivers there should be defined and marked under the Reciprocity Treaty as early as possible.

Assuming that a line drawn from Cape Rosier in Gaspé, to Mingan on the north shore of the St. Lawrence, a distance of about 100 miles, would mark the mouth of the St. Lawrence, I delivered to Mr. Cushman a list of twenty-two rivers outside that line, (including the rivers of Anticosté and Gaspé) which would require to be examined and marked. Should the mouth of the St. Lawrence, however, be defined by a line drawn higher up the estuary of that great river, then from thirty to fifty rivers in addition, as the case may be, will also require to be examined and marked.

I did not name any river north-eastwardly of Mount Joly, on the coast of Canadian Labrador, as, beyond that point, I conceive American fishermen have the liberty of fishing without restriction, under the Convention of 1818. It is therein provided that the inhabitants of the United States shall have, for ever, in connection with the subjects of His Britannic Majesty, the liberty to take fish of every kind—"on the coasts, bays, harbours, and creeks, from Mount Joly on the southern coast of Labrador, to and

through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company."

As the rivers of the extensive region indicated can only be visited by water, I proposed to Mr. Cushman that, in order to make the necessary examinations properly and effectually, a small steamer should be chartered for the short summer of that northern latitude, at the joint expense of the two Governments, in which we should proceed, together with our Surveyors, departing from Quebec in the month of June. Mr. Cushman declined answering this proposition at the moment, and we adjourned to meet again at Portland, Maine, on the 1st day of June, by which time I shall have finished my examination of the rivers of the State of Maine, and we will then proceed to make up our awards on these rivers.

From Boston I proceeded to New York, and there met Lord Napier. From his Lordship I learned, that although the United States' Government is fully aware of the unfitness and incapacity of Mr. Cushman, yet that any application for his removal on the part of Lord Napier would only lead to his being retained in office more firmly. Therefore I concurred in opinion with his Lordship that I should get on as smoothly and quietly as possible with Mr. Cushman, and do all I could to forward the business of the Commission, consistently with his incompetency.

After returning from New York to the State of Maine, Mr. Cushman advised me, officially, that he could not join in the proposed hiring of a steamer. Whether this arises from his utter dislike to the sea, or uncertainty as to his tenure of office, I am unable to say; but it drives me to the necessity of either making provision for visiting the Canadian rivers by myself, or of abandoning their examination for this season.

My impression is, that a small steamer of light draught of water would perform the whole service within sixty days; and I doubt if a sailing-vessel could effect it in less than two seasons. Of this I speak advisedly, from my experience of last year in visiting the west coast of Newfoundland and Labrador in Her Majesty's cutter "Netley;" and although the hire of a steamer might amount to a considerable sum, yet in the end it would be found more expeditious, and therefore more economical.

I have now very respectfully to ask your Lordship's instructions as to the measures I shall take for visiting the rivers of Lower Canada the present season, suggesting at the same time, that if it is deemed advisable to defer examining those rivers until a satisfactory arrangement can be made for visiting them jointly, the rivers of Nova Scotia, twenty-two in number, should be taken up at once, as their marking is equally urgent, and they can be reached by land, and the occasional employment of small boats along the coast, at comparatively small expense.

I have, &c.
(Signed) M. H. PERLEY.

No. 53.

Mr. Perley to the Earl of Malmesbury.—(Received May 31.)

(No. 26.)

My Lord,

St. John, New Brunswick, May 18, 1858.

I HAVE the honour to state that I yesterday received from the Honourable Mr. Gray his awards as umpire respecting the mouths of the Miramichi and Buetouche rivers, in New Brunswick, and also upon the question whether certain places in Prince Edward Island should or should not be deemed rivers under the Reciprocity Treaty.

These awards are in writing, and signed by the umpire, in strict accordance with the terms of the Treaty. Some printed copies have also been furnished to me by Mr. Gray, one of which is inclosed.

It will be observed by these awards that the lines I claimed as marking the mouths of the Miramichi and Buetouche, two large rivers, have both been awarded by Mr. Gray; and that Admiral Bayfield sustains the principle I laid down at the outset, that a river "does not cease to be a river until it flows over its bar into the sea."

This clear and simple principle has been admitted in every instance by the United States' Commissioner in marking the rivers of the United States, where no difference has ever occurred between us, but has been denied as a general rule whenever it did not suit his wishes with respect to British waters.

As to the twenty-four places in Prince Edward Island in dispute between the United States' Commissioner and myself, Mr. Gray has decided that eighteen of these are rivers, and that the remaining six cannot be considered as such. With regard to five of the places rejected by Mr. Gray as rivers, I quite concur with him, and I should have withdrawn them

not the United States' Commissioner made a wholesale rejection of the Prince Edward Island rivers. As to the sixth place rejected by Mr. Gray (St. Peter's), I do not agree with him; but as that place has always been treated by the Government and Legislature of Prince Edward Island as a "bay," there was a difficulty in getting over it. The large river Morel, flowing into St. Peter's, is, however, admitted to be a river by the United States' Commissioner, and its mouth will now be marked.

Mr. Gray informs me that he has forwarded the duplicates of his awards to Mr. Cushman, the United States' Commissioner; and that, to prevent mistakes, he has sent copies to Mr. Cass, the Secretary of State for the United States, and to Lord Napier, Her Majesty's Minister at Washington.

It only remains for me to add, that Mr. Gray has visited personally each of the localities in question, and taken unwearied pains to make himself master of the whole subject before giving his decisions.

I have, &c.
(Signed) M. H. PERLEY.

No. 54.

Mr. Perley to the Earl of Malmesbury.—(Received May 31.)

(No. 27.)

My Lord,

St. John, New Brunswick, May 18, 1858.

I HAVE the honour to state that a copy of the Report for 1854 of the Fishery Commissioners for Ireland has reached me, in which I find the awards defining the mouths of rivers in Ireland.

It is stated in the Report that copies of the maps referred to in these awards can be had at the office of the Commissioners in Dublin, and I have very respectfully to request that your Lordship will be pleased to direct that copies of such maps be sent to me.

I have, &c.
(Signed) M. H. PERLEY.

No. 55.

Mr. Gray to the Earl of Malmesbury.—(Received May 31.)

My Lord,

St. John, New Brunswick, May 15, 1858.

I HAVE the honour to inclose copies of the several awards delivered by me as umpire under the Reciprocity Treaty signed at Washington on the 5th June, 1854, the originals of which have been this day inclosed to General G. G. Cushman, the United States' Commissioner, and M. H. Perley, Esq., Her Majesty's Commissioner.

I have, &c.
(Signed) JOHN HAMILTON GRAY.

No. 56.

Mr. Hammond to Mr. Gray.

Sir,

Foreign Office, June 4, 1858

I AM directed by the Earl of Malmesbury to acknowledge the receipt of your letter of the 19th ultimo, inclosing the awards delivered by you as umpire under the Reciprocity Treaty of June 5, 1854; and I am to convey to you his Lordship's thanks for the communication.

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

No. 57.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, June 4, 1858.

I AM directed by the Earl of Malmesbury to transmit to you, to be laid before Secretary Sir E. Bulwer Lytton, a copy of a despatch from Mr. Perley,* inclosing the awards of the Arbitrator, Mr. Gray, respecting the mouths of the Rivers Miramichi and Buctouche, in New Brunswick, and also upon the question whether certain waters in Prince Edward Island should, or should not, be deemed rivers under the Reciprocity Treaty.

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

No. 58.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, June 5, 1858.

I AM directed by the Earl of Malmesbury to transmit to you a copy of a despatch from Mr. Perley,† stating that Mr. Cushman, the United States' Commissioner, declines to accompany him on a survey of the rivers of Lower Canada during the present season; and I am to request that, in laying Mr. Perley's despatch before Secretary Sir E. Bulwer Lytton, for his opinion as to the course which the British Commissioner should be instructed to pursue under the circumstances, you will state to him that Lord Malmesbury considers that it may be advisable to adopt Mr. Perley's suggestion to defer an examination of the rivers of Lower Canada until a satisfactory arrangement can be made for their joint survey by the British and American Commissioners, and that this summer should be employed by them in a survey of the rivers of Nova Scotia.

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

No. 59.

Mr. Merivale to Mr. Hammond.—(Received June 25.)

Sir,

Downing Street, June 24, 1858.

I AM directed by Secretary Sir Edward Bulwer Lytton to acknowledge your letter, dated the 4th instant, transmitting a copy of a despatch from Mr. Perley, dated the 18th May, and of its inclosure, printed awards by the Honourable J. H. Gray, as Arbitrator or Umpire under the Reciprocity Treaty of June 1854.

2. Sir Edward Bulwer Lytton will be glad if Lord Malmesbury will instruct Mr. Perley to send himself, by Circular, copies of the present or any other awards, whether by the Commissioners or by the Arbitrator, and of the maps relating to such awards to all the Governors and Lieutenant-Governors of Colonies in North America.

I am, &c.
(Signed) HERMAN MERIVALE.

No. 60.

Mr. Merivale to Mr. Hammond.—(Received June 25.)

Sir,

Downing Street, June 24, 1858.

I AM directed by Secretary Sir Edward Bulwer Lytton to acquaint you, for the information of the Earl of Malmesbury, in reply to your letter dated the 5th instant, inclosing a copy of a despatch from Mr. Perley dated the 15th May, and requesting an opinion as to the course which Mr. Perley should be instructed to pursue, that there seems to Sir Edward Bulwer Lytton to be no alternative but to sanction Mr. Perley's proposal to survey the Nova Scotia rivers this season (which is already far advanced, and for the present to postpone the examination of those of Lower Canada. Sir Edward Bulwer Lytton, at the same time, cannot avoid remarking that the United States' Government is

* No. 53.

† No. 52.

not fulfilling in a satisfactory manner its engagements under Article I of the Reciprocity Treaty, if it maintains, in the appointment of Commissioner, a gentleman incapacitated for his duties by his repugnance to sea travelling.

2. With respect to the proposal of Mr. Perley not to visit any river from Mont Joly northwards, Sir Edward Bulwer Lytton leaves Lord Malmesbury to consider, as a point of construction, whether the duties of the Commissioners extend to the British shores, described in Article I of the Convention of October 20, 1818, which shores appear to be in words exempted from the operation of the Reciprocity Treaty. Assuming (as he is himself rather disposed to think) that the duties of the Commissioner do not so extend, he would suggest recourse being had to a supplementary Article being added to the Reciprocity Treaty.

3. With regard to the question as to the mouth of the St. Lawrence, adverted to Mr. Perley, Sir Edward Bulwer Lytton concludes that Mr. Perley will communicate on this important subject with the Governor-General of Canada, if not with the Lieutenant-Governor of the neighbouring Provinces besides, before consenting to adopt the higher line of demarcation referred to. Sir Edward Bulwer Lytton observes, at page 37 of the printed collection of Mr. Gray's awards (inclosed in your letter dated the 4th instant), extracts from an American work, which support the lower line.

I am, &c.
(Signed) HERMAN MERIVALE.

No. 61.

The Earl of Malmesbury to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, June 25, 1858.

I HAVE to acquaint you that Her Majesty's Government concur in the suggestion contained in your despatch No. 25 of the 15th ultimo, that you should proceed to the survey of the rivers of Nova Scotia this season, and postpone for the present the examination of those of Lower Canada.

I am, &c.
(Signed) MALMESBURY.

No. 62.

The Earl of Malmesbury to Mr. Perley.

(No. 2.)

Sir,

Foreign Office, June 25, 1858.

I HAVE to instruct you to send copies of all awards, whether by the Commissioners or by the Arbitrator, and of the maps relative to such awards, to all the Governors and Lieutenant-Governors of Her Majesty's Colonies in North America.

I am, &c.
(Signed) MALMESBURY.

No. 63.

The Earl of Malmesbury to Mr. Perley.

(No. 3.)

Sir,

Foreign Office, June 25, 1858.

WITH regard to the question as to the mouth of the St. Lawrence, adverted to in your despatch No 25 of the 15th ultimo, I have to instruct you to communicate on this important subject with the Governor-General of Canada and with the Lieutenant-Governors of the neighbouring Provinces before you consent to adopt the higher line of demarcation referred to, especially as I observe, at page 37 of the printed collection of Mr. Gray's awards, forwarded in your despatch, extracts from an American work which support the lower line.

I am, &c.
(Signed) MALMESBURY.

No. 64.

The Earl of Malmesbury to Mr. Perley.

(No. 4.)

Sir,

Foreign Office, June 28, 1858.

I TRANSMIT to you herewith copies of maps of certain rivers in Ireland which, in compliance with the request contained in your despatch, No. 27 of the 18th ultimo, I have caused to be procured from Dublin.*

I am, &

(Signed) MALMESBURY.

No. 65.

Mr. Perley to the Earl of Malmesbury.—(Received July 12.)

(No. 28.)

My Lord,

St. John, New Brunswick, June 28, 1858.

1. REFERRING to my despatch to your Lordship of 15th May, No. 25, I have now the honour to state that, immediately thereafter, I proceeded to finish my examination of the rivers of Maine, which I accomplished by the 1st of June, partly by land and partly hiring a small steamer for two days, to examine the mouths of the larger rivers, not accessible except by water.

2. Mr. Cushman, the United States' Commissioner, met me at Portland, on the 2nd of June, and we proceeded to make up our decisions. For some reason not explained, and doubtless with an ulterior object, the United States' Commissioner withdrew from consideration all rivers under fifty miles in length, and only asked that the mouths of the five large rivers of Maine should be then defined. These are the Saco, the Kennebec, the Penobscot, the Union, and the Machias. On producing our respective diagrams of the mouths of these five rivers, it was found that, acting on the principle I had laid down at the outset, we did not differ in the slightest as to the points defining the sea-limits. Our awards were, therefore, made up and signed without the least difficulty.

3. I then pressed the United States' Commissioner to mark the mouths of the eighteen rivers of Prince Edward Island, which had been decided as such by Mr. Kay; but this he declined, and begged time for further consideration.

4. Nothing whatever was said by the United States' Commissioner as to visiting the St. Lawrence. As I was about to leave Portland, I intimated to the United States' Commissioner that, instead of the rivers of Lower Canada, I should probably ask him to visit and examine the rivers of Nova Scotia this season. It was then divulged, that a steamer attached to the United States' Coast Survey (named the "Walker,") had been fitting up at Philadelphia during the preceding two months, for the purpose of taking Mr. Cutts, the Surveyor to the United States' Commission, to the Gulf of St. Lawrence; that this steamer was to be commanded by a Lieutenant in the United States' Navy; that officers and men of the United States' Coast Survey were also to go in the vessel; that an extra appropriation of 20,000 dollars had been made by Congress, to defray the expenses of this steamer for the season; and that the United States' Commissioner would not be of the party, his Surveyor doing duty for him.

5. From all I could learn, I arrived at the conclusion that this Expedition, under cover of the Fishery Commission, was intended to make a thorough naval and military reconnaissance of the Gulf and River St. Lawrence up to Quebec. I remonstrated at once against such a proceeding, and expressed my surprise at the secrecy which had been maintained, as well as the want of candour on the part of the United States' Commissioner. I also drew attention to the fact that, in the beginning, it was fully agreed and understood between the United States' Commissioner and myself that, in our examinations of the coasts of British North America, British vessels only should be employed, and on the coasts of the United States American vessels only; and further, that when any work was to be done by sea, we should go together.

6. In order to leave no pretext for sending this surveying steamer to the St. Lawrence, until I could have your Lordship's opinion thereon, I addressed a letter to Mr. Cushman, withdrawing the rivers there from consideration for the present, and desiring his attention to the rivers of Nova Scotia this season. A copy of this letter is inclosed. No reply has yet been received to it; but I am proceeding with my preparations for visiting Nova Scotia and Cape Breton by land, as early as possible after the

1st of July; and I write again to-day to the United States' Commissioner requesting his attention to the subject.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure in No. 65.

Mr. Perley to Mr. Cushman.

Sir, *St. John, New Brunswick, June 12, 1858.*
IN your letter of 23rd April last you stated that you declined the joint chartering and occupancy of a steamer, as proposed by me, for visiting and examining the rivers of Canada; and as you have not intimated to me officially your intention of visiting these rivers this season, I now beg to withdraw the list of rivers there already furnished you. At the proper time a much longer and more complete list of the rivers of Canada will be delivered to you.

I have now the honour to inclose you a list of the rivers of Nova Scotia and Cape Breton, seventy-two in number, to which I respectfully request your attention this summer.

The mouths of nearly all these rivers can be visited by land, and I propose starting from here on or before the 1st of July, with a carriage and pair of horses, and beginning with the rivers falling into Baie Verte, will follow the eastern coast of Nova Scotia to Canso; then visit Cape Breton. Afterwards follow the Atlantic coast of Nova Scotia westwardly to St. Mary's Bay, and finish with the rivers of the Bay of Fundy.

I trust we may be able to examine all these rivers sufficiently by the 1st of October next, to meet at that time and make up our awards.

I beg to inquire if after the 1st of October you will be prepared to go on with the rivers of Connecticut, New York, and New Jersey, a list of which you furnished me last year, but the examination of which you subsequently abandoned to take up the rivers of Maine.

I have, &c.
(Signed) M. H. PERLEY.

No. 66.

The Earl of Malmesbury to Lord Napier.

(No. 89.)

My Lord,

Foreign Office, July 15, 1868.

I TRANSMIT to your Excellency herewith, for your information, a copy of a despatch from Mr. Perley, reporting that he was about to proceed to survey the rivers of Nova Scotia, and stating the circumstances under which he had proposed to defer the survey of the river St. Lawrence until next season.*

I am, &c.
(Signed) MALMESBURY.

No. 67.

Mr. Hammond to the Earl of Carnarvon.

My Lord,

Foreign Office, July 15, 1858.

WITH reference to my letter of the 5th ultimo, I am directed by the Earl of Malmesbury to transmit to you herewith, to be laid before Sir E. B. Lytton, a copy of a despatch from Mr. Perley, reporting that he was about to proceed to survey the rivers of Nova Scotia, and stating the circumstances under which he had proposed to postpone the survey of the river St. Lawrence until next season.*

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

No. 68.

The Earl of Carnarvon to Mr. Hammond.—(Received July 31.)

Sir,

Downing Street, July 30, 1858.

I AM directed by Secretary Sir E. Bulwer Lytton to acknowledge the receipt of your letter of the 15th instant, with the copy of a despatch from Mr. Perley, reporting that he was about to proceed on a survey of the rivers of Nova Scotia, and stating the circumstances under which he had proposed to postpone the survey of the river St. Lawrence until next season; and I am to request you will inform the Earl of Malmesbury that, in Sir E. Lytton's opinion, Mr. Perley has acted quite rightly.

I am, &c.

(Signed) CARNARVON.

No. 69.

The Earl of Malmesbury to Mr. Perley.

(No. 5.)

Sir,

Foreign Office, August 2, 1858.

I HAVE to acquaint you that the Secretary of State for the Colonial Department has informed me that he approves of your having postponed for the present the survey of the river St. Lawrence, and of your intention to proceed at once to Nova Scotia as reported in your despatch No. 28 of the 28th of June, a copy of which I had caused to be transmitted to him for his consideration.

I am, &c.

(Signed) MALMESBURY.

No. 70.

The Earl of Malmesbury to Mr. Perley.

(No. 6.)

Sir,

Foreign Office, December 15, 1858.

WITH reference to your despatch No. 23 of June 28, reporting that the United States' Government were fitting out a vessel for the survey of the mouths of the St. Lawrence, I have to inform you that the Governor of Canada has stated it to be his opinion, that the employment by the Fishery Commissioners of any ship belonging to the United States' navy or surveying service for the purpose of examining the Lower St. Lawrence and its tributary waters would be viewed in Canada with great dissatisfaction and jealousy.

I am, &c.

(Signed) MALMESBURY.

No. 71.

Mr. Perley to the Earl of Malmesbury.—(Received December 27.)

(No. 29.)

My Lord,

St. John, New Brunswick, December 13, 1858.

I HAVE the honour to acknowledge your Lordship's despatches Nos. 1, 2, and 3 of 25th June, No. 4 of 28th June, with accompanying documents, and No. 5, dated 2nd August.

2. I now have the honour to report to your Lordship that, after finishing the examination of the coast of Maine, I proceeded to Nova Scotia, the examination of the coasts of which occupied nearly the whole of the summer. I made the entire circuit of Nova Scotia proper, by land, in one drive of 800 miles (in part, over very bad roads), but managed, in various ways, to visit and examine the whole of its rivers.

3. On the 1st of July, Mr. Cushman, the United States' Commissioner, was superseded by Mr. Benjamin Wiggin; an entirely different, and much superior person. Immediately after, Mr. Wiggin entered upon the work in Nova Scotia, he taking the rivers in the western part of that Province, and Mr. Cutts, his Surveyor, those in the western portion, while my Surveyor and myself went over the whole.

4. After completing the examination of Nova Scotia proper, we proceeded to Long Island Sound, in the United States, and examined all the rivers there.

5. Lord Napier having officially informed me of the appointment of Mr. Wiggin, I met him by agreement at New York on the 15th of November, when we proceeded to make up our awards, Mr. Wiggin having first made and subscribed the declaration required by the Treaty in due form.

6. I have great satisfaction in reporting to your Lordship that Mr. Wiggin and myself did not differ in the least as to any river, either in Her Majesty's possessions, or in the United States, and that awards were made in every case in a satisfactory manner for all the rivers visited this season. The whole of the rivers of the mainland of North America from the Restigouche (the boundary between New Brunswick and Canada) southwardly to the Hudson at New York, a coast line of more than 2,000 miles, are now all disposed of, save four rivers in New Brunswick, respecting which Mr. Cushman, the late Commissioner, and myself, differed widely.

7. Mr. Wiggin declined marking the mouths of eighteen rivers in Prince Edward Island (decided to be such by Mr. Gray), until he has examined them, or the principal of them. He proposes to do so this next season, and will also visit the island of Cape Breton with me, to examine the rivers there. On his route thither, he will look at those rivers of New Brunswick respecting which Mr. Cushman and myself have differed, and it is not at all unlikely so, that we may adjust the whole without again calling upon the umpire.

I have, &c.
(Signed) M. H. PERLEY.

No. 72.

Mr. Perley to the Earl of Malmesbury. — (Received December 27.)

(No. 30.)

My Lord,

St. John, New Brunswick, December 13, 1858.

I HAVE the honour to state, that in conformity with the instructions in your Lordship's despatch No. 2 of the 25th Jul., I am now engaged with my Surveyor in making up copies of all awards, whether by the Commissioners or by the arbitrator, and of the maps relative to such awards, to be furnished to the Governors and Lieutenant-Governors of Her Majesty's Colonies in North America.

In order to complete these and such other copies of the awards and maps as will hereafter be needed, I require from the Admiralty nine copies of each of the charts mentioned in the inclosed list. I beg very respectfully that your Lordship will be pleased to direct these charts to be sent to me, by Royal Mail Steamer from Liverpool, to the care of Messrs. S. Cunard and Co., Halifax, Nova Scotia.

The United States' Commissioner has already very kindly furnished me with nine official copies of each of such charts of the coast of the United States as I need to carry out your Lordship's directions.

I have, &c.
(Signed) M. H. PERLEY.

No. 73.

The Earl of Malmesbury to Mr. Perley.

(No. 7.)

Sir,

Foreign Office, December 30, 1858.

I HAVE to state to you that I have learned with satisfaction from your despatch No. 29 of the 13th instant the progress made in the business of the Commission.

I am, &c.
(Signed) MALMESBURY.

No. 74.

Mr. Perley to the Earl of Malmesbury. — (Received May 30.)

(No. 31.)

My Lord,

Tremont House, Boston, May 16, 1859.

I HAVE the honour to state that, having been informed by Lord Napier that the President of the United States had appointed, and the Senate had confirmed, Mr. John

Hubbard, of Maine, as my colleague, in place of Mr. Benjamin Wiggin, I put myself in communication with Mr. Hubbard, and met him here by appointment on the 11th instant. On that day Mr. Hubbard made and subscribed, before the proper officer, the solemn declaration required by the 1st Article of the Reciprocity Treaty, and formally entered upon his duties as Commissioner.

2. I furnished Mr. Hubbard with a list of the rivers of Cape Breton, and also a list of the eighteen rivers in Prince Edward Island (decided to be such by Mr. Gray) whose mouths require to be defined, with a request that he would examine all of them during the present season. In case he should accomplish this in good time, I am to furnish him with a list of the rivers in Gaspé and Anticosti, also for examination this year.

3. In return, Mr. Hubbard furnished me with a list of all the rivers from New York to Virginia, with a view to our examining all, or as many of them as possible, in the latter part of this season, finishing the work of the year with a meeting at Philadelphia on the 15th of November, to settle our awards and plans.

4. I leave here to-day in the steamer for St. John, New Brunswick, and in a few days after reaching there, shall proceed to Pictou, in Nova Scotia, and thence to Cape Breton, the northern part of which I hope to reach early in June, there to encamp. Mr. Hubbard will join me there about the middle of June.

5. I propose examining the interior waters of Cape Breton, consisting of those large sea-lakes known as the Great and Little Bras d'Or (which have 400 miles of coast) with the tributary rivers in large curves, with a party of six Micmac Indians, whom I have engaged for that purpose. The leaders are men who have travelled with me for many years, and are both intelligent and useful. A very careful examination of Cape Breton will be necessary, as all its waters, external and internal, abound with the most valuable fishes, and the Americans are anxious to have the largest amount of liberty possible in that quarter, which they greatly frequent.

6. Mr. Hubbard has intimated to me his desire to reach Newfoundland as soon as possible, to which I have made no response. In the present state of affairs, it strikes me that it would be most imprudent to take the United States' Commissioner there, or until the questions now pending between England and France are satisfactorily adjusted. Until otherwise advised by your Lordship, I shall decline saying anything whatever to the United States' Commissioner respecting Newfoundland.

7. It only remains for me to add that Mr. Hubbard was, for a period of three years, Governor of the State of Maine. He is by profession a village doctor and accoucheur; very slow and methodical in his movements, and not at all acquainted with the sea, or with fish and fishing. In person, he is 6 feet 5 inches in height, and stout in proportion; and although not equal to Mr. Wiggin, the late Commissioner, is greatly superior to Mr. Cushman, the first Commissioner. He will be accompanied by Mr. Cutts as his Surveyor, and by his son as Secretary.

I have, &c.
(Signed) M. H. PERLEY.

No. 75.

Mr. Hammond to the Earl Carnarvon.

Sir, *Foreign Office, June 2, 1859.*
I AM directed by the Earl of Malmesbury to transmit to you, to be laid before Secretary Sir E. B. Lytton, a copy of a despatch from Mr. Perley, Her Majesty's Commissioner under the Reciprocity Treaty, containing information respecting Mr. Hubbard, the recently-appointed United States' Commissioner, and reporting Mr. Perley's past and intended proceedings.*

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

No. 76.

The Earl of Malmesbury to Mr. Perley.

(No. 1.)

Sir, *Foreign Office, June 14, 1859.*
WITH reference to your despatch No. 31 of the 16th ultimo, I have to state to you that Her Majesty's Government are of opinion that it would be clearly inexpedient that

Newfoundland should be visited by the Mixed British and United States' Commission until the labours of the present British and French Commission on the fisheries shall have ceased, and they therefore approve of your intention to postpone for the present the survey of the rivers of Newfoundland.

I am, &c.
(Signed) MALMESBURY.

No. 77.

Mr. Elliot to Mr. Hammond—(Received June 15.)

Sir, *Downing Street, June 14, 1859.*
WITH reference to your letter of the 2nd of June, respecting the proceedings of the Commissioners under the Reciprocity Treaty with the United States, I am directed by Secretary Sir Edward Bulwer Lytton to request that you will state to the Earl of Malmesbury that he is of opinion that it is clearly inexpedient that Newfoundland should be visited by the Mixed British and United States' Commission until the labours of the present British and French Commission on the fisheries shall have ceased. Sir E. Lytton would therefore recommend that Mr. Perley should be instructed to postpone for the present the survey of the rivers of Newfoundland.

I am, &c.
(Signed) T. FREDK. ELLIOT.

No. 78.

Lord Lyons to Lord J. Russell.—(Received November 19.)

(No. 250.)

My Lord, *Washington, November 8, 1859.*
I HAVE the honour to inclose a copy of a note which has been addressed to me by General Cass, remarking, in rather a complaining tone, first, upon the slowness of the Joint Commission under the Reciprocity Treaty; and, secondly, upon the publication, in a Canadian newspaper, of an extract from a letter, written in July, 1858, by the British Commissioner, Mr. Perley, and containing a reflection upon the conduct, in a particular matter, of Mr. Cushman, who was at that time Commissioner for the United States.

I have also the honour to inclose a copy of a note which I have written to General Cass in reply, and a copy of a despatch, on the same subject, which I have addressed to Mr. Perley.

My object has been to put a stop, if possible, to all recrimination and altercation respecting the past, and to do everything in my power to forward the speedy completion of the labours of the Commission. There is no doubt that the long continuance of such Commissions has a very unfavourable effect upon the relations between the two countries. The British Commissioners seem rarely to find in their American colleagues men with whom they can work cordially and satisfactorily. Any disagreement between the Commissioners is made the subject of mischievous articles in the newspapers, and leads, not unfrequently, to inconvenient discussions between the two Governments. In fact, so far as public feeling in this country is concerned, the advantages of having settled the main questions of the Treaty is, in great measure, neutralized by the irritation kept up by disputes respecting the arrangement of details by Commissioners.

So far as the correspondence in the archives of this Legation enables me to judge, I do not think that any want of alacrity or of energy, in discharging his duties as Commissioner, can justly be attributed to Mr. Perley. In December, 1858, he reported to Lord Napier that he had concluded the work of that year in perfect accordance with Mr. Wiggin, who had succeeded Mr. Cushman as United States' Commissioner. Of his proceedings this year, in conjunction with his present American colleague, Mr. Hubbard, I have not yet received any account.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 78.

*General Cass to Lord Lyons.**Washington, November 1, 1859.*

THE Undersigned, Secretary of State of the United States, regrets to be under the necessity of inviting the attention of Lord Lyons, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to the delay in bringing to a close the proceedings of the Joint Commission under the 1st Article of the Reciprocity Treaty. This delay is believed not to be justly chargeable to any delinquencies of the Commissioner or Surveyor on the part of the United States. On the contrary, the correspondence between the Commissioners of the respective Governments may, with confidence, be referred to as entirely exculpating that functionary from any disposition unnecessarily to protract their duties. From the note of the Undersigned to your Lordship's predecessor, however, of the 2nd of June, 1857, it will be seen that there has been some cause to complain of the want of alacrity on the part of Her Majesty's Commissioner. An Article in the "Canadian News," of the 28th of September last, indicates the existence of irritation in Canada at what is called the encroachment of American fishermen in Canadian waters, and embodies an extract from an official letter of Mr. Perley, Her Majesty's Commissioner, containing an imputation on the Commissioner of the United States, which is believed not to be well founded. The extract referred to is subjoined.

As it is desirable not only that the business of the Commission should be concluded without any delay which can be avoided, but that the Commissioner on the part of the United States should not be exposed to unmerited censure, the good offices of Lord Lyons are invoked for these objects.

The Undersigned, &c.

(Signed)

LEWIS CASS.

Inclosure 2 in No. 78.

Extract from a Letter from Mr. Perley, published in the "Canadian Times" of September 28, 1859.

Pictou, Nova Scotia, July 23, 1859.

IN the early part of this year, after receiving a communication from the Crown Lands Department, I proposed to Mr. Cushman, United States' Commissioner, to charter a steamer conjointly, for the purpose of marking the mouths of rivers in Lower Canada. This proposition was evaded, and finally rejected, by Mr. Cushman.

Inclosure 3 in No. 78.

*Lord Lyons to General Cass.**Washington, November 3, 1859.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, has received the note by which the Honourable Lewis Cass, Secretary of State of the United States, has done him the honour to invoke his good offices towards hastening the completion of the proceedings of the Joint Commission under the 1st Article of the Reciprocity Treaty of 1854. In the same note, the Secretary of State has called the attention of the Undersigned to the insertion, in a Canadian newspaper, of a document purporting to be an extract from a letter written by Her Majesty's Commissioner, Mr. Perley, on the 23rd July, 1858, and stating that a proposal to charter a steam vessel for the purpose of marking the rivers in Lower Canada had been evaded and finally rejected by Mr. Cushman, who was at that time United States' Commissioner.

The Undersigned would regret extremely that the cordiality, which is so essential to the progress of the labours of the Commissioners, should be interrupted by any discussion respecting the proceedings of past years. In justice to Mr. Perley, the Undersigned thinks it right to observe that a careful perusal of documents which he has found in the archives of the Legation has certainly left upon his mind the impression that no want of alacrity or energy in the discharge of the duties of Commissioner is to be attributed to that gentleman. But without making any further reference to the past, the Undersigned will hasten to assure the Secretary of State that he will omit nothing which

depends upon him, to forward the completion of the labours of the Commissioners, and to promote, in the meantime, cordiality and unanimity in the proceedings.

The Undersigned, &c.

(Signed)

LYONS.

Inclosure 4 in No. 78.

Lord Lyons to Mr. Perley.

Sir,

Washington, November 3, 1859.

I HAVE the honour to transmit to you a copy of a note, dated the day before yesterday, which I have received from General Cass, the United States' Secretary of State, and also copy of a note which I have written in reply.

You will perceive that the Secretary of State complains of delay in the proceedings of the Joint Commission, of which you are the British Member, and especially calls my attention to the insertion in the "Canadian Times" newspaper of an extract from a letter purporting to have been written by you on the 23rd July, 1858, respecting the rejection by Mr. Cushman, of your proposal to charter a steamer for the purpose of marking the mouths of the rivers in Lower Canada.

Upon the receipt of the note from General Cass, I went to the State Department, and begged the Assistant-Secretary of State, Mr. Appleton, to acquaint me a little more fully with the circumstances which had led to this communication being made to me. Mr. Appleton said that the United States' Commissioner, Dr. Hubbard, and others who had taken part in the labours of the Commission, had been extremely annoyed by the publication in the "Canadian Times" of the extract from your letter; and had applied to the Department for permission to publish, in retaliation, extracts from their own correspondence. Mr. Appleton said that the Government of the United States attached very great importance to bringing the proceedings of the Commission as speedily as possible to a close; and that certainly nothing could less tend to that object than that the Commissioners should engage in a newspaper controversy on the cause of the delays which had occurred in past years. Still (Mr. Appleton added) it was considered that some notice should be taken of the matter, and it had been thought that the most conciliatory course would be to address a note to me requesting me to interpose my good offices.

I told Mr. Appleton that I entirely agreed with him, both upon the advantage of closing the labours of the Commission with the least possible delay, and upon the importance of avoiding everything which might produce altercation or recrimination respecting the past. I said that on this account I regretted the reference in General Cass's note to a complaint which had been made by him to my predecessor, so far back as in June 1857, and which appears to me to have been satisfactorily disposed of at the time. I added that I had carefully read the papers on the subject, which were at this Legation; that I should feel it my duty to place a record in my reply to General Cass my belief that no want of energy or alacrity was to be attributed to you, but that I should endeavour to do so in such a manner as not to provoke any controversy on the subject.

It is quite needless for me to point out to you the great importance of avoiding every subject of unnecessary controversy with your American colleagues. Your own experience must make you a far better judge than I can be of the best mode of dealing with them. I may perhaps be permitted to express an opinion that the long continuance of such Commissions as that of which you are a member, has a very unfavourable effect upon the relations between the two countries; but there can be no need of my pressing this consideration, in addition to the other strong motives which must urge you to omit no effort to bring your proceedings to a speedy conclusion.

Not having received any communication from you of a later date than your despatch of the 25th May last, I have no knowledge of your proceedings during last summer, nor of the footing upon which you have stood with your American colleague, Dr. Hubbard. I can only therefore say in general terms, that it would, in my opinion be very desirable that you should if possible enable me to make a communication to General Cass which may tend to allay irritation and put a stop to any further discussion of the proceedings of past years.

I purpose to send copies of General Cass's note, of my reply, and of this despatch to Her Majesty's Government.

I have, &c.

(Signed)

LYONS.

P.S.—Not having any more certain indication of your movements than the expression, in your despatch of the 25th May, of your intention to meet your American colleague at Philadelphia, on the 15th of this month, I send this despatch to the care of Her Majesty's Consul at that place.

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No. 79.

Lord Lyons to Lord J. Russell.—(Received December 5.)

(No. 263.)

My Lord,

Washington, November 22, 1859.

WITH reference to my despatch No. 250, of the 8th instant, I have the honour to transmit to your Lordship a copy of a despatch from Mr. Perley, Her Majesty's Commissioner under the Reciprocity Treaty, showing that he is in no way responsible for the publication of the article in the Canadian newspaper which gave offence to the United States' Commissioners. I have also the honour to transmit to your Lordship a copy of a note in which I have stated this fact to General Cass. Having, as your Lordship is aware, recorded in a previous note my belief that no want of alacrity or energy in prosecuting the labours of the Commission in past years could be attributed to Her Majesty's Commissioner, I thought it both unnecessary and undesirable to revert, in addressing General Cass on this occasion, to any subject likely to provoke discussion respecting the past.

It has been with very great concern that I have learned by a further despatch from Mr. Perley (of which also and of its inclosures I have the honour to transmit copies herewith) that the result of his recent meetings with his American colleague, Dr. Hubbard, at Philadelphia, has been that the business of the Commission has been brought entirely to a stand.

It appears that Dr. Hubbard informed Mr. Perley at that meeting, that an appeal concerning the conduct of the umpire, Mr. Gray, had been sent to the United States' Minister in London to be communicated to your Lordship, and that this being the case, Mr. Perley considered it impossible to proceed to business, and at once quitted Philadelphia.

I am of course not sufficiently acquainted with the particulars of the decisions made by the umpire, to give any opinion of my own upon the charge of partiality which has, it seems, been brought against them by the United States' Government. But the prospect of coming to a definitive settlement must be small indeed, if the Government of the United States be not prepared to abide by the stipulation of the Treaty, by which the "High Contracting Parties solemnly engage to consider the decision of the Commissioners conjointly, or of the arbitrator of umpire, as the case may be, as absolutely final and conclusive." (Reciprocity Treaty, Article I, last paragraph.)

I had an opportunity of conversing with Mr. Perley here, a few days before his meeting with Dr. Hubbard at Philadelphia. He seemed then to be of opinion that with good-will and activity on both sides, it might not be impossible to bring the labours of the Commission to a close next year. I am afraid that the question that has been raised by the United States respecting the umpire, has already caused a delay, which will increase the difficulty of attaining this very desirable object.

In the despatches No. 250 of the 8th instant, to which I have already referred, I pointed out the very unfavourable effect, which is, in my opinion, produced upon the relations between the two countries by the long continuance of such a Commission as that of which Mr. Perley is a member. In the case of the Reciprocity Treaty it is particularly desirable that all questions should be settled definitively as soon as possible. A part of the public press, and some politicians here, in defiance of good faith and of the stipulations of the Treaty, openly urge its immediate abrogation by the United States. Although the provisions respecting the admission of certain articles duty free are the special objects of attacks, still any dispute respecting the settlement of the Fishery Question by the Commission, would be eagerly taken advantage of by the enemies of the Treaty; and the more so as they maintain that the fishery rights secured to American citizens formed the "consideration" in return for which the United States gave their assent to the Commercial stipulations of the Treaty.

I have, &c.

(Signed) LYONS.

Inclosure 1 in No. 79.

Mr. Perley to Lord Lyons.

My Lord,

Philadelphia, November 14, 1859.

I HAVE had the honour of receiving, through Mr. Consul Kortright, your Lordship's despatch of the 3rd instant, inclosing copy of a note from General Cass, United States' Secretary of State, as also copy of your Lordship's reply thereto.

With reference to the complaint of delay in the proceedings of the Joint Fishery Commission made by General Cass, it strikes me that it would more properly come from Her Majesty's Government. The mere fact of three Commissioners having already been appointed on the part of the United States, naturally leads to the belief that the progress of the Commission has been delayed on that side, without alluding to the qualifications of the first Commissioner or his peculiar proceedings. An important part of his work, with respect to the rivers of Prince Edward Island, still remains unfinished, and I shall press it to a conclusion when I meet the present Commissioner, in order to place the work in due order.

I have no wish to create unpleasant differences with regard to the past, but I beg briefly to allude to the obstacles I have had to encounter from the utter unfitness of one Commissioner, and the beginning almost *de novo* with the other two. I have spared neither labour or fatigue for the accomplishment of the work, and none will be spared by me to bring it to a conclusion as speedily as possible.

As regards an article said to be published in the "Canadian News" of 28th September last which is referred to by General Cass, I have to say that I have never written anything for the "Canadian News," that I have not seen a copy of that paper for more than a year, and that I know nothing whatever of the article in question, or of its authorship. A very small portion of an official letter of mine to the Superintendent of Fisheries in Lower Canada appears to have been mixed up with the article in question, but how it came into print I am unable to say.

I beg to add that, until the receipt of your Lordship's despatch, I had no knowledge whatever of the publication of the article in question, nor have I yet seen it.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure 2 in No. 79.

Lord Lyons to General Cass.

Washington, November 19, 1859.

WITH reference to the note which the Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, addressed on the 3rd instant to the Honourable Lewis Cass, Secretary of State of the United States, the Undersigned has the honour to inform the Secretary of State that he has called the attention of Mr. Perley, Her Majesty's Commissioner under the Reciprocity Treaty, to the extract from an article in the "Canadian Times" newspaper, which was inclosed in the note from the Secretary of State to the undersigned, dated the 1st instant.

Mr. Perley, in reply, assures the Undersigned that he was not aware of the existence of the article in question until the extract from it was communicated to him by the Undersigned, that he has not seen any other part of the article, and that he knows nothing whatever of its publication or of its authorship. Mr. Perley perceives, indeed, that a small portion of a letter of his to the Superintendent of Fisheries in Lower Canada has been inserted in the article, but how any portion of that letter came into print he is unable to say. Mr. Perley states, moreover, that he has never written anything for the "Canadian Times," and has not seen a copy of that paper for more than a year.

The Undersigned has much satisfaction in being thus able positively to assure the Secretary of State that Her Majesty's Commissioner has not been in any way concerned in the publication of the article referred to.

The Undersigned, &c.

(Signed)

LYONS.

Inclosure 3 in No. 79.

Mr. Perley to Lord Lyons.

My Lord,

Gerard House, Philadelphia, November 16, 1859.

I HAVE the honour of stating to your Lordship that yesterday I met here, by appointment Mr. Hubbard, the United States' Commissioner.

I proposed to commence the business of the meeting by designating the mouths of eighteen rivers of Prince Edward Island, which were declared to be rivers within the meaning and intent of the Treaty, by the awards of Mr. Gray, the Umpire. I was met by the unexpected information that an appeal had been taken against the decisions of Mr. Gray, as to the Prince Edward Island rivers, involving also his decisions as to the mouths of two important rivers in New Brunswick, the Buetouche and Miramichi, on the ground of "flagrant partiality;" that this appeal had been lodged at the State Department so far back as February last, but had only recently been brought under the consideration of Her Majesty's Government.

Thereupon I addressed a note to Mr. Hubbard, to which I received an immediate reply. Copies of these notes are inclosed, as also copy of my rejoinder.

The charge of "flagrant partiality" is so utterly and entirely unfounded, that I cannot conceive for a moment why it has been made. It casts such a grave imputation upon the umpire, a most honourable and upright man, and leaves the question of umpirage in such an unpleasant state, that I felt I had no option but to decline entering upon new business until this matter was adjusted, lest, in case of fresh disagreements as to rivers, the business of the Commission might become seriously complicated.

Mr. Hubbard has just taken leave on his return to Maine. We parted on the most friendly terms personally, and he took the opportunity of saying that, so soon as the State Department relieved him from its interdict, not to settle finally the Prince Edward Island rivers, he would be happy to appoint another meeting, when he had little doubt we would get on harmoniously. He left me with the impression that the appeal in question was drawn up before his appointment as Commissioner, and that he did not hold himself responsible either for its terms or its substance.

To-morrow morning I leave here on my return to New Brunswick.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure 4 in No. 79.

Mr. Perley to Mr. Hubbard.

Sir,

Philadelphia, November 15, 1859.

HAVING the honour of meeting you here to-day agreeably to arrangement, for the purpose of proceeding with the business of the Joint Fishery Commission under the Reciprocity Treaty, I beg to say that, with the view of closing the arrears of business and proceeding in due order. I propose that, in the first place, we should mark the mouths of the eighteen rivers of Prince Edward Island, which were declared to be such by the awards of the Honourable Mr. Gray, but whose mouths are not yet defined.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure 5 in No. 79.

Mr. Hubbard to Mr. Perley.

Sir,

Gerard House, Philadelphia, November 15, 1859.

I HAVE the honour to inform you, in reply to yours of this date, proposing as the first business in order at our present meeting, the designation of the reserved places in the Island of Prince Edward, that an appeal from the decision of the Umpire in these cases has been taken, on the ground of their flagrant partiality, and the entire matter has been submitted to the friendly action of our respective Governments. I would therefore request that the above cases be postponed until I shall receive instructions, in regard thereto, of which prompt notice shall be given to you.

In the meantime I beg to call your attention to my letter of June 28 last, and to

say that I am now prepared to designate all the places intended to be reserved from the common liberty of fishing on the coasts of the British Provinces and the United States, not yet acted upon, excepting the Island of Newfoundland. Permit me to express the hope that we may do all that we can at our present meeting to complete the duty assigned to the Commission.

I have, &c.
(Signed) JOHN HUBBARD.

Inclosure 6 in No. 79.

Mr. Perley to Mr. Hubbard.

Sir, *Gerard House, Philadelphia, November 15, 1859.*
I HAVE had the honour of receiving your letter of this date, informing me, with reference to the designation of the reserved place in Prince Edward Island, that an appeal from the decision of the Umpire in these cases has been taken on the ground of their "flagrant partiality;" that the entire matter has been submitted to the friendly action of our respective Governments; and you therefore request that the above cases be postponed until you receive instructions in regard thereto.

The charge against the Umpire of "flagrant partiality" is one of so serious a nature, and involves such grave considerations, that I cannot consent to proceed with the designation of the places intended to be reserved from the common liberty of fishing, either on the coasts of the British Provinces, or those of the United States, until it is withdrawn or properly determined.

I beg to express my sincere regret that the difficulty presented by the appeal, of which I am now for the first time informed, will prevent our making such progress toward the completion of the business of the Commission as I hoped would have been made at the present meeting.

I have, &c.
(Signed) M. H. PERLEY.

No. 80.

Mr. Perley to Lord J. Russell.—(Received December 5.)

(No. 32.)

My Lord,

Tremont House, Boston, November 22, 1859.

1. WITH reference to my despatch No. 31 of 16th May last, I now have the honour of reporting to your Lordship that I proceeded immediately thereafter to Cape Breton, and made a thorough examination of the rivers of that island, and of its interior waters. The United States' Commissioner met me with his party in the Bras d'Or Lake, on the 15th of July, being just a month later than the time agreed upon. I finished Cape Breton early in August, and having discharged my Indians, shortly after proceeded to Canada, while the United States' Commissioner went to Prince Edward Island.

2. The Canadian Government proposes hereafter to employ a steamer, instead of a sailing vessel, in the Gulf of St. Lawrence, for the protection of the sea fisheries. I entered into a preliminary arrangement with the Canadian Board of Works to be conveyed next season in the steamer so to be employed, to the rivers in Gaspé, Anticosti, and the whole of the extensive line of coast from the Saguenay to Mount Joly in Labrador. Beyond, or to the eastward of Mount Joly, the Americans have the right of fishing without limit, under the Convention of 1818, and therefore I conceive it will be unnecessary to visit that part of the coast.

3. On my return from Canada I visited and examined several of the rivers to the southward of New York, and while so engaged waited upon Lord Lyons at Washington. On the 15th instant, agreeably to appointment, I met Mr. Hubbard at Philadelphia.

4. As first in the order of business, I proposed to Mr. Hubbard to mark the mouths of the eighteen rivers of Prince Edward Island, which were declared to be rivers by the awards of Mr. Gray, the Umpire. I was met with the unexpected information that an appeal had been taken against the decisions of Mr. Gray as to the Prince Edward Island rivers, involving also his decisions as to the mouths of the Buctouche and Miramichi in New Brunswick, on the ground of "flagrant partiality;" that this appeal had been lodged at the State Department (Washington) so far back as February last, but had only recently been brought under the notice of Her Majesty's Government.

5. Thereupon I addressed a note to Mr. Hubbard, a copy of which is inclosed, as also copies of his reply and of my rejoinder. It struck me as most inexpedient to enter upon fresh business, and, in the event of disagreement, create new difficulties and involvements, while this appeal was pending, as it affects materially the whole business of the Commission. From this view of the case Mr. Hubbard could not well dissent; and, at parting, it was understood between us that so soon as the appeal was disposed of by our respective Governments, we should at once meet at some convenient place, and proceed to the completion of the work in hand, at the same time making arrangements for the labours of next season. We separated on the most friendly terms, and Mr. Hubbard left upon me the impression that he did not approve of the appeal, and did not hold himself responsible for it.

6. I beg leave to state to your Lordship that, in my opinion, the charge against the Umpire of "flagrant partiality" is wholly without foundation. I conceive that there is no reasonable or probable cause for such a grave charge against a most honourable and upright English gentleman, whose character is unimpeachable.

7. It may not be improper for me to say, with respect to Mr. Gray, that he has been Attorney-General and Leader of the Government in New Brunswick; and on the next change of Administration in that Colony is not unlikely to occupy the same position again. It is therefore of the utmost importance to him that this serious charge should be boldly met, and successfully repelled.

8. As Mr. Hubbard appeared most anxious to visit Newfoundland next season, and spoke of employing a steamer for that purpose, I beg very respectfully to be informed if the state of matters with France is such as to admit of this being done with propriety.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure 1 in No. 80.

Mr. Perley to Mr. Hubbard.

Sir, *Gerard House, Philadelphia, November 15, 1859.*
 HAVING the honour of meeting you to-day, agreeably to arrangement, for the purpose of proceeding with the business of the joint Fishery Commission under the Reciprocity Treaty, I beg to say that, with the view of closing the arrears of business and proceeding in due order, I propose that in the first place we should mark the mouths of the eighteen rivers of Prince Edward Island which were declared to be such by the awards of the Honourable Mr. Gray, but whose mouths are not yet defined.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure 2 in No. 80.

Mr. Hubbard to Mr. Perley.

Sir, *Gerard House, Philadelphia, November 15, 1859.*
 I HAVE the honour to inform you, in reply to yours of this date, proposing as the first business in order at our present meeting the designation of the reserved places in the Island of Prince Edward, that an appeal from the decision of the Umpire in these cases has been taken, on the ground of their flagrant partiality, and the entire matter has been submitted to the friendly action of our respective Governments. I would therefore request that the above cases be postponed until I shall receive instructions in regard thereto, of which prompt notice shall be given to you.

In the meantime I beg to call your attention to my letter of June 28 last, and to say that I am now prepared to designate all the places intended to be reserved from the common liberty of fishing on the coasts of the British Provinces and the United States not yet acted upon, excepting the Island of Newfoundland.

Permit me to hope that we may do all that we can at our present meeting to complete the duty assigned to the Commission.

I have, &c.

(Signed) JOHN HUBBARD.

Inclosure 3 in No. 80.

Mr. Perley to Mr. Hubbard.

Sir, *Gerard House, Philadelphia, November 15, 1859.*
 I HAVE had the honour of receiving your letter of this date, informing me, with reference to the designation of the reserved places in Prince Edward Island, that an appeal from the decisions of the Umpire in these cases has been taken on the ground of their "flagrant partiality," that the entire matter has been submitted to the friendly action of our respective Governments, and you, therefore, request that the above cases be postponed until you receive instructions in regard thereto.

The charge against the Umpire of "flagrant partiality" is one of so serious a nature, and involves such grave considerations, that I cannot consent to proceed with the designation of the places intended to be reserved from the common liberty of fishing, either on the coasts of the British Provinces or those of the United States, until it is withdrawn or properly determined.

I beg to express my sincere regret that the difficulties presented by the appeal, of which I am now for the first time informed, will prevent our making such progress toward the completion of the business of the Commission as I hoped would have been made at the present meeting.

I have, &c.
 (Signed) H. M. PERLEY.

No. 81.

General Cass to Mr. Dallas.—(Communicated to Lord J. Russell by Mr. Dallas, December 7.)

Sir, *Department of State, Washington, November 3, 1859.*
 I TRANSMIT a copy of letters of the 25th of May, 1858, and of the 15th of February last, and of the documents by which they were accompanied, addressed to this Department by Mr. Richard D. Cutts, the Surveyor on the part of the United States under the Reciprocity Treaty. It will be seen that Mr. J. H. Gray was selected as the Umpire to decide the differences between the two Commissioners as to what should be considered rivers from which United States' fishermen are to be excluded, pursuant to the Treaty; that the Commissioners, however, accompanied this appointment by an agreement, that the Umpire so selected should decide on those cases only respecting which the differences adverted to had arisen, and that, in the opinion of Mr. Cutts, the Umpire has been guilty of obvious partiality in his decisions, adverse to the United States. The arguments advanced in support of this opinion seem to be well founded; and if due weight should be allowed to them by Her Majesty's Government, it cannot be doubted that measures will be adopted on its part towards preventing the injury to our fishermen which would ensue if the decisions of Mr. Gray were to be deemed irrevocable.

It may be acknowledged that the intention of the Treaty was, that the awards of the Arbitrator, for which it provides, should be final. Both Governments, also, have an equal interest, and the honour of both is alike concerned, in abstaining from any complaint against the proceedings of that functionary for light causes. The decisions of Mr. Gray, which are objected to, do not, it is true, relate to fishing-grounds of paramount importance; but this Government can not allow them to go into effect without a protest at least, when, as is conceived, they are so clearly shown to be unreasonable and partial. The disposition, however, which they show to give the British fishermen a monopoly without adequate cause, makes it imperative upon this Government to insist that Mr. Gray shall not be allowed to act as Umpire in any other cases. It is true, that the agreement referred to, provides that his functions were to terminate with his decisions already made. It is possible, however, that the British Commissioner, of his own accord, or under instructions from his Government may disregard that agreement. With a view to prevent such a result, and to guard against any future misunderstanding on the subject, you will seek an early interview with Lord John Russell, and express to him the hope of your Government that Mr. Perley will be directed to adhere to the agreement referred to. There is nothing in the Treaty which can prevent such a compliance with the agreement, and the equity of the case seems clearly to require it.

Our Commissioner will be instructed to suspend any further proceedings towards

carrying the awards into effect, until the pleasure of Her Majesty's Government upon the subject can be known.

I am, &c.
(Signed) LEW. CASS.

No. 82.

Lord J. Russell to Mr. Dallas.

Foreign Office, December 8, 1859.

LORD JOHN RUSSELL presents his compliments to Mr. Dallas, and, in compliance with the suggestion made by Mr. Dallas, at his interview with Lord John Russell yesterday, has the honour to inclose to him, together with Mr. Dallas' copy of Mr. Gray's awards, a further copy of those awards, in order that the observations annexed to the one may be annexed to the other also.

No. 83.

Mr. Hammond to Mr. Merivale.

Foreign Office, January 25, 1860.

Sir,
WITH reference to your letter of the 14th of June last, instructions in the sense of which were sent to Mr. Perley on the same day, I am directed by Lord John Russell to transmit to you a copy of a despatch from that gentleman, reporting his proceedings, and referring to an appeal which had been lodged against the decisions of Mr. Gray, on the ground of flagrant partiality.*

Lord John Russell is in correspondence with Mr. Dallas respecting this appeal, the particulars of which will be hereafter communicated to the Colonial Office; but as Mr. Perley has again asked for instructions as to his visiting Newfoundland, I am to request that you will move the Duke of Newcastle to cause Lord John Russell to be informed whether his Grace sees any objection to Mr. Perley being instructed to proceed to Newfoundland, in order to mark out the rivers there this spring.

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

No. 84.

Lord J. Russell to Mr. Dallas.

Foreign Office, January 25, 1860.

LORD JOHN RUSSELL presents his compliments to Mr. Dallas, and has the honour to request that he will be good enough to return the copy of Mr. Gray's Awards, which was forwarded to Mr. Dallas in Lord John Russell's letter of the 8th ultimo.

No. 85.

Mr. Dallas to Lord J. Russell.—(Received January 27.)

My Lord,

Legation of the United States, London, January 26, 1860.

IN conformity with the request contained in your Lordship's note of yesterday, I have the honour to return the printed copy of Mr. Gray's Awards, forwarded to me on the 8th ultimo. To this printed document has been added transcripts of written remarks, so as to make the whole an exact copy of the paper received by me from the Department of State.

Renewing, &c.
(Signed) G. M. DALLAS.

Mr. Dallas to Lord J. Russell.—(Received January 31.)

My Lord,

Legation of the United States, London, January 30, 1860.

AT the interview with which I was honoured on the 7th day of December last, and accompanying my note on the 26th day of January, 1860, copies of all the papers transmitted to me from the Department of State connected with the Awards of the Honourable John Hamilton Gray, were submitted for your Lordship's consideration. The contents of these papers need no repetition, and require little explanation; but it may be advantageous to express, as briefly as possible, the views with which they are brought to the notice of Her Majesty's Government.

The language employed in the Treaty of 5th June, 1854, known as the Reciprocity Treaty, to wit, "The inhabitants of the United States shall have, in common with the 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 the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore." This language rendered it expedient subsequently, in the opinion of the two Governments, to appoint a Commission to "impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing." This Commission was composed of Mr. Moses H. Perley, designated on behalf of the British Government, and Mr. G. G. Cushman, designated on behalf of the American Government; and, agreeably to a provision in the Treaty, the Honourable John Hamilton Gray was named as a third person to act as Arbitrator or Umpire in cases on which the Commissioners had themselves differed in opinion.

Serious difficulties have arisen in the progress of this Commission, ascribable exclusively to the Umpire, and these, it is confidently believed, need only be frankly stated to Her Majesty's Government in order to secure just and adequate remedies.

1. At the time the Commissioners deemed it proper to choose an umpire, and before they proceeded to do so, there was a distinct understanding and agreement between them that the person to be chosen was not to be a permanent umpire for the decision of all cases that might arise, but an Umpire specially for cases then in dispute, and then referred to him.

Mr. Gray has repudiated this agreement, and insists upon continuing the only umpire as long as the Commission lasts. On this claim your Lordship will permit me to make the following few suggestions:—

The agreement was one to which the Commissioners were entirely competent. It is in no respect inconsistent with the terms of the Treaty; on the contrary, those terms are such as suggest its practical convenience and prudence. And, being once fairly entered into, it cannot, except by mutual assent, be violated or evaded compatibly with good faith. As an understanding, it is clearly the law of the appointment held by Mr. Gray. He is not at liberty to give that appointment a character, as regards duration or tenure, different from the character impressed upon it by the joint minds of the Commissioners. It may not be as acceptable or dignified as he would wish to make it; but the only cure for that imperfection is to be found, not in the will of any single party—least of all in the will of Mr. Gray alone—but in the general concurrence.

That clause of Article I of the Treaty, appealed to by Mr. Gray in his letter to Mr. Cushman of the 15th May, 1858, as establishing the permanency of his office, has, it is respectfully submitted, no bearing on the particular point now considered. Furnishing relief from the embarrassments which natural causes might create after the functions of Commissioner or Umpire have been once formally assumed, it nevertheless leaves untouched the expressly given power of limiting the umpirage to "any case" or "cases" on which difference has arisen. The language admits each "case" to have a separate umpire, in place and stead of whom, on a contingency happening, another person may be substituted and qualified.

The practical advantage of leaving at the discretion of the Commissioners, as the Treaty manifestly does, the mode of reference, whether to one or to different individuals, could not fail to be foreseen. A "case" might arise the complications of which would exact from an umpire prolonged and exclusive attention. Must all other "cases" be suspended and postponed until that is disposed of? Or will not the friendly feeling between the two nations, and among their fishermen, as well as the economy of the whole proceeding, be best consulted by subdivision and despatch? These are considerations

which the negotiators of the Treaty and their Governments would probably regard as of far greater moment than those which influence the mind of Mr. Gray.

I am therefore instructed to express a hope that, in order to guard against any future misunderstanding, your Lordship will direct Mr. Perley to adhere scrupulously to the agreement made with his colleague, Mr. Cushman, and to unite with that gentleman in definitively apprising Mr. Gray that his pretension cannot be recognized.

2. As a general rule, the Treaty contemplates that the awards of the umpire are to be final in reference to the rights of the High Contracting Parties. Both Governments, too, are equally concerned, in honour and interest, in abstaining from any comment on the proceedings of Mr. Gray, except for grave and striking causes. But they are much more concerned in leaving with each other, for their mutual peace and amity, the conviction that what has been effected under the Commission is irrevocable, not only because it was formally, but because it was fairly, justly, and equitably decided. If the testimony and reasoning are therefore so clear and strong as irresistibly to produce the impression that "favour and affection" have entered into the judgments of the arbiter; if they prove a disposition in Mr. Gray to give to British fishermen a monopoly without adequate cause and irreconcilable with the liberal and amicable spirit of the Treaty; Her Majesty's Government will perceive ample reason why the United States should protest against the decisions he has made, and against his being allowed to act as umpire hereafter.

In the present note a review of the awards is unnecessary. Such review has been made in detail by a gentleman attached to the Commission as surveyor, and is composed of the written marginal annotations in the copy-book No. 2, now in your Lordship's hands, printed, it is presumed, by Mr. Gray, at St. John, New Brunswick, in 1858.

This critical examination bears intrinsic marks of research and fidelity; and it leads to the conclusion of Mr. Gray's "favour and affection" in a manner too strong to be disregarded. His strange interpretations of the Treaty; his irregular pursuit, without notice, of *ex parte* evidence; his mutilated citations from books; his capricious definitions; his numerous conflicts of judgment; his unsettled and erroneous reasoning; his rejection of established authorities; his undervaluing and perversion of official proof; are all in succession dwelt upon as *indicia* of bias, and as explaining the extent to which the rights of the United States have already been sacrificed, and are in danger of being still further sacrificed by him. I am neither authorized nor willing to use words of unnecessary harshness, but restrict myself to this general description of the allegations in the document.

Under these circumstances the President deems it his duty to rescue, if possible, the interests involved under the Reciprocity Treaty from the umpirage of Mr. Gray. He desires to enjoin no particular line of action except that of upright and impartial decision. The same spirit animates, he does not for a moment doubt, the advisers of Her Majesty; and hence Mr. Cushman has been instructed to suspend any further proceedings towards carrying the awards into effect, until the pleasure of the British Government upon the subject be known.

I beg, &c.
(Signed) G. M. DALLAS.

No. 87.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, February 7, 1860.

WITH reference to the intimation conveyed to you in my letter of the 25th ultimo, I am now directed by Lord J. Russell to transmit to you copies of the papers marked in the margin* respecting the charge of partiality advanced by the United States' Government against Mr. Gray, the Arbitrator or Umpire under the Reciprocity Treaty signed at Washington on the 4th of June, 1854.

You are aware that, by the 1st Article of that Treaty, it was provided that the decisions of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, should be considered as absolutely final and conclusive, and accordingly the Government of the United States is not understood to claim as a matter of right that Mr. Gray's decisions should be reversed, but appears to limit itself to a protest against those decisions, and to require that a new Arbitrator or Umpire should be appointed in place of Mr. Gray.

I am to request that, in laying these papers before his Grace the Duke of Newcastle for his consideration, you will say that Lord J. Russell proposes, with his concurrence, to

* Nos. 79, 81, and 86.

instruct Lord Lyons not to hold out to the United States' Government any expectation that Mr. Gray's awards can or ought to be reversed, but to say that, as Mr. Gray's duties as Umpire for Prince Edward Island has come to a close, Her Majesty's Government, although satisfied that his decisions were impartially and conscientiously delivered, will so far defer to the wishes of the United States' Government as to consent to the nomination by the Commissioners of another Umpire.

I am, however, to request that you will suggest to the Duke of Newcastle the expediency of directing that Mr. Gray's awards shall be critically examined by competent persons, in order to see whether he is or is not justly liable to the charge of partiality which has been brought against him.

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

No. 88.

Lord J. Russell to Earl Granville.

(No. 32.)

My Lord,

Foreign Office, February 9, 1860.

WITH reference to your Lordship's despatch No. 263 of the 22nd of November last I inclose, for your information, copies of a despatch from General Cass, which Mr. Dallas left with me on the 7th of December, and of a letter addressed to me by Mr. Dallas respecting the awards pronounced by Mr. Gray as Arbitrator or Umpire under the Reciprocity Treaty, and stating the views of the Government of the United States with regard to the selection of another Umpire.*

I have informed Mr. Dallas, in reply, in a letter of which I inclose a copy,† that these matters shall receive the attentive consideration of Her Majesty's Government, and as soon as I am in possession of the opinion of the Secretary of State for the Colonies I shall instruct your Lordship as to the answer which you should return to the United States' Government.

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

No. 89.

Lord J. Russell to Mr. Dallas.

Sir,

Foreign Office, February 9, 1860.

I HAVE the honour to acknowledge the receipt of your letter of the 30th ultimo, referring to the interview which I had with you on the 7th of December, respecting the Awards pronounced by Dr. Gray as Arbitrator or Umpire under the Reciprocity Treaty, and stating the views of the Government of the United States with regard to the selection of another Umpire.

I have the honour to state to you, in reply, that these matters shall receive the attentive consideration of Her Majesty's Government.

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

No. 90.

Mr. Merivale to Mr. Hammond.—(Received February 17.)

Sir,

Downing Street, February 17, 1860.

WITH reference to your letter of the 25th instant, in which you inquire whether the Duke of Newcastle sees any objection to Mr. Perley being instructed to proceed to Newfoundland in order to mark out the rivers there this spring, in concert with the Commissioners of the United States, I am directed by the Duke of Newcastle to acquaint you, for the information of Lord John Russell, that he sees no objection to Mr. Perley proceeding with his American colleague to the demarcation of the mouths of rivers in Newfoundland, without further delay, but it might be suggested by Mr. Perley to his colleague that the southern and eastern coast up to Cape St. John (the French limit), should be taken first, the French Shore to be visited or not during the present

* Nos. 81 and 86.

† No. 88.

season, as time and the convenience of the Commissioners may permit. If the inspection of the French Shore by the Commissioners should be put off in this way for another season, it will, perhaps, be an advantage in the present state of the question with France, but this matter does not appear to the Duke of Newcastle to be of any great importance.

2. Mr. Perley reported in his despatch to the Earl of Clarendon of the 19th October, 1857 (inclosed in Lord Shelburne's to this Department of the 12th November, 1857), that it would be useless to mark out the mouths of rivers on the French Shore, nature having done this sufficiently. The evidence recently taken by the Mixed Commission rather leads the Duke of Newcastle to question this supposition of Mr. Perley's as a matter of fact, and of course the rivers must be visited on the application of the United States' Commissioner.

I am, &c.
(Signed) HERMAN MERIVALE.

No. 91.

Lord J. Russell to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, February 21, 1860.

WITH reference to the concluding paragraph of your despatch No. 32 of the 22nd of November last, in which you request to be informed whether Her Majesty's Government see any objection to your visiting the coast of Newfoundland this year, in case your American colleague should propose that you should do so, I have to state to you that Her Majesty's Government do not see that advantage would result from further delay in the demarcation of the mouths of the rivers in Newfoundland.

You might, however, suggest to your colleague, that the southern and eastern coast up to Cape St. John (the French limit) should be taken first, leaving the French Shore to be visited or not during the present season, according as time and the convenience of the Commander might permit.

If, by such a course of proceeding, the inspection of the French Shore should be postponed for another season, it might, on the whole, be the best arrangement, but it is a matter to which Her Majesty's Government do not attach any great importance.

I take the opportunity of saying, with reference to your despatch No. 23 of the 19th of October, 1857, in which you observed that it would be useless to mark out the mouths of the rivers on the French Shore, because nature had done this sufficiently, that the evidence recently taken by the Mixed Fisheries Commission rather leads to a different conclusion, and that, of course, these rivers must be visited on the application of the United States' Commissioner.

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

No. 92.

Mr. Merivale to Mr. Hammond.

Sir,

Downing Street, March 8, 1860.

I AM directed by the Duke of Newcastle to acquaint you, for the information of Lord John Russell, that he has had under consideration your letter dated the 7th ultimo, transmitting copies of a correspondence on the subject of a charge of partiality brought by the United States' Government against Mr. Gray, the Arbitrator or Umpire under the Reciprocity Treaty, signed at Washington on the 5th of June, 1854, and suggesting to this Department that Mr. Gray's awards should be critically examined by competent persons.

2. It is the opinion of the Duke of Newcastle, after an attentive examination of Mr. Gray's several awards, with the commentary of the United States' officer upon them, that there is no case at all made out on the face of the papers to justify the conclusion of the American Secretary of State, viz., that "they are clearly shown to be unreasonable and partial" (to Mr. Dallas, 3rd November, 1859). On the contrary, Mr. Gray has, with great care and ability, given his reasons, sometimes at great, perhaps unnecessary, length; and neither in his argument nor his conclusions does he exhibit, as far as his Grace sees, any but a fair and judicial spirit, or anything but anxiety to act upon the solemn declaration which the Treaty required him to subscribe, that "he would carefully

examine, and decide to the best of his judgment, and according to justice and equity, without fear, favour, or affection to his own country.”

3. Mr. Dallas, the United States' Minister at this Court, says, in the letter to Lord John Russell, dated January 1860, of which you inclose a copy:—“As a general rule, the Treaty contemplates that the awards of the umpire are to be final.” This is not identical with the language of General Cass's despatch to Mr. Dallas of the 3rd of November, 1859. The General there observed that “it may be acknowledged that the intention of the Treaty was that the award should be final,” without using any such word as generally. And his Grace must refer to the word of the Treaty itself:—“The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him respectively.”

The awards are therefore to be final, not as a general rule, but in absolutely every case, without exception. There could be no difficulty in instructing such persons as the Lieutenant-Governors of New Brunswick and Prince Edward Island, the Colonies immediately interested, or naval officers who could visit these coasts, to report further on Mr. Gray's awards; but the local Legislatures of those Colonies having given their assent by legislative Act to the Treaty (which would otherwise have been inoperative), with the above perfectly plain clause in it, and the Crown having no legal authority to vary its provisions, the Duke of Newcastle is not aware how the awards can be set aside, supposing them to be disapproved of by the persons who are to be thus appointed to examine them. As, therefore, no legal power exists to [set aside the awards, and the Colonies are certain to insist on their being carried out; as there is not even a *prima facie* case made out for disturbing them, as far as the Duke of Newcastle sees; and as, in addition, General Cass, in his letter of November 3, appears to admit that they cannot be revoked, and to limit the pretensions of the United States' Government to the exercise of a protest, it appears to him unadvisable, on every ground, to allow them to be called in question or reviewed at all.

4. You are requested to draw Lord John Russell's attention to another circumstance, which makes the objections of the United States' Government the more unreasonable, viz., the great delay in stating them. The awards were made in April 1858, and must, it appears, have been in the possession of the United States' Government in the ensuing month. It was only, as far as appears from the papers which you forward, in December 1859, that is to say, after a lapse of eighteen months, that the first notice of objection was given to Her Majesty's Government. In the meantime, if instructions were given to Mr. Perley to the effect suggested in the letter from this Department, dated the 24th of June, 1858 (as to which the Duke of Newcastle is without information), the demarcation of river mouths made by the awards must have been considered a settled matter, and acted on accordingly by the local authorities and fishermen.

5. With respect to the proposal in your letter that Her Majesty's Government should so far defer to the wishes of the United States' Government as to agree to the appointment of another umpire by the Commissioners, the Duke of Newcastle leaves this question of terminating Mr. Gray's appointment, and the mode of appointing his successor, in Lord John Russell's hands, and will gladly concur in any arrangements which his Lordship may be able to make for these purposes. His Grace is not aware how far the supposition of the United States' Government is well founded that Mr. Gray was appointed umpire only to decide questions then pending, and not as permanent umpire. There is nothing to this effect in the despatch from Mr. Perley dated the 23rd July, 1857, reporting Mr. Gray's appointment, copy of which was annexed to your letter to this Department, dated the 26th August, 1857.

I am, &c.
(Signed) HERMAN MERIVALE.

P.S.—The volume of awards interleaved, with the comments of the United States' officer, is returned herewith.

H. M.

No. 93.

Lord J. Russell to Mr. Perley.

(No. 2.)

Sir,

Foreign Office, March 22, 1860.

I INCLOSE, for your information, a copy of an instruction which I have addressed to Her Majesty's Minister at Washington with reference to the appeal against Mr. Gray's awards,* which has recently been brought before Her Majesty's Government by the Government of the United States; and in conformity therewith, I have to instruct you, in any cases of future difference with your American colleague, to proceed, in concert with him, to the selection of a fresh arbitrator.

I also inclose copies of the papers containing the charges against Mr. Gray. You will furnish me with such observations as you may have to make upon them, and you will also communicate them to Mr. Gray for the same purpose.

I am, &c.

(Signed) J. RUSSELL.

No. 94.

Mr. Hammond to Mr. Merivale.

Sir,

Foreign Office, March 22, 1860.

WITH reference to your letter of the 8th instant, I am directed by Lord J. Russell to transmit to you, for the information of his Grace the Duke of Newcastle, copies of instructions which his Lordship has addressed to Her Majesty's Minister at Washington and Mr. Perley relative to the charge of partiality brought against Mr. Gray, and to the question of appointing another Arbitrator in Mr. Gray's place.†

I am, &c.

(Signed) E. HAMMOND.

No. 95.

Lord J. Russell to Lord Lyons.

(No. 77.)

My Lord,

Foreign Office, March 22, 1860.

IT is to be regretted that the Government of the United States should have identified itself with the opposition raised by certain parties in that country to the awards of Mr. Gray as Arbitrator under the Reciprocity Treaty. If that Government was desirous that another Umpire should be chosen, it would surely have been sufficient to have referred to the supposed intentions of the Treaty on that point, or to the alleged understanding with regard to Mr. Gray's appointment arrived at by the Commissioners, or even to the presumed desire of Her Majesty's Government to meet the views of a friendly Government; and it was as unnecessary as it was invidious to base this application on a charge affecting the character and reputation of the honourable gentleman who had been selected to arbitrate between the two Commissioners.

Her Majesty's Government have been embarrassed to know how to deal with this application; if, on the one hand, they are anxious to defer to the wishes of the Government of the United States, on the other hand they have a duty to perform to Mr. Gray, and, accordingly, a concession which would have been easy and natural had the application been based on the ground of friendly consideration becomes difficult and embarrassing in proportion as a compliance with that application may be thought to involve an admission, on the part of Her Majesty's Government, of the justice of the charge preferred against Mr. Gray.

That charge has been advanced against a gentleman who, in accordance with the Treaty, has made and subscribed a solemn declaration that he would carefully and impartially examine and decide, to the best of his judgment and according to justice and equity, without fear, favour, or affection to his own country, such matters as might be submitted for his decision. It is obvious that an opportunity must be afforded to Mr. Gray for meeting that charge; but, as it would be prejudicial to the interests of both countries that the labours of the Commission should be suspended on that account, I shall merely now observe that the examination of Mr. Gray's awards, and of Mr. Cutts' commentaries upon them, which Her Majesty's Government have already made, in no way supports the

* No. 95

† Nos. 95 and 93.

conclusion of the United States' Secretary of State that those awards "are clearly shown to be unreasonable and partial;" but that, on the contrary, it goes to prove that Mr. Gray has discharged his duties with much painstaking ability, giving his reasons sometimes at great (it may be unnecessary) length, and that neither in his arguments nor his conclusions does he exhibit any but a fair and judicial spirit, evidencing his anxiety to act conscientiously upon the solemn declaration which the Treaty required him to subscribe.

Her Majesty's Government regret all the more the exception now taken to Mr. Gray's awards, in that they have been first made known to the British Government at the expiration of eighteen months after those awards were pronounced. Surely if those objections were to be raised at all, that step should have been taken within a reasonable period of the awards being published?

General Cass, in his despatch of the 3rd of November, says that the United States' Commissioner would be instructed to suspend any further proceedings towards carrying the awards into effect until the pleasure of Her Majesty's Government upon the subject could be known, but no question can by any possibility arise as to the entire finality of those awards. General Cass himself acknowledges as much, and I cannot pass by without observation the remark of Mr. Dallas in his note of the 30th of June, that "as a general rule the Treaty contemplates that the awards of the Umpire are to be final." The words of the Treaty are as follow:—

"The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive, in each case decided upon by him or them respectively." The awards are, therefore, to be final not as a general rule, but in absolutely every case, without exception; and Her Majesty's Government may well feel surprise that Mr. Dallas should have been instructed to propose that Mr. Gray's awards should be regarded as otherwise than final and binding upon both parties.

With respect to the question of appointing another Arbitrator in any future cases of difference which may arise between the Commissioners, your Lordship will state to General Cass that Her Majesty's Government sincerely desire that the proceedings of the Commission should be conducted with harmony and good feeling, and that in cases in which the Commissioners may disagree it is indifferent to Her Majesty's Government who is selected to arbitrate between them, provided he be a gentleman of strict integrity, and with a sufficient acquaintance of the subject to be brought before him.

It will be a difficult matter to find a gentleman possessing the requisite qualifications for such an office in a superior degree to Mr. Gray; but in view of the clearly expressed desire of the Government of the United States, and out of friendly consideration for that Government, Her Majesty's Government will not object to authorize Mr. Perley, in any cases of future difference with his American colleague, to proceed, in concert with that colleague, to the selection of a fresh Arbitrator.

Your Lordship will read this despatch to General Cass, and you are authorized to leave with him a copy of it, if he should desire it.

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

No. 96.

Mr. Hammond to Mr. Perley.

My dear Sir,

Foreign Office, March 23, 1860.

WE are sending you the only copy we possess of Mr. Gray's awards, and of Mr. Cutts' commentaries upon them. Great care, therefore, should be taken of it, and it would perhaps be as well that you should transcribe Mr. Cutts' commentaries upon any spare copy you may have of those awards, and that you should then return us our copy.

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

No. 97.

Mr. Elliot to Mr. Hammond.—(Received April 10.)

Sir,

Downing Street, April 9, 1860.

WITH reference to the correspondence on the subject of the awards of Mr. Gray, Umpire under the Reciprocity Treaty of 1854 with the United States, and to your letter (with inclosures) dated the 22nd ultimo, I am directed by the Duke of Newcastle to acquaint you, for the information of Lord John Russell, that his Grace concurs in the language which Her Majesty's Minister at Washington has been instructed to hold to the United States' Government in reference to the objections made to those awards.

I am, &c.

(Signed) T. FREDK. ELLIOT.

No. 98.

Lord Lyons to Lord J. Russell.—(Received April 30.)

(No. 144.)

My Lord,

Washington, April 16, 1860.

I HAD on the 10th instant the honour to receive your Lordship's despatch No. 77 of the 22nd ultimo, conveying your answer to the representations of the United States' Government on the subject of the awards of Mr. Gray as Arbitrator under the Reciprocity Treaty.

In the absence of General Cass I read that despatch the day before yesterday to Mr. Appleton, the Assistant-Secretary of State, and, at his request, left with him a copy of it.

Mr. Appleton observed that the representation of the United States' Government had been made with a view to the future rather than to the past; and he said that, as your Lordships had consented to the appointment of a new Arbitrator, he had no doubt that the whole matter would be considered to be fully disposed of by the despatch which I had just read.

I have, &c.

(Signed) LYONS.

No. 99.

Mr. Perley to Lord J. Russell.—(Received May 16.)

(No. 33.)

My Lord,

St. John, New Brunswick, May 1, 1860.

1. I HAVE the honour to acknowledge your Lordship's despatch of March 22 (No. 2) inclosing, for my information, copy of an instruction addressed to Her Majesty's Minister at Washington, with reference to an appeal against Mr. Gray's awards by the Government of the United States, and instructing me, in cases of future difference with my American colleague, to proceed, in concert with him, to the selection of a fresh Arbitrator.

2. Copies of the papers containing charges against Mr. Gray were also inclosed in that despatch; and, agreeably to your Lordship's instructions, I furnished them to Mr. Gray for his observations thereon.

3. I now have the honour of inclosing Mr. Gray's answer to those charges, contained in a despatch addressed to your Lordship, and in reply to Mr. Cutts' observations, written in an interleaved copy of the awards.

4. Mr. Gray has furnished me with copies of two letters from Admiral Bayfield, dated respectively 1st July, 1858, and 21st April, 1860, of so much importance that they are hereunto annexed. I beg very respectfully to draw your Lordship's special attention to the strong opinions therein expressed, which from a person so eminently qualified to give them as Admiral Bayfield, may be deemed almost conclusive in the matter.

5. The observations of Mr. Cutts upon the awards of Mr. Gray display so much ill-feeling, and are couched in language so unjustifiable and offensive, as to render it difficult to deal with them calmly and deliberately. The length of time which elapsed before any objections were made to these awards render their appearance now very suspicious. After the delivery of the awards there were repeated meetings between Mr. Cutts and Mr. Gray, at which no hint even was given of dissatisfaction with them;

and I am led to believe that the appeal against them has been taken almost solely with the hope of getting an American Umpire to determine the mouth of the St. Lawrence, where the Government of the United States hopes to make a large inroad upon British waters.

6. The Americans attach great importance to the bounds now fixed at the mouths of Colonial rivers. They appear to act with the full belief, that whatever may become of the Reciprocity Treaty, the "rights" they obtain under it can never be abrogated even by a war, but will endure for ever, under all circumstances. Hence they struggle for every inch of ground in places where there are fisheries of value, while in others, where the fishery is not considerable, they at once yield to the principle I laid down at the outset for defining the mouths of rivers. I may add, that this principle they have readily adopted in every case with regard to American rivers, respecting which not the slightest difference of opinion has yet arisen between myself and my American colleagues.

7. After carefully perusing the observations of Mr. Cutts, I can only arrive at the conclusion that there is nothing in them to impugn Mr. Gray's awards or to alter my opinion as to their justice and impartiality. Until the awards were delivered I had no conversation with Mr. Gray respecting them, nor the slightest idea of the conclusions at which he had arrived. I repel with scorn and indignation the statement of Mr. Cutts, in note No. 13, that Mr. Gray obtained information "by collusion with the British Commissioner" as wholly untrue, and likely to emanate only from a person who would himself be guilty of such base conduct. The sneer in note No. 20, as to my probably being the writer of that part of Mr. Andrews' Report relating to New Brunswick, is too mean to be worthy of a reply.

8. In conclusion, I beg your Lordship's permission to state, that during the late session of the Legislature of New Brunswick, Mr. Gray appeared to act as the leader of the Opposition; that his opponents frankly admit his unimpeachable veracity and high sense of honour in all his dealings public and private; that he occupies a high position at the bar, and may fairly look forward to a seat on the Bench, or the Chief Justiceship of New Brunswick, for which he is eminently qualified by his legal and classical attainments. I therefore humbly hope that Her Majesty's Government may be pleased to extend to Mr. Gray such marks of approbation as will, under the circumstances, prevent his being damaged in public estimation by the concession to the ungraciously expressed request of the United States' Government that he should no longer act as umpire.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure 1 in No. 99.

Admiral Bayfield to Mr. Gray.

Dear Sir,

Charlotte Town, Prince Edward Island, July 1, 1858.

PRAY accept my thanks for your note of the 7th ultimo, with the accompanying copy of your awards on the rivers of Prince Edward Island, and the mouths of the Buctouche and Miramichi.

I quite coincide with you respecting the two last-named rivers. In all such cases, where there is a bar formed by the joint action of the river and the sea, the mouth or entrance of that river will be generally understood to be the channel through or over that bar into the sea. There may be what, for distinction sake, may be termed an "inner entrance," such as I have spoken of, and the American Commissioner has claimed, as being between Murdock Spit and Moody Point; but the channel between Fox and Portage Islands, and through and over the bar, remains nevertheless, and is always spoken of and understood to be the mouth, or entrance from the sea, of the Miramichi.

In ages gone by, before the joint action of the rivers and the sea had formed the sand bars, the claims of the American Commissioner might have been admitted.

With respect to the rivers of Prince Edward Island I quite concur with you; or, if I have any doubt at all, it is respecting St. Peter's. I quite agree with your award that "St. Peter's is not a river;" but if the question had been, "Is the Morell a river?" I think an affirmative answer might have been given, for similar reasons to those you have so ably stated for deciding the Winter to be a river. It is true, as you observe, that the Morell has not formed St. Peter's Bay, but neither has the Winter formed Bedford Bay.

However, if the question submitted to your award had related solely to the "St. Peter's," there could be no question but that your decision is correct; for the little

stream known by that name at the head of the bay could, as you observe, have had little to do with the keeping open the channel through or over the bar; and the inlet has always been, and still is known, as "St. Peter's Bay."

Besides, wherever there appeared any difficulty in arriving at a just conclusion, the decision should, I think, be in the friendly spirit of concession and liberality implied in the excellent concluding paragraph of your awards.

I have, of course, considered your communication as private until after the result has been made public, and I intend these remarks to be submitted to you alone. I should not have troubled you with them had you not expressed a wish to know if I coincided in the conclusions you have arrived at.

I should have acknowledged the receipt of your communication sooner had not the pressure of official matters and a severe family affliction prevented me.

Believe me, &c.

(Signed) HENRY W. BAYFIELD.

Inclosure 2 in No. 99.

Admiral Bayfield to Mr. Gray.

Dear Sir,

Charlotte Town, Prince Edward Island, April 21, 1860.

I YESTERDAY received your letter of the 14th instant, requesting my permission to transmit to Her Majesty's Government a copy of the note I addressed you on the 1st of July, 1858, in reply to yours of the 7th of June 1858, which accompanied a copy of your awards on the rivers of Prince Edward Island and the mouths of the Buctouche and Miramichi rivers.

Although my note was intended to be a private communication, yet, as the opinions therein expressed remain unchanged, I can see no objection to your laying it before Lord John Russell, together with this correspondence, if you think it desirable to do so.

After a reconsideration of your awards respecting the above-named places, I am fully convinced of the spirit of strict and impartial justice from which they have sprung.

Believe me, &c.

(Signed) HENRY W. BAYFIELD.

No. 100.

Mr. Gray to Lord J. Russell.—(Received May 16.)

My Lord,

St. John, New Brunswick, April 30, 1860.

Mr. PERLEY has handed me, by your Lordship's command, for my observations, copies of papers as mentioned in the margin,* containing charges against myself, and an appeal from my awards as umpire under the Reciprocity Treaty between Her Majesty's Government and the United States, and requesting, that in any case of future umpirage, some other person than myself should be selected to act.

My Lord, whatever might be the ordinary inference that would be drawn from such a length of time having elapsed after the delivery of these awards before any exception was taken, still, for myself, I desire to say, that if I have acted as in those papers I am charged with having acted, that lapse of time should not be a matter of consideration.

I would further remark, my Lord, that if the American Government, dissatisfied with these awards, had desired that in any case of future difference another arbitrator should be selected, and had expressed that wish to Her Majesty's Government, and Her Majesty's Government had concurred therein, and so expressed themselves, I should not have had a moment's hesitation in acting upon it; and that it was not necessary to attain this end to have assailed my private character or have impeached my integrity.

At the time of assenting to act as umpire, I was entirely ignorant of any arrangements between the Commissioners limiting the duration of that office. The construction of the 1st Article of the Treaty, 4th paragraph, contemplates but one Umpire. It could hardly be supposed that in every case of difference the ceremony of nomination, of meeting, of balloting, of swearing, &c., was to be gone through, and the events pointed out for the substitution of another umpire here defined, as death, absence, incapacity, omit-

* To Mr. Perley, March 22; to Lord Lyons, No. 77, March 22, 1860; General Cass to Mr. Dallas, November 3, 1859; Mr. Dallas to Lord J. Russell, January 30, 1860.

ting, declining, or ceasing to act. Permanency would be an inducement to a man to act with preparation, with caution, with independence. The Commissioners were the officers of their respective Governments, the Umpire was the referee of both. And it was with this view, my Lord, that I declined to acquiesce in a position assumed by the American Commissioner, and not conveyed to me by the direction his Government or assented to by mine. But, my Lord, this is not now a matter of any importance, as after such charges as have been made, I should decline under any circumstances to act.

In his note of the 30th of January last, addressed to your Lordship, Mr. Dallas says he is not authorized or willing to use words of unnecessary harshness. Is it possible, my Lord, in the English language, to use words of stronger import against one acting in a judicial capacity, unless it were plainly added that he had been bribed? Mr. Dallas forwards Mr. Cutts' annotations upon my awards, and expresses a concurrence therein. It is impossible to read those observations without seeing that there is a spirit of unfairness and detraction pervading them from beginning to end.

I have replied to those observations, placing, in a printed copy of the awards which remained in my possession, the text, the observations, and the replies in juxtaposition, which I have the honour to forward herewith to your Lordship.

I have abstained from comment on the remarks made by Mr. Cutts personally insulting to myself. I feel, my Lord, that I should be violating the respect due to Her Majesty's Government were I to make an official communication addressed to your Lordship the medium of a personal altercation, and I desire further to add, that in all my intercourse with the three American gentlemen who have acted as Commissioners under the Treaty since I became Umpire, namely, Mr. Cushman, Mr. Wigan, and Mr. Hubbard, I have been met with the most unvaried courtesy and urbanity.

I have, in an Appendix to my replies, added copies of the correspondence on points referred to, that passed between Mr. Cushman and myself. After the commencement of my labours, I had no communication with Mr. Perley, he being during the season of 1857 engaged in some investigations on the coast of Newfoundland.

I beg to refer to a letter from Admiral Bayfield in July 1858, after the awards were delivered, and to the correspondence which has passed between us in asking his permission to lay that letter before you. Your Lordship will perceive that in writing to Admiral Bayfield I have studiously avoided carrying to him any of those remarks in Mr. Cutts' observations which might tend to prejudice his mind, or create a feeling of irritation. My object was that your Lordship might have Admiral Bayfield's unbiassed opinion. These letters are in the Appendix to my replies, numbered 1, 2, and 3.

My Lord, in discharging the duties of Umpire I endeavoured to act honestly and impartially.

With reference to the Miramichi and the Buctouche, in New Brunswick, and the larger rivers of Prince Edward Island, there is not the vestige of a doubt in my mind of the propriety of my decisions. With reference to the smaller rivers of Prince Edward Island, men might conscientiously differ. In their cases I endeavoured to govern myself by the preponderance of those characteristics which in the outset I had laid down as a guide; and in two cases, where doubts existed, I gave the important one to the United States—the unimportant one to my own country.

It may be said that I put out my reasons at unnecessary length. Taking the view I did of the permanent situation of Umpire, I thought it fairer to give those reasons, so that the discussion of them might operate either in strengthening or modifying them as a guide in future cases. It may have been rash, but certainly it negated partiality, and looking at the way it has been received, truly, my Lord, it might be said—

“ Fuit ille factis
Qui perfidus se credidit hostibus.”

I have already referred your Lordship to Admiral Bayfield and to his unqualified support of my decision, expressed in his letters Nos. 1 and 3. With reference to Prince Edward Island your Lordship can further command the opinion of Sir Dominick Daly, the late Lieutenant-Governor of this island, who is now I believe in England, and with reference to the mouths of the Miramichi and Buctouche, I have no hesitation in further referring your Lordship both to Sir Edmund Head, the Governor-General, and the Hon. Mr. Manners-Sutton, the Lieutenant-Governor of this province, who, as I am informed, have both personally visited those rivers.

In conclusion, my Lord, I have but one word to say. It is useless to disguise the fact that my ceasing to be Umpire under this Treaty, on charges preferred by the United States' Government, will, when publicly known, be injurious to me in this and the adjoining provinces, when the same view was taken of that situation that I myself

entertained—a result which, unexplained, will be not the less prejudicial from the apparent circumstance that Her Majesty's Government have sustained the Judgment, but condemned the Judge.

I was in the Legislature of this province during the greater part of the time of Sir Edward Head's Administration, and was for several years a member of his Council. I have been in the Legislature during the whole time that the present Lieutenant-Governor has been here, and have been a member of his Council. And I ask your Lordship, if necessary, to refer to those gentlemen who now stand so eminently high in the estimation of Her Majesty's Government, and ask whether I could be guilty of conduct so dishonourable as that imputed in the complaint of the United States' Government. And I further ask your Lordship, in a spirit of fairness, if after a due consideration of this whole matter, your Lordship and Her Majesty's Government should consider those charges unsustainable, that you will enable me, in a manner as public as those charges have been made, to show that I have done nothing which should render me unworthy the confidence of Her Majesty's Government, or acted in a manner unbecoming a gentleman.

I have, &c.
(Signed) JOHN HAMILTON GRAY.

No. 101.

Mr. Perley to Mr. Hammond.—(Received May 16.)

(Private.)
Dear Sir,

St. John, New Brunswick, May 1, 1860.

I RETURN the copy of Mr. Gray's awards, upon which the commentaries of Mr. Cutts are written, having taken an exact copy of them, as you suggested.

Permit me to say, that although Mr. Cutts professes to be a Protestant, yet he was educated in a Roman Catholic College in the United States, believed to be under the control of the Jesuits, and I have strong suspicions of his being connected with that Order. His brother, Mr. Madison Cutts, who is in one of the Public Departments at Washington (I think the Treasury), openly professes the Catholic faith, as does his daughter, Mrs. Douglas, the wife of Mr. Stephen Douglas, a prominent candidate for the Presidency.

Mr. Richard Cutts is a plausible, gentlemanly man, but the most crafty and disingenuous person I ever met. He has the most determined hostility to England, and everything English, although he claims to be the descendant of General Sir Richard Cutts, who commanded some of the Royalist troops in the days of Cromwell.

Mr. Gray is the son of an old employé of the Foreign Office, who was British Consul at Norfolk, Virginia, for very many years. If Mr. Dallas had had five minutes' conversation with Mr. Gray, he could never have spoken of him as he has done.

I shall be greatly embarrassed in asking any other Colonial gentleman to consent to be put in nomination as Umpire, after the unhandsome language used by the United States' Government towards Mr. Gray. No man of honour or spirit would like to incur the risk of being placed in a similar position.

I have not forgotten your kindness to me when in London, and beg you to believe me,

(Signed) M. H. PELLEY.

No. 102.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, May 22, 1860.

I AM directed by Lord John Russell to transmit to you copies of despatches received from Mr. Perley and Mr. Gray, respecting the charge of partiality advanced by the Government of the United States against the latter gentleman in his character as Arbitrator under the Reciprocity Treaty of 1854.*

I am to request that in laying the same before the Duke of Newcastle you will state that Lord John Russell would be glad to be favoured with any observations which his Grace may have to offer thereupon. It appears to Lord John Russell that the question which Her Majesty's Government had to decide was, not as to the fairness of Mr. Gray's conduct, or the justice of his awards, but as to whether, in view of the

opposition raised by the Government of the United States, the Commission could go on while he remains the Arbitrator.

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

No. 103.

Mr. Elliot to Mr. Hammond.—(Received June 25.)

Sir,

Downing Street, June 25, 1860.

I AM directed by the Duke of Newcastle to acquaint you, for the information of Lord John Russell, that he has had under consideration your letter dated the 22nd ultimo, inclosing copies of despatches received from Mr. Perley and Mr. Gray, respecting the charge of partiality advanced by the Government of the United States against the latter gentlemen, in his capacity of Arbitrator or Umpire under the Reciprocity Treaty of 1854.

2. The Duke of Newcastle has already expressed, by Mr. Merivale's letter dated 8th March last, a strong opinion of the insufficient reasons given by the United States' authorities for impugning the fairness of Mr. Gray's conduct and the justice of his awards. But as the present explanations, which are such as to confirm in every respect the opinion thus expressed, have been submitted by Mr. Gray to Her Majesty's Government, his Grace would suggest to Lord John Russell whether it is not due to that gentleman to repeat to him, as strongly as possible, the satisfaction of Her Majesty's Government with his proceedings, and their repudiation of the charges brought against him. I am directed to add that Mr. Gray will be further made aware how completely his high character for sound judgment and impartiality is left unimpaired by this transaction, by the decision to which his Grace has come to request of him to accept a very honourable and responsible office, as one of Three Commissioners appointed to arbitrate in certain long-standing differences between different classes of the community in the Colony of Prince Edward Island.

3. The Duke of Newcastle cannot conclude without inviting the particular attention of Lord John Russell to the part taken by Mr. Cutts, one of the United States' officers, in creating this difficulty. The character of the arguments employed by him, and especially the tone in which they are urged, are such as appear to the Duke of Newcastle to forbid the hope of a due spirit of mutual respect in any Commission of Inquiry to which that gentleman may be attached in any capacity. The proceedings of all the other officers successively employed by the United States' Government appear to have been marked by a perfect feeling of courtesy and of fairness in debate. But, adverting to the different qualities displayed by Mr. Cutts, and more especially to those offensive personal imputations in which he has thought himself free to indulge, the Duke of Newcastle cannot venture to anticipate harmony or any good results in any inquiry with which the same gentleman may continue to be connected; and his Grace is anxious therefore to submit for Lord John Russell's consideration the question whether Her Majesty's Government, having consented to withdraw the British Arbitrator, in order to oblige the Government of the United States, may not reasonably demand the removal likewise of the American officer who has been the other party to the difference, so that both parties will have been dealt with equally, and that the inquiry may be resumed without the presence of any one who has engaged himself in an acrimonious dispute.

I am, &c.
(Signed) T. FREDK. ELLIOT.

No. 104.

Mr. Elliot to Mr. Hammond.—(Received June 26.)

Sir,

Downing Street, June 25, 1860.

WITH reference to the concluding paragraph of Mr. Merivale's letter dated the 8th March last, and to my letter of this day, on the subject of the reply submitted by Mr. Gray to the charges of partiality advanced against him by the United States' Government, I am directed by the Duke of Newcastle to request you to draw the attention of Lord John Russell to the copy of the joint Minute of the Commissioners, Messrs. Perley and Cushman, dated the 20th July, 1857, recording the appointment of

Mr. Gray, as Arbitrator or Umpire, which is to be found in the interleaved copy of awards returned with my letter referred to.

2. This document bears out the statement of the United States' Government that Mr. Gray was appointed according to the understanding between the Commissioners, to decide certain specified cases of disagreement, and not as a general Arbitrator or Umpire for whatever cases of disagreement might arise. The United States' Government have expressed the opinion that this limitation of the office of arbitrator was not inconsistent with the terms of the Treaty; but whatever the right of the Treaty may be, all legal difficulty is apparently removed in the present instance by the decision of Mr. Gray himself to decline continuing to act as umpire under any circumstances. His Grace certainly could not infer from Mr. Perley's despatch to Lord Napier of the 23rd July, 1857, annexed to your letter dated the 26th August, 1857, which, until the present Minute was received, was the only information before him on the subject, that Mr. Perley had assented to any such limitation, and it appears desirable that Mr. Perley should receive instructions on the question whether or not the duties of the new Arbitrator or Umpire ought to be limited to special cases, and whether the terms of the appointment may not be rendered so explicit as to prevent doubts on that point.

I have, &c.
(Signed) T. FREDK. ELLIOT.

No. 105.

Lord J. Russell to Mr. Perley.

(No. 3.)
Sir,

Foreign Office, July 7, 1860.

WITH reference to your despatch No. 33 of the 1st of May, I inclose, for your information, a copy of a despatch which I have addressed to Mr. Gray, signifying to him the entire approval of Her Majesty's Government of his conduct as Arbitrator under the Reciprocity Treaty.

I have at the same time to acquaint you that Her Majesty's Government have deemed it right to apply to the United States' Government for the removal of Mr. Cutts from all connection with the Fishery Commission, in consequence of the unjust imputations he has cast upon Mr. Gray.

I have only further to instruct you, when the time may arrive for the selection of a new Arbitrator or Umpire, to take care that it be clearly understood between you and your American colleague whether the selection is made with reference to any special case then in dispute or whether it is intended that the arbitrator or umpire so chosen shall be the referee in all future cases of difference between the Commissioners.

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

No. 106.

Lord J. Russell to Lord Lyons.

(No. 167.)
My Lord,

Foreign Office, July 7, 1860.

IN my despatch No. 77 of the 22nd of March last, in which I authorized your Lordship to convey to the United States' Government the assent of Her Majesty's Government to the appointment of another Arbitrator under the Reciprocity Treaty in place of Mr. Gray, I at the same time informed you that it would be indispensable that Mr. Gray should have an opportunity of answering the charge of partiality advanced against him by Mr. Cutts.

I accordingly forwarded Mr. Cutts' observations to Mr. Perley, with instructions to submit them to Mr. Gray, and I have since received from Mr. Perley and Mr. Gray the replies of which copies are inclosed.*

Those replies, and the remarks which Mr. Gray has made upon Mr. Cutts' observations, have been carefully and dispassionately considered by Her Majesty's Government. It would not be doing justice to Mr. Gray were I to confine myself to saying that Her Majesty's Government consider that the charge of partiality brought against him has been entirely disproved. It is due to that gentleman to add that, in the opinion of Her Majesty's Government, his proceedings have been such as to show that he was eminently qualified for the office to which he had been appointed.

* Nos. 99 and 100.

Her Majesty's Government have conveyed to Mr. Gray their entire approval of his conduct, and it is their intention to offer him a very honourable and responsible office in the Colony of Prince Edward Island.

I should here gladly take leave of the subject did not Her Majesty's Government feel that the part taken by Mr. Cutts in this matter requires to be noticed.

The character of the arguments employed by that gentleman, and especially the tone in which they are urged, are such as to forbid the hope of harmony and mutual respect being maintained in any Commission of Inquiry to which he may be attached. Her Majesty's Government admit with pleasure that the proceedings of the several United States' Commissioners, and indeed of all the other officers employed in these transactions, have been marked by a perfect feeling of courtesy and fairness.

But this has not been the case with regard to Mr. Cutts, and, after what has passed, it must be highly disagreeable to any British Commissioner to be associated with him. Her Majesty's Government trust, therefore, that, as they consented to withdraw the British Arbitrator in order to consult the wishes of the Government of the United States, the United States' Government will, on their part, consent to the withdrawal of Mr. Cutts, in order that the inquiry may be carried on without the presence of any one who has been mixed up in acrimonious personal disputes.

Your Lordship will accordingly apply formally to the United States' Government for the removal of Mr. Cutts from all connection with the Fishery Commission.

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

No. 107.

Lord J. Russell to Lord Lyons.

(No. 168.)

My Lord,

Foreign Office, July 7, 1860.

WITH reference to my despatch No. 167 of this date, I inclose, for your information, copies of despatches which I have addressed to Mr. Perley and Mr. Gray; I also inclose the copy of Mr. Gray's awards in which he has inserted his remarks upon Mr. Cutts' observations; and as Her Majesty's Government have no other copy, great care should be taken of it.

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

No. 108.

Lord Wodehouse to Mr. Elliot.

Sir,

Foreign Office, July 7, 1860.

I HAVE laid before Lord John Russell your letters to Mr. Hammond of the 25th ultimo, respecting the question of the Arbitrator or Umpire under the Reciprocity Treaty; and I am to inclose, for the information of the Duke of Newcastle, a copy of instructions which his Lordship has addressed to Her Majesty's Ministers at Washington directing him to apply formally to the United States' Government for the removal of Mr. Cutts from all connection with the Fishery Commission.

I also inclose copies of despatches which have been addressed to Mr. Perley * and Mr. Gray on this subject.

I am, &c.
(Signed) WODEHOUSE.

No. 109.

Lord Lyons to Lord J. Russell.—(Received August 5.)

(No. 255.)

My Lord,

Washington, July 21, 1860.

I HAVE the honour to inclose a copy of a note, in which, in obedience to the instructions contained in your Lordship's despatch No. 167 of the 7th instant, I have

* No. 105.

applied formally to the United States' Government for the removal of Mr. Cutts from all connection with the Fishery Commission under the Reciprocity Treaty.

I have, &c.
(Signed) LYONS.

Inclosure in No. 109.

Lord Lyons to General Cass.

Sir,

Washington, July 21, 1860.

BY a despatch, dated the 22nd March last, which, in your absence, I read to Mr. Assistant Secretary Appleton at the State Department on the 14th April last, and of which, at his request, I left a copy with him. Her Majesty's Principal Secretary of State for Foreign Affairs authorized me to convey to the Government of the United States the assent of Her Majesty's Government to the appointment of another arbitrator under the Reciprocity Treaty, in place of Mr. Gray. It was, however, observed in the same despatch that it would be indispensable that Mr. Gray should have an opportunity of answering the charge of partiality advanced against him by Mr. Cutts.

The observations of Mr. Cutts were accordingly forwarded by Her Majesty's Government to Mr. Perley, the British Commissioner, with instructions to submit them to Mr. Gray, and replies have been received both from Mr. Perley and Mr. Gray.

Those replies, and the remarks which Mr. Gray has made upon Mr. Cutt's observations, have been carefully and dispassionately considered by Her Majesty's Government. Her Majesty's Government are convinced that they should not be doing justice to Mr. Gray were they to confine themselves to saying that they consider that the charge of partiality brought against him has been entirely disproved. They deem it to be due to that gentleman to add that, in their opinion, his proceedings have been such as to show that he was eminently qualified for the post to which he had been appointed.

Her Majesty's Government have conveyed to Mr. Gray their entire approval of his conduct, and it is their intention to offer to him a very honourable and responsible office in the Colony of Prince Edward Island.

Her Majesty's Government would here have gladly taken leave of the subject had they not felt that the part taken by Mr. Cutts in this matter required to be noticed.

Her Majesty's Government consider that the character of the arguments employed by that gentleman, and especially the tone in which they have been urged, are such as to forbid the hope of harmony and mutual respect being maintained in any commission of inquiry to which he may be attached.

Her Majesty's Government admit with pleasure that the proceedings of the several Commissioners of the United States, and, indeed, of all the other officers employed in these transactions, have been marked by a perfect feeling of courtesy and fairness; but this has not been the case with regard to Mr. Cutts, and, after what has passed, it could not but be highly disagreeable to any British Commissioner to be associated with him.

Her Majesty's Government trust therefore that, as they consented to withdraw the British Arbitrator, in order to consult the wishes of the Government of the United States, that Government will, on its part, consent to the withdrawal of Mr. Cutts, in order that the inquiry may be carried on without the presence of any one who has been mixed up in acrimonious personal disputes.

I am accordingly instructed by Her Majesty's Government to apply formally to the Government of the United States for the removal of Mr. Cutts from all connection with the Fishery Commission.

I have, &c.
(Signed) LYONS.

No. 110.

Mr. Irvine to Lord J. Russell.—(Received August 22.)

(No. 4.)
My Lord,

Washington, August 6, 1860.

I HAVE the honour to inclose a copy of a note which Mr. Trescot has addressed to Lord Lyons in reply to his Lordship's note to General Cass of the 21st ultimo, applying

for the removal of Mr. Cutts from all connection with the Fishery Commission, a copy of which was inclosed to your Lordship in Lord Lyons' despatch No. 255 of the 21st July.

Your Lordship will perceive from this note that the President declines to accede to the request of Her Majesty's Government, on the ground that Mr. Cutts acted not as an umpire, but merely as an officer of the United States attached to the Commission, and that therefore no parallel existed between his case and that of Mr. Gray. Another reason given is that the Government of the United States have no compensation to offer to Mr. Cutts, such as that given by Her Majesty's Government to Mr. Gray.

Mr. Cutts will, however, be admonished to conduct himself with temperance and courtesy in his relations with the Commission.

I have, &c.
(Signed) W. DOUGLAS IRVINE.

Inclosure in No. 110.

Mr. Trescot to Lord Lyons.

My Lord,

Department of State, Washington, July 31, 1860.

I HAVE the honour to acknowledge the receipt of your note of the 21st instant, which has been submitted to the consideration of the President, although, like Her Britannic Majesty's Government, the Government of the United States would, after your communication of Lord John Russell's despatch, 'have gladly taken leave of the subject.'

The ready acquiescence of Her Britannic Majesty's Government in the removal of Mr. Gray was received by the President as a gratifying evidence of the harmonious feeling which would enable the two Governments to adjust apparently conflicting interests, in a spirit both of equity and amity; and this Government would not have deemed it necessary or proper to examine either the motives or the action of Her Britannic Majesty's Government in their treatment of Mr. Gray; nor would it even now feel disposed to animadvert upon the communication which your Lordship has made, were it not that this communication is accompanied by a request from Her Britannic Majesty's Government for the removal of Mr. Cutts, upon grounds the justice of which the President cannot subscribe, and the consideration of which has been to him a cause of equal regret and surprise.

The difference which exists between the manner in which this Government understands the circumstances of this whole transaction, and that in which it must be viewed by Her Britannic Majesty's Government, to sustain so serious a demand as the removal of Mr. Cutts, will best appear by a recapitulation of the facts.

By the Reciprocity Treaty of June 9, 1854, under which this case arises, it was provided that in case of disagreement between the Commissioners of the respective Governments, they should select, after mutual consultation, an umpire; and if unable to agree upon the same individual, each Commissioner should select one person, and the choice between the two be determined by lot. Under this Treaty Commissioners were appointed, and entered upon the discharge of their duties.

In July 1857 Mr. Perley, Her Britannic Majesty's Commissioner, and Mr. Cushman, the Commissioner of the United States, disagreeing upon certain cases, Mr. Perley, without consultation, selected Mr. Gray, and Mr. Cushman was therefore forced to make a selection on his part, and the decision being referred to lot, Mr. Gray was chosen; but at the time of the choice a distinct agreement was entered into between the two Commissioners that the umpire then and thus chosen should be the umpire only of those cases upon which a disagreement of opinion had been already ascertained, and which were then specially submitted to his award; and the fact of this agreement, without referring to the correspondence between the Commissioners, or to the Report of the United States' Commissioner to his Government, is fully ascertained and established by the following language of Mr. Gray, in the official publication of his award, in A. — "They (the Commissioners) differed in opinion as to the places hereinafter — and it has been submitted to me as the Umpire under the provisions of that Treaty, — mine those differences."

The Government of the United States having received from Mr. Richard D. Cutts, an officer attached to the service of the United States' Commission, an official report of February 15, 1859, which induced great dissatisfaction as to the character of Mr. Gray's Awards, General Cass, the Secretary of State, of the United States, addressed a despatch to Mr. Dallas, the Minister of the United States at London, on the 3rd of November, 1859, in which that dissatisfaction was expressed, Mr. Dallas' attention was called to the

fact that Mr. Gray was only Umpire for those cases already decided, and he was instructed to obtain an interview with Her Majesty's Principal Secretary of State for Foreign Affairs, and require that Mr. Gray should not be continued in office by Mr. Perley or Her Majesty's Government, as Umpire in any other cases, as appears from the following extract from that despatch which I have the honour to submit to your Lordship's attention.

"It is true that the agreement referred to provides that his functions were to terminate with his decisions already made. It is possible, however, that the British Commissioner, of his own record, or under instructions from his Government, may disregard that agreement. With a view to prevent such a result, and to guard against any future misunderstanding on the subject, you will seek an early interview with Lord John Russell, and express to him the hope of your Government that Mr. Perley will be directed to adhere to the agreement referred to. There is nothing in the Treaty which can prevent such a compliance with the agreement, and the equity of the case seems clearly to require it."

In consequence of these instructions, Mr. Dallas obtained an interview with Lord John Russell, Her Majesty's Principal Minister for Foreign Affairs, upon the 7th December, 1859; and upon the 30th January, 1860, addressed him a note in which he says, "at the interview with which I was honoured on the 7th day of December last, and accompanying my note on the 26th day of January, 1860, copies of all the papers transmitted to me from the Department of State connected with the Awards of the Honourable John Hamilton Gray, were submitted for your Lordship's consideration. The contents of these papers, need no repetition, and require little explanation, but it may be advantageous to express, as briefly as possible, the views with which they are brought to the notice of Her Majesty's Government.

* * * * *

Serious difficulties have arisen in the progress of this Commission ascribable exclusively to the Umpire, and these, it is confidently believed, need only be frankly stated to Her Majesty's Government in order to secure just and adequate remedies.

1. At the time the Commissioners deemed it proper to choose an Umpire, and before they proceeded to do so, there was a distinct understanding and agreement between them that the person to be chosen was not to be a permanent Umpire for the decision of all cases that might arise, but an Umpire specially for the cases then in dispute, and then referred to him.

Mr. Gray has repudiated this agreement, and insists upon continuing the only Umpire as long as the Commissions lasts. On this claim your Lordship will permit me to make the following few suggestions.

The agreement was one to which the Commissioners were entirely competent. It is in no respect inconsistent with the terms of the Treaty; on the contrary, those terms are such as suggest its practical convenience and prudence. And, being once fairly entered into, it cannot, except by mutual assent, be violated or evaded compatibly with good faith.

* * * * *

I am, therefore, instructed to express a hope that, in order to guard against any future misunderstanding, your Lordship will direct Mr. Perley to adhere scrupulously to the agreement made with his colleague Mr. Cushman, and to unite with that gentleman in definitely apprising Mr. Gray that his pretension cannot be recognized.

On the 22nd of March, 1870, Lord John Russell addressed to your Lordship a despatch which, in the absence of General Cass, you read to Mr. Appleton, the Assistant-Secretary of State, and a copy of which, at his request, you left at this Department. In that despatch his Lordship says,—

"With respect to the question of appointing another Arbitrator in any cases of difference which may arise between the Commissioners, your Lordship will state to General Cass, that Her Majesty's Government sincerely desire that the proceedings of the Commission should be conducted with harmony and good-feeling, and in cases in which the Commissioners may disagree, it is indifferent to Her Majesty's Government who should arbitrate between them, provided he be a gentleman of strict integrity, and of sufficient acquaintance of the subject to be brought before him.

"It will be difficult matter to find a gentleman, possessing the requisite qualifications for such an office in a superior degree to Mr. Gray; but in view of the clearly expressed desire of the Government of the United States, and out of friendly consideration for that Government, Her Majesty's Government will not object to authorize Mr. Perley in any cases of future difference with his American colleague to proceed, in concert with that colleague, to the selection of a fresh Arbitrator." And this communication the Government of the United States received with pleasure as the final adjustment, as far as it was

concerned, of this very disagreeable subject. So far as Her Britannic Majesty's Government has seen fit to communicate its appreciation of Mr. Gray's services, and its intention to confer upon him a distinguished evidence of that consideration, this Government can only signify its gratification that, in the exercise of what no doubt seems a judicious discretion, Her Britannic Majesty's Government has been able to meet the wishes of the United States in dispensing with the further services of Mr. Gray as Umpire under the Treaty, and at the same time to do what it believes to be justice to his merits; but it is impossible for the Government of the United States to find in the facts, as above developed, any justification for the removal of Mr. Cutts from his place as Surveying Officer of the United States' Commission; and I would submit to your Lordship the following reasons in support of this conclusion.

Mr. Gray never was removed, nor was his removal at any time asked by this Government. It asked merely that the official agreement between the Commissioners of the two Governments, under which he was appointed, should be carried out, and that his functions as Umpire, for certain special cases, having expired, he should not be allowed to decide any other Awards. Consequently, there is no ground upon which the removal of Mr. Cutts can be asked as a reciprocity of official courtesy.

But, supposing that the removal of Mr. Gray had been asked, on the ground of "flagrant impartiality" as Umpire, and had been granted, Mr. Cutts holds no corresponding position. He is not even a Commissioner; but, as Surveying Officer of the Commission, had no official influence upon its decisions, and was bound to put in the strongest light the case of his Government, for whom he was to advocate; and the removal of an Umpire because he was not sufficiently impartial, can furnish no ground for the removal of an officer of the United States, against whom the sole charge is too great zeal in the discharge of his duty; and I would further call your Lordship's attention to the fact that any complaint against Mr. Gray would have been a complaint against the public discharge of his public duty, and would have been based upon the public record of his official proceedings, while the objection to Mr. Cutts can only be supported upon his official communications to his own Government, which were placed in the hands of the United States' Minister, and by him submitted to Her Majesty's Principal Minister for Foreign Affairs, simply as an illustration of the information upon which the dissatisfaction of the United States' Government rested; and no other evidence has been submitted to this Department which would bring Mr. Cutts within the description of "one who has been mixed up in acrimonious personal disputes."

And I would, in conclusion, submit to your Lordship that, even if this Government could overlook the striking and important points of difference in the positions of Mr. Gray and Mr. Cutts, and were disposed in a spirit of mutual compromise to withdraw Mr. Cutts from this special service, in acknowledgment of the withdrawal of Mr. Gray, your Lordship's despatch renders this action impossible by making it unequal. You say "Her Majesty's Government have conveyed to Mr. Gray their entire approval of his conduct, and it is their intention to offer him a very honourable and responsible office in the Colony of Prince Edward Island."

While this Government would very cheerfully express its approval of the conduct of Mr. Cutts, the rules of its civil service would not permit it, immediately upon his removal from our service to offer him any responsible or honourable office in another; and as such removal would be thus unaccompanied by the liberal compensation for its attendant and natural mortification, which Her Britannic Majesty intends to bestow upon Mr. Gray, this Government cannot adopt the same line of conduct as Her Britannic Majesty's, because it cannot continue the parallel to the end.

Under such circumstances, I am instructed to inform your Lordship that, while the President accepts with pleasure the acquiescence of Her Britannic Majesty's Government in the termination of Mr. Gray's umpirage, as a gratifying proof of the desire of Her Britannic Majesty's Government to act in all matters of disputed right between the two countries in a spirit of good-feeling and justice, he cannot find sufficient ground in the circumstances to warrant him in acceding to the request of Her Britannic Majesty's Government for the removal of Mr. Cutts.

But, while the President cannot consent to the removal of Mr. Cutts, this Department will take care to intimate to that gentleman that, in his relations with the Commission, he should be careful to conduct himself with that temperance and courtesy which, while not at all incompatible with the interests of his country, will render the discharge of the duties of the Commission agreeable to the Representatives of both Governments.

I have, &c.

(Signed) WM. HENRY TRESBOT.

No. 111.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, August 30, 1860.

WITH reference to Lord Wodehouse's letter of the 7th ultimo, I am directed by Lord John Russell to transmit to you, for the information of Her Majesty's Secretary of State for the Colonies, a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, inclosing a copy of a note from the United States' Government declining to accede to the request of Her Majesty's Government for the removal of Mr. Cutts as United States' Commissioner under the Reciprocity Treaty of 1854.*

In laying these papers before Her Majesty's Secretary of State, I am to request that you will observe that Lord John Russell does not deem it advisable to urge the United States' Government to reconsider their decision in this matter.

I am, &c.

(Signed) E. HAMMOND.

No. 112.

Memorandum of grounds upon which Her Majesty's Government consented to the principle that Mr. Gray could be removed from his office of Umpire, under the Treaty with the United States, of June 5, 1854.

THE clause of the Treaty in question which provides for the appointment of the Commissioners, proceeds to state, "The Commissioners shall name some third person to act as an Arbitrator or Umpire in any case or cases on which they may themselves differ in opinion;" and again "in the event of the death, absence, or incapacity of either of the Commissioners, or of the arbitrator or umpire, or of their or his omitting, declining, or ceasing to act as such Commissioner, Arbitrator, or Umpire, another and different person shall be appointed or named as aforesaid to act as such Commissioner, Arbitrator, or Umpire, in the place and stead of the person so originally appointed, &c."

There is nothing, therefore, in the Treaty which would show that the appointment of Umpire was intended to be a permanent one; perhaps the inference is rather against than for such a view of the question.

Mr. Trescot, on the part of his Government, maintains such to be the case, in affirming that on Mr. Gray's appointment it was distinctly understood between the Commissioners "that the person to be chosen was not to be a permanent Umpire for the decision of all cases that might arise, but an Umpire specially for the cases then in dispute and then referred to him." Mr. Trescot states, "the agreement was one to which the Commissioners were entirely competent. It is in no respect inconsistent with the terms of the Treaty; on the contrary, those terms are such as suggest its practical convenience and prudence, &c."

The Colonial Office take the same view as to the temporary nature of Mr. Gray's appointment. They say, speaking of the joint Minute of the Commissioners in 1857, recording Mr. Gray's appointment, "this document bears out the statement of the United States' Government that Mr. Gray was appointed according to the understanding between the Commissioners to decide certain specified cases of disagreement, and not as a general Arbitrator or Umpire for whatever cases of disagreement might arise. . . . Whatever the right interpretation of the Treaty may be, all legal difficulty is apparently removed in the present instance by the decision of Mr. Gray himself to decline continuing as Umpire under any circumstances." It may be added that, in the Proclamation issued at the time by the Governor of Prince Edward Island, notifying Mr. Gray's appointment, it is described as made "in order to determine differences of opinion which have arisen, &c."

The despatch to Lord Lyons consenting to the appointment of another Umpire to replace Mr. Gray, after vindicating his character, the integrity and justice of his awards, says, "with respect to the question of appointing another Arbitrator in any future cases of difference which may arise between the Commissioners, your Lordship will state to General Cass that Her Majesty's Government sincerely desire that the proceedings of the Commission should be conducted with harmony and good-feeling, and that in cases in which the Commissioners may disagree, it is indifferent to Her Majesty's Government who is selected to arbitrate between them, provided he be a gentleman of strict integrity

and with a sufficient acquaintance of the subject to be brought before him. It will be a difficult matter to find a gentleman possessing the requisite qualifications for such an office in a superior degree to Mr. Gray; but in view of the clearly-expressed desire of the Government of the United States, and out of friendly consideration for that Government, Her Majesty's Government will not object to authorize Mr. Perley, in any case of future difference with his American colleague, to proceed, in concert with that colleague, to the selection of a fresh Arbitrator."

Foreign Office, September 11, 1860.

No. 113.

Lord J. Russell to Mr. Perley.

(No. 4.)

Sir

Foreign Office, September 21, 1860.

WITH reference to my despatch No. 3 of the 7th of July last, I have to inform you that the President of the United States has declined to accede to the request of Her Majesty's Government for the removal of Mr. Cutts from the Fishery Commission; but that he has at the same time assured them that the Department of State will take care to intimate to Mr. Cutts that, in his relations with the Commission he should be careful to conduct himself with that temperance and courtesy which, while not at all incompatible with the interests of his country, will render the discharge of the duties of the Commission agreeable to the representatives of both Governments.

Her Majesty's Government have not deemed it advisable to urge the United States' Government to reconsider their decision as to Mr. Cutts' removal; and it only remains for me, therefore, to caution you not to consent to the appointment of any person as Arbitrator or Umpire for future cases in dispute between yourself and the United States' Commissioner, whose connection with the Commission you may have reason to believe would be as objectionable and injurious to its harmonious action as has been that of Mr. Cutts.

I am, &c.

(Signed) J. RUSSELL.

No. 114.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, September 21, 1860.

WITH reference to my letter of the 30th ultimo, I am directed by Lord John Russell to transmit to you, for the information of Her Majesty's Secretary of State for the Colonies, a copy of a despatch which his Lordship has addressed to Mr. Perley, acquainting him with the refusal of the United States' Government to remove Mr. Cutts from the Fishery Commission, and cautioning him as to giving his consent to the appointment of an Umpire for future cases in dispute between himself and the United States' Commissioner.*

I am, &c.

(Signed) E. HAMMOND.

No. 115.

Mr. Perley to Lord J. Russell.—(Received December 10.)

(No. 34.)

My Lord,

St. John, New Brunswick, November 25, 1860.

I HAVE the honour of reporting to your Lordship, that I left this place at the end of May, and returned in September, having in the meantime visited and examined so many of the rivers of Lower Canada and Canadian Labrador as it was possible to do, during the brief summer of that high northern latitude. The Canadian Government failed to give me the accommodation on board the steamer "Napoleon," which it had agreed to do, and I was consequently subjected, with my surveyor, to much greater fatigue and exposure than would have been the case, had the engagement been fulfilled.

2. On the 15th instant, I met Mr. Hubbard, the United States' Commissioner, at Boston, with our respective surveyors, and proceeded to bring up the arrears of business. Mr. Hubbard would not permit the slightest interference on the part of Mr. Cutts with

the business of the Commissioners ; and I am happy to say, that we settled the boundaries of a great many important rivers, in the most amicable and satisfactory manner. It is highly gratifying to be able to state, that Mr. Hubbard behaved in the most honourable and straightforward manner, conceding everything that could be properly asked, and exhibiting an earnest desire to perform his duty fairly and impartially. The result was, that we settled every existing difference, leaving no work for an umpire, and scarcely the chance of a disagreement hereafter.

3. We commenced with the eighteen rivers of Prince Edward Island, which had been declared to be rivers by the awards of Mr. Gray, and which Mr. Hubbard, without hesitation, admitted to be such. The several lines I claimed for defining the mouths of these rivers, were agreed to by Mr. Hubbard, and awards and plans were signed accordingly.

4. The rivers of Cape Breton, namely, the Sydney, Miré, Grand, Des Habitants, Mabou, and Marguerite, were next taken up, and lines for defining their several mouths were agreed upon without difficulty.

5. The River Hudson, in the State of New York, was next in order ; and it was agreed without dispute, that a line drawn from Sandy Hook to Cony Island, directly across the bar, marked the mouth of that great river.

6. Next, the St. Lawrence came under consideration ; and on comparing notes, it was found that the United States' Commissioner and myself, had each marked the same line, namely, from Cape Chatte, on the south side, to Point des Monts on the north, a distance of twenty-three miles, and it was so agreed. Having passed up and down the St. Lawrence five times during the past season, I am satisfied that the line agreed upon, really and truly marks the mouth of that magnificent river. In this view of the case, I am fortified by the opinions of Lord Mulgrave, present Lieutenant-Governor of Nova Scotia, and of Sir Dominick Daly, late Lieutenant-Governor of Prince Edward Island, each of whom formerly kept and sailed yachts in the St. Lawrence ; and also by the opinion of Admiral Bayfield, with whom I had an interview on the subject. Sir Edward Head, Governor-General of Canada, passed up and down the St. Lawrence with me, in June and July, and saw no objection to this line, which he conceived to be as far down as could be claimed.

7. The Hudson and the St. Lawrence being thus determined, there was no difficulty in defining the mouths of the rivers of Gaspé, namely, the Cascapediatic, the Bonaventure, the Grand, St. John, York, Dartmouth, Magdalen, Mont Louis, St. Anne, and La Chatte. The Jupiter and Fox Rivers in the Island of Anticosti were likewise marked, as also the large rivers Moisie, St. John, and Mingan, on that part of the north shore of the Gulf of St. Lawrence, known as Canadian Labrador.

8. Having thus settled all the rivers I have yet examined, we proceeded to re-consider four rivers in New Brunswick, namely, the St. John, Shediac, Cocagne, and Caraquette respectively, which I had disagreed with Commissioner Cushman. The line I claimed for marking the mouth of the St. John River here, was considered by Mr. Hubbard as a fair and proper line, as well as being necessary for municipal purposes, and to prevent all probability of collisions among fishermen. There was, therefore, no difficulty in making the mouths of the other three rivers in dispute. All the necessary awards, plans, and documents were duly signed, and our labours terminated most agreeably.

9. There now remains to be considered, the rivers south of New York down to 36° north latitude, of which Mr. Hubbard has furnished me a list, with the rivers of Newfoundland, of Newfoundland Labrador, and a few not yet visited in Canadian Labrador. To these I shall diligently apply myself next season. Meantime copies of all the awards and maps will be furnished to the Governments of the several British North American Colonies, as heretofore ordered.

I have, &c.
(Signed) M. H. PERLEY.

No. 116.

Lord J. Russell to Lord Lyons.

(No. 260.)

My Lord,

Foreign Office, December 14, 1860.

I INCLOSE, for your Lordship's information, a copy of a despatch from Mr. Perley, reporting his proceedings during the past season, and I have to acquaint you that I have expressed to Mr. Perley the satisfaction with which Her Majesty's Government have

learnt the good understanding he has established with his United States' colleague, and the progress in the labours of the Fishery Commission which has resulted from it.

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

No. 117.

Lord J. Russell to Mr. Perley.

(No. 5.)
Sir,

Foreign Office, December 14, 1860.

I HAVE to express to you the satisfaction with which Her Majesty's Government have learnt from your despatch, No. 34, of the 25th ultimo, the good understanding which you have established with your United States' colleague in the Fishery Commission, and the progress in the labours of the Commission which has resulted from it.

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

No. 118.

Mr. Hammond to Mr. Elliot.

Sir,

Foreign Office, December 14, 1860.

I AM directed by Lord John Russell to transmit to you to be laid before his Grace the Duke of Newcastle, a copy of a despatch from Mr. Perley, reporting his proceedings during the past season.*

Lord John Russell has expressed to Mr. Perley the satisfaction with which Her Majesty's Government have learnt the good understanding he has established with his United States' colleague, and the progress in the work of the Fishery Commission which has resulted from it.

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

No. 119.

Mr. Elliot to Mr. Hammond.—(Received December 24.)

Sir,

Downing Street, December 22, 1860.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 14th instant, inclosing a Report from Mr. Perley of his proceedings during the past season under the Fishery Commission; and I am to state that his Grace fully concurs in the expression of satisfaction on the part of Her Majesty's Government which Lord John Russell has conveyed to Mr. Perley with reference to this Report.

I have, &c.
(Signed) T. FREDK. ELLIOT.

No. 120.

Lord Lyons to Lord J. Russell.—(Received January 16, 1861.)

(No. 329.)
My Lord,

Washington, December 31, 1860.

WITH your despatch No. 108 of the 7th July last your Lordship did me the honour to transmit to me a copy of the awards of Mr. Gray as Umpire respecting the Fisheries under the Treaty of June 5, 1854. Your Lordship informed me at the same time that the copy thus sent was the only copy in the possession of Her Majesty's Government containing Mr. Gray's remarks upon the strictures made by Mr. Cutts upon his awards.

I have caused Mr. Gray's observations to be transcribed and inserted in a copy of the awards which I found in the archives of this Legation, and I have the honour to return to your Lordship herewith the copy which accompanied your Lordship's despatch.

I have, &c.
(Signed) LYONS.

Mr. Perley to Lord J. Russell.—(Received April 16.)

My Lord,

St. John, New Brunswick, April 1, 1861.

I HAVE the honour to forward two copies of the awards made by the Commissioners and Umpire, under the Reciprocity Treaty, up to the 1st day of January, 1861, which I have had printed to furnish to the several Colonies and the Public Departments.

2. In order to furnish a full set of charts with these awards, as heretofore directed, and for the services of the Commissioners at Newfoundland and Labrador, I shall require nine copies of each of the Admiralty charts mentioned in the inclosed list. I have therefore very respectfully to ask that your Lordship will be pleased to request the hydrographer to the Admiralty to forward to me these charts in a box, by steamer, to the care of Messrs. Cunard and Co., Halifax, Nova Scotia, as has been done heretofore.

3. Lord Lyons, Her Majesty's Minister at Washington, has just informed me of the appointment of E. L. Hamlin, Esq., of Maine, brother to the Vice-President of the United States, as my colleague in the Fishery Commission; and his Lordship states that Mr. Hamlin will soon be ready to enter upon his duties. From what I have heretofore seen and heard of Mr. Hamlin, I am inclined to believe that he will work fairly and honourably in the Commission. It is fortunate, in any case, that this season the Commissioners enter upon entirely new ground, and that all previously existing disputes and doubtful cases have been fully and finally settled.

I have, &c.

(Signed) M. H. PERLEY.

Inclosure 1 in No. 121.

Awards by the Honourable John Hamilton Gray, as Arbitrator or Umpire, under the Reciprocity Treaty, signed at Washington, June 5, 1854. Dated at Saint John, New Brunswick, April 8, 1858.

BY the IIIrd Article of the Treaty of 1783 between Great Britain and the United States, it was stipulated, "That the people of the United States should continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland, also in the Gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time theretofore to fish. That the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to cure or dry them on the island), and also on the coasts, bays, and creeks of all other of His Britannic Majesty's dominions in America. And that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks in Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground." The War of 1814 between Great Britain and the United States, was held by the former to have abrogated this stipulation; and the Declaration of Peace, and Treaty of Ghent, which subsequently followed, were entirely silent on the point. This silence was intentional; during the negotiations the question had been expressly raised, and the claim of the United States to the continued enjoyment of the rights secured by that stipulation denied.

By the Convention of the 20th of October, 1818, the privilege of the fisheries within certain limits was again conceded to the United States, and the United States, by that Convention, "renounced any liberty before enjoyed or claimed by them or their inhabitants to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of any of the British Dominions of America, not included within that part of the southern coast of Newfoundland extending from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland, from Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbours, and creeks from Mount Jolly on the south of Labrador to and through the Straits of Belle Isle, and thence northerly along the coast." This concession was to be without prejudice to any of the exclusive rights of the Hudson's Bay Company; and the American fishermen were also to have the liberty for ever to dry and

cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland therein described, and the coast of Labrador; but so soon as the same, or any portion thereof, should be settled, it should not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground; and was further subject to a proviso that the American fishermen should be permitted to enter the bays and harbours in His Britannic Majesty's dominions in America, not included within those limits, "for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they should be under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever, abusing the privileges thereby reserved to them."

Convention of
1818.

A difference arose between the two countries, Great Britain contending that the prescribed limits of "three marine miles," the line of exclusion, should be measured from headland to headland; while the United States' Government contended it should be measured from the interior of the bays, and the sinuosities of the coasts. The mutual enforcement of these positions led to further misunderstandings between the two countries.

To do away with the causes of these misunderstandings and to remove all grounds of future embroilment, by the Treaty of Washington, June 5, 1854, it was, by Article I, agreed: "That, in addition to the liberty secured to the United States' fishermen by the above-mentioned Convention of October 20, 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 to take fish of every kind (except shell fish) on the sea coasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore; with permission to land upon the coasts and shores of those Colonies and the islands thereof, 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 parts of the said coast, in their occupancy for the same purpose.

Treaty of
Washington,
June 5, A.D. 1854.

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

By Article II: "It is agreed by the High Contracting Parties, the British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind (except shell fish) on the eastern sea coasts and shores of the United States, north of the 36th parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea coasts, and shores of the said United States, and of the said islands without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States, and of the islands aforesaid, for the purpose of drying their nets and curing their fish. Provided that in so doing they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

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

By the 1st Article it was also further agreed, "That, in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen contained in this Article, and that of fishermen of the United States, contained in the IInd Article should apply, each of the High Contracting Parties, on the application of either to the other, should, within six months thereafter, appoint a Commissioner. The said Commissioner, before proceeding to any business, should make and subscribe a solemn declaration that they would impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under the said two Articles." In case of disagreement, provision is made for an umpire, and the "High Contracting Parties solemnly engage to consider the decision of the Commissioners conjointly or of the Arbitrator or Umpire, as the case may be, absolutely final and conclusive in each case decided upon by them or him respectively."

By Article V, the Treaty was to "take effect as soon as the laws required to carry

it into operation should be passed by the Imperial Parliament of Great Britain, and by the Provincial Parliaments of those of the British North American Colonies which are affected by this Treaty on the one hand, and by the Congress of the United States on the other."

It is understood that, in making this last named Treaty neither Government admitted itself to have been in error, with reference to the position it had before maintained. The Treaty was emphatically an arrangement for the future. "The Government of the United States being equally desirous with Her Majesty the Queen of Great Britain (as declared in the preamble) to avoid further misunderstanding between their respective citizens and subjects in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of a Convention between the United States and Great Britain, signed at London on the 20th day of October, 1818."

The Commissioners appointed under the provisions of this Treaty proceeded to examine and decide upon "the places intended to be reserved and excluded from the common liberty of fishing" under the Ist and IInd Articles. They differed in opinion as to the places hereinafter named, and it has been submitted to me as the umpire under the provisions of that Treaty to determine those differences.

The copies of the Records of disagreement between the Commissioners transmitted to me are as follows:

Record No. 1.

"We, the undersigned Commissioners respectively, on the part of Great Britain and the United States, under the Reciprocity Treaty concluded and signed at Washington, on the 5th day of June, A.D. 1854, having met at Halifax, in the Province of Nova Scotia, on the 27th day of August, A.D. 1855, thence proceeded to sea in the British brigantine 'Halifax,' and passing through the Strait of Canso, first examined the River Buctouche in the Province of New Brunswick.

"A survey was made of the mouth of the said River Buctouche by the Surveyors attached to the Commission, George H. Perley, on the part of Great Britain, and Richard D. Cutts on the part of the United States, a plan of which, marked No. 1, and signed by the Commissioners respectively, will be found in Record Book, No. 2.

"We, the Commissioners, are unable to agree upon a line defining the mouth of said river.

"Her Majesty's Commissioner claims that a line from Glover's Point to the southern extremity of the Sand Bar (marked in red on the aforesaid Plan No. 1) designates the mouth of the said River Buctouche; the United States Commissioner claims that a line from Chapel Point bearing South 4° West (magnetic), (marked in blue on the aforesaid plan No. 1) designates the mouth of said river, and of this disagreement record is here made accordingly.

"Dated at Buctouche, in the Province of New Brunswick, this 19th day of September, A.D. 1856."

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

Record No. 2.

"We, the undersigned Commissioners respectively on the part of Great Britain and the United States, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the River Miramichi, in the Province of New Brunswick, are unable to agree upon a line defining the mouth of said river.

"Her Majesty's Commissioner claims that a line connecting Fox and Portage Islands (marked in red—Plan No. 2, Record Book No. 2) designates the mouth of the Miramichi River; the United States' Commissioner claims that a line from Spit Point to Moody Point (marked in blue—Plan No. 2, Record Book No. 2) designates the mouth of said river, and of this disagreement record is here made accordingly.

"Dated at Chatham, on the Miramichi, in the Province of New Brunswick, on this 27th day of September, A.D. 1855.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

Record No. 9.

"We, the undersigned Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Elliot River emptying into Hillsborough Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide that a line bearing north 85° east (magnetic), drawn from Block House Point to Sea Trout Point, as shown on Plan No. 8, Record Book No. 2, shall mark the mouth or outer limit of the said Elliot River, and that all the waters within or to the northward of such line shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

"Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Elliot, York, and Hillsborough Rivers.

"The United States' Commissioner agrees to the above line as the mouth of the Elliot River only, not recognizing any other river.

"Dated at Bangor, in the State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

Record No. 10.

"We, the undersigned Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Montague River, emptying into Cardigan Bay on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide that a line bearing north 72° east (magnetic), drawn from Grave Point to Cardigan Point, as shown on the Plan No. 8, Record Book No. 2, shall mark the mouth or outer limit of the said Montague River, and that all the waters within or to the westward of such line shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

"Her Majesty's Commissioner, in the above line claims the same as defining the joint mouth of the Montague and Brudenell rivers.

"The United States' Commissioner agrees to the above line as marking the mouth of the Montague only, not recognizing or acknowledging any other river.

"Dated at Bangor, in the State of Maine, United States, this twenty-seventh day of September, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

Record No. 11.

"We, the undersigned Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the coasts of Prince Edward Island, one of the British North American Colonies, are unable to agree in the following respect:—

"Her Majesty's Commissioner claims that the undermentioned places are rivers, and that their mouths should be marked and defined under the provisions of the said Treaty:—

Vernon.	Winter.
Orwell.	Hunter.
Seal.	Stanley.
Pinnettee.	Ellis.
Murray.	Foxley.
Cardigan.	Pierre Jacques.
Boughton.	Brae.
Fortune	Percival.
Souris.	Enmore.
St. Peter's (designated St. Peter's Bay on the map of the island).	Ox.
Tryon.	Haldiman.
Crapaud.	Sable.

"The United States' Commissioner denies that the above-mentioned places are rivers, or such places as are intended to be reserved and excluded from the common liberty of fishing.

"Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

It will thus be seen that the differences between the Commissioners resolve themselves into two divisions:—

1. Whether the twenty-four places named in Prince Edward Island, or any of them, as is contended by Her Majesty's Commissioner, are to be deemed rivers, and therefore reserved and excluded from the common liberty of the fishery; or whether, as is contended by the United States' Commissioner, these places, or some of them, are not rivers, and therefore open to the common liberty of the fishery?

2. The Miramichi and Buctouche, in New Brunswick, being admitted to be rivers, by what lines are the mouths of those rivers respectively to be determined?

In coming to any conclusion on these points, it is unquestionably the duty of the Umpire to look at the spirit and object of the Treaty. The causes of difficulty it was intended to remove, the mode of removal proposed.

The classes of fish sought for in the deep sea fisheries strike within "three marine miles" from the shore, the "bays" within the headlands are their places of resort, but, unlike the salmon or the shad, they do not ascend the rivers or particularly seek their entrances. To prosecute the mackerel fishery with success the right of fishing on the "sea-coast and shores" within "three marine miles," and within the "bays," with the privilege of landing for drying nets and curing fish was absolutely necessary; the convenience of a "harbour," and the right of fishing therein, desirable. A "creek," which Webster and Maunders both define to be, according to English etymology, "a small inlet, bay, or cove, a recess in the shore of the sea or of a river,"⁽¹⁾ and which, though "in some of the American States meaning a small river, Webster says is contrary to English usage, and not justified by etymology," would also in many instances afford accommodation. A right to the "sea-coast and the shores," to the "harbours" and the "creeks," would thus afford to the fishermen all that he would require, and leave to the rivers rising far in the interior of the respective countries, and flowing by the homes and the hearths of a different nation, the sacred character which would save them from the stranger's intrusion.⁽²⁾

The question then first presents itself are the twenty-four places named, or any, and which of them, in Prince Edward Island to be deemed rivers?

It is difficult to lay down any general proposition, the application of which would determine the question. There is no limitation as to size or volume; the Mississippi and the Amazon roll their waters over one-fourth the circumference of the earth. The Tamar, the Ex, and the Tweed would hardly add a ripple to the St. Lawrence, yet all alike bear the designation, are vested with the privileges, and governed by the laws and regulations of rivers. It is not the absence or prevalence of fresh or salt water, that distinction has been expressly ignored in the celebrated case of *Horne against McKenzie* on appeal to the House of Lords. It is not the height or lowness of the banks; the Rhine is still the same river whether flowing amid the mountains of Germany or fertilizing the low plains of Holland. It is not the rise or fall of tide, or the fact that there may be little, if any water, when the tide is out. The Stour and the Orwell, in England, are dry at low water, yet they have always been recognized and treated as rivers. The Petitcodiac, in New Brunswick, the Avon in Nova Scotia,⁽³⁾ owe their width, their waters, their utility entirely to the Bay of Fundy; yet their claim to be classed among rivers has never been doubted. The permanent or extraordinary extent of the stream, in cases where not at all, or but little, influenced by the tides, is no criterion. The periodical thaws and freshets of spring and autumn in America make rivers of vast magnitude, useful for a thousand commercial purposes, in places where, when those thaws and freshets have passed away, their dry beds are visible for weeks. The term "flottable," applied to such streams is well recognized in the Courts of the United States, classing them among rivers, and clothing the inhabitants upon their banks with the rights of riparian proprietors and the public at large with privilege of accommodation.

An important test may be said to be the existence or non-existence of bars at the mouths of waters or streams running into the sea. The existence of such bars necessarily pre-supposes a conflict of antagonistic powers. An interior water forcing its way out, yet not of sufficient strength to plough a direct passage through the sands accumulated by the inward rolling of the sea, would necessarily diverge and thus leave a

6 Clark and Finelly's Reports. Angel on tide waters, 74.

Rowe v. Titus, Kerr's Reports, New Brunswick Courts.

Angel on Tide Waters, 79.

bar in front of its passage, just at that distance where the force of its direct action would be expended. Some rivers, such as the Mississippi and the Nile, make deltas and run into the sea. In this case the extreme land would give a natural outlet. Others, again, run straight into the sea without any delta and without any estuary. In these cases the bar at the mouth would give a natural limit, *but the bar at the mouth is equally characteristic of its being a river.*⁽⁴⁾ There are cases, again, where the estuary gradually widening into the sea, leaves neither bar nor delta to mark its outlet or determine its character. In such cases, for the latter object, other grounds must be sought on which to base a decision, and, in marking the former, the exercise of a sound discretion could be the only guide.

The decision upon any such question must, after all, be more or less arbitrary. The physical features of the surrounding country, the impressions created by local inspection, *the recognized and admitted character the disputed places have always borne, constitute material elements in forming a conclusion.*⁽⁵⁾ The possibility that the privileges conceded by this Treaty may be abused can have no weight. There will doubtless be found in both countries men who will disregard its solemn obligations, and take advantage of its concessions to defraud the revenue, violate local laws, and infringe private rights, and in thus disgracing themselves, affect the character of the nation to which they belong; they will, however, meet with no consideration at the hands of the honourable and right-thinking people of either country; the framers of this Treaty would not permit such minor difficulties to stand in the way of the great object they had in view to cement the alliance and further the commercial prosperity of two Empires. Such difficulties can be obviated, if necessary, by national or local legislation.

The rivers of Prince Edward Island, whether one or one hundred in number, must, as to length, necessarily be small. The island is in no part much over thirty miles in width, and the streams run through it more or less transversely, not longitudinally. Captain (now Admiral) Bayfield, the accomplished hydrographer and surveyor of the Gulf of St. Lawrence, thus describes it:—

“Prince Edward Island, separated from the southern shore of the Gulf of the St. Lawrence by Northumberland Strait, is 102 miles long, and in one part about 30 miles broad; but the breadth is rendered extremely irregular by large bays, inlets, and *rivers, or rather sea creeks,*⁽⁶⁾ which penetrate the island, so that no part of it is distant more than 7 or 8 miles from navigable water. Its shape is an irregular crescent, concave towards the Gulf, the northern shore forming a great bay, 91 miles wide and 22 miles deep, out of which the set of the tides and the heavy sea render it very difficult to extricate a ship when caught in the north-east gales which frequently occur towards the fall of the year, occasionally blowing with great strength and duration, and at such times proving fatal to many vessels.”

This passage has been particularly called to my attention in a very elaborate and able statement of his views, placed before me by the United States' Commissioner, who further adds, “that Sir Charles A. Fitzroy, the Lieutenant-Governor of the Island of Prince Edward, in an official communication to the British Government, calls the island rivers, ‘strictly speaking, narrow arms of the sea,’” and that “Lord Glenelg, in his reply, alludes to them as ‘inlets of the sea.’” On examining the records referred to by the Commissioner, I find the first to be a despatch (in January 1858), from Sir Charles Fitzroy to the Colonial Secretary, Lord Glenelg, with reference to the reserves for fisheries, contained in the original grants in the island, arising out of the order in Council under which those grants were issued, and which was as follows:—“That, in order to promote and encourage the fishing, for which many parts of the island are conveniently situated, there be a clause in the grants of each township that abuts upon the sea shore, containing a reservation of liberty to all His Majesty's subjects in general of carrying on a free fishery on the coasts of the said townships, and of erecting stages and other necessary buildings for the said fishery, within the distance of 500 feet from high water mark.”

He then states he inclosed, for the information of the Government, “a Return showing the several reserves for this purpose contained in the different townships, from which it will appear that the reservation as contemplated in the Order in Council has been strictly followed in only twelve townships. In thirty-two townships the reservation is as follows: ‘and further saving and reserving for the disposal of His Majesty, his heirs and successors, 500 feet from high-water mark on the coast of the tract of land hereby granted to erect stages and other necessary buildings for carrying on the fishery,’ of the remaining twenty-three townships, eighteen contain no fishery reservation; and of five no grants whatever were on record.” And then remarks, “By reference to a plan of the island annexed to the Return, your Lordship will perceive that several of the townships

Bayfield's Sailing
Directions for the
Gulf and River
St. Lawrence,
Part iii, p. 92.

Journals of the
Legislative Council
of Prince Edward
Island, A. D. 1839,
Appendix D.

which do contain reservations, about *upon rivers only, or more strictly speaking, narrow arms of the sea.*"⁽⁷⁾

Lord Glenelg, in his reply (May, 1838), says: "It appears to me that the reservation made of lands adjacent to the sea coast, or to the shores of *inlets from the sea*, for the purpose of fishing, so far as the right has been reserved to the Queen's subjects collectively, constitute a property over which the power of the Crown is exceedingly questionable."

It does not appear to me that these passages bear the construction put upon them, or were intended to designate the island rivers generally, or in any way determine their character. Is it not rather a *mere qualified mode of expression used at the time without any definite object*,⁽⁷⁾ or perhaps, if any, to avoid being concluded by either term? But if the use of a term by one or two of the local authorities is to be deemed of such weight, of how much more weight would be the *continued use by the Legislature* ⁽⁸⁾ for years of a contrary term. Acts of the Assembly vesting rights, imposing penalties, and creating privileges with reference to these waters, under the name and designation of rivers, to a series of which I call attention, namely:—

10 Geo. IV, cap. 11.	4 Vict., cap. 16.
2 Wm. IV, caps. 2 and 13.	4 Vict., cap. 18.
3 Wm. IV, caps. 8, 9, and 10.	5 Vict., cap. 9.
5 Wm. IV, caps. 3 and 7.	7 Vict., cap. 3.
6 Wm. IV, cap. 25.	8 Vict., cap. 20.
7 Wm. IV, cap. 23.	12 Vict., caps. 18, 22, and 35.
1 Vict., cap. 19.	15 Vict., cap. 34.
2 Vict., cap. 10.	16 Vict., cap. 28.
3 Vict., cap. 12.	

Also to the various Reports of the Annual Appropriations and Expenditures, to be found in the Journals of the Legislature.

On an examination of these Acts, it will be found that the Legislature of the island has by a continued series of enactments, extending over a period of thirty years, legislated upon the "rivers," "bays," "creeks," "harbours," and "lesser streams" of the island, recognizing their existence and difference—appropriating the local revenues to their improvement—establishing rights, and creating private interests with reference to them, entirely inconsistent with their being aught but the internal waters and rivers of the island, and directly at variance with the terms and character of legislation, which would have been used had they been considered "arms," or mere "inlets of the sea."⁽⁸⁾ Such Acts by the Congress of the United States, or by the respective Legislatures of the several States, on any matter within their jurisdiction, would be regarded as conclusive of the character of the subject legislated upon. The legislation of Prince Edward Island *in pari materid* is entitled to the same consideration. The British Government at the present day neither legislates away nor interferes with the local administration of the affairs of the Colonies. This very Treaty is dependent upon the action of the Provincial Parliaments, and based upon the preservation of private rights. Can it be contended, or shall it be admitted, that this Treaty *abrogates the legislation of years*, ignores the laws of the island, and by implication, *annuls rights and privileges the most sacred a Colony can possess*?⁽⁹⁾ Certainly not. If it be desirable, from the peculiar conformation of this island and its waters, that the latter *should be viewed in a light different from that in which they have hitherto been regarded, the local Legislature can so determine.*

In a very important decision in the Supreme Court of Iowa, reported in the American Law Register, issued at Philadelphia in August 1857, it was determined "that the real test of navigability in the United States was ascertained by *use or by public act of declaration*, and that the Acts and Declarations of the United States declare and constitute the Mississippi River a public highway in the highest and broadest intendment possible." Shall not therefore the *public Acts and Declarations of the Legislature of Prince Edward Island be considered of some authority in determining what are the rivers of that island*?⁽¹⁰⁾ and particularly when those Acts and Declarations were made long anterior to the present question being raised.⁽¹¹⁾ But might it not also be assumed that where a country had by a long series of public documents, legislative enactments, grants, and proclamations, defined certain waters to be rivers, or spoken of them as such, or defined where the mouths of certain rivers were, and another country subsequently entered into a Treaty with the former respecting those very waters, and used the same terms, without specifically assigning to them a different meaning, nay, further stipulated that the Treaty should not take effect in the localities where those waters were, until confirmed by the local authorities, might it not be well assumed that the definitions previously used and adopted would be mutually binding in interpreting the Treaty, and that the two countries

had consented to use the terms in the sense in which each had before treated them in their public instruments, and to apply them as they had been previously applied in the localities where used? I think it might.

Admiral Bayfield did not intend by the term "sea creeks" as he informs me in reply to a communication on this subject,⁽¹²⁾ to convey the impression contended for by the United States' Commissioner, that they were not rivers. He says, under date of the 3rd September, 1857: "With reference to the term 'sea-creeks,' to which your attention has been called as having been used by me at page 92, and various other parts of the Directions, I have used that term in order to distinguish the inlets from the small streams (disproportionately small in summer) that flow through them to the sea."

"In the instances referred to, I mean by 'sea-creeks' inlets formed by the combined action of the rivers and the tides, and through which those rivers flow in channels more or less direct, and more or less plainly defined by shoals on either side. Wherever there are bars across the inlets, as is very often the case, I consider the channels through those bars to form the common entrances from the sea to both inlets and rivers, for it appears to me that a river is not the less a river because it flows through a creek, an inlet, or an estuary. The point where the fresh water enters the estuary and mixes with the tide waters may be miles inland, but it does not, I think, cease to be a river until it flows over its bar into the sea."

This view of Admiral Bayfield that such waters do not lose their character of rivers because flowing through an inlet or estuary is confirmed by the principles laid down to determine what are "navigable" rivers in the technical sense of the term, as distinguished from its common acceptation. To the extent that fresh waters are backwardly propelled by the ingress and pressure of the tide, they are denominated navigable rivers; and "to determine whether or not a river is 'navigable,' both in the common law and in the Admiralty acceptation of the term, regard must be had to the ebbing and flowing of the tide. In the celebrated case of the River Banne, in Ireland, the sea is spoken of as *ebbing and flowing in the river*. These principles are recognized in the Courts of the United States, and the authorities collated and most ably commented upon by Angel.

Angel, c. 3, pp. 73 and 75.

Indeed it would seem that the Commissioners themselves have not attached to this term "sea creek," as used by Captain Bayfield, the force or character which it is now alleged it should bear, as they have by their Record, No. 10, under date of 27th September, 1856, transmitted to me with the other official documents in this matter,⁽¹³⁾ pronounced the "Montague" to be "a river," and determined upon its mouth, though Captain Bayfield in his "Sailing Directions," before referred to, page 123, speaks of it as a "sea creek." It has been urged, that if these places are declared to be rivers, and not creeks or harbours, then where are the creeks and harbours contemplated by the Treaty.⁽¹⁴⁾ To this it may be answered, that this Treaty does not contemplate Prince Edward Island alone; and even though none such might be found within its narrow circle, yet they may be found in numbers along the 5,000 miles of coast, exclusive of Newfoundland, which this Treaty covers, extending from the 36th parallel of north latitude in the United States, to the furthest limits of Canada.

Mr. Cutts' Observations.

(1) Why does Mr. Gray quote a part and not the whole of the definition of a creek, as given by Webster and the Imperial Dictionary? Why does he omit and ignore the part favourable to the United States' claim? That part is as follows, and not justified by etymology, but as "streams often enter into creeks, or small bays, or from them, the name has been extended to small streams in general." Here it is authoritatively stated that a stream can enter into a creek; and in the United States' argument it was urged that the fact of little brooks entering into the large bays and creeks of Prince Edward Island did not destroy the character of the bay or creek, or convert the brook into a river.

Mr. Gray's Replies.

(2) Were it not for the discreditable nature of this charge, it would hardly be worth noticing. The mutilated citation of an authority and suppression of that party favourable to the United States. Designedly to have used an artifice so easy of detection would have evinced a simplicity more harmless than dangerous.

But an examination of the text shows that Mr. Cutts' design is to mislead and to misrepresent. To read his note it would be assumed that I had quoted from the Imperial Dictionary. To read the text, shows that I did not. I quoted only from Webster and Maunder giving the substance if not the words fairly from both, without the suppressing of any idea or qualification. The additional passage cited by Mr. Cutts not being found in either Webster or Maunder. I did not quote from the Imperial Dictionary, because at the time I was writing I had not had the opportunity of referring to it, and had no recollection of there being

any difference of importance between Webster and Maunder and the Imperial Dictionary; nor do I now think there is any difference of importance. The Imperial Dictionary does not say that the legitimate meaning of the word "creek" is, as contended for by Mr. Cutts, or that in that sense it has other than a local application. Small streams may go by such names in some of the American States. Yet in a similar application of that name be not recognized in other countries and different latitudes. Mr. Cutts says himself emphatically in note 8, "No State has a right to expect that the mere fact of using a term must be conclusive with all other States that such terms was properly applied." But supposing it was so recognized, after all it must be a question *in the discretion of the Umpire whether the place to be pronounced upon* deserves the application or not. The Umpire has no right in a Treaty between two nations to give to a term used in its ordinary sense the peculiar meaning which it bears in a section only of one of those nations.

Mr. Cutts contended in some of his notes, that the Treaty is the law of both countries. Treating it as a law, and putting a legal construction upon it, would be most disastrous to his argument; for the term "creek" being found in the context with sea coast, "shores," "bays," and "harbours" must be construed as *ejusdem generis* and therefore used only in its first meaning of a "Bay, cove, or recess." There was consequently nothing worth attaining by the suppression of the passage, and I emphatically deny either desire or design to withhold it.

(²) (This paragraph is expunged in the original.)

(²) This passage was not expunged in the original at the time I transmitted it to the American Commissioner, and I refer, in confirmation of my assertion, to the duplicate thereof in the hands of Her Majesty's Commissioner.

(³) This is an unfortunate reference. An examination of the case will show the misapplication of the quotation from the decision of the House of Lords. Be this as it may, however, it is not allowable to determine *what is river* and *what is not* by any law that might prevail either in Great Britain or the United States.

(³) I cited the case of Horne against McKenzie as establishing *inter alia* the principle that the mere absence or prevalence of fresh or salt water was not a criterion to determine what was or was not a river. Her Majesty's Government embraces among its members the ablest lawyers of England, and if necessary a confirmation of the correctness of that citation can easily be obtained.

The question belongs exclusively to *geographical science*. The Treaty used the word "river". Now a *river* is an *inland current of fresh water* and *not an ocean current of salt water*, as asserted by the Umpire, and illustrated by referring to the Stour and Orwell in England.

I deny Mr. Cutts' position, that what is or is not a river is *exclusively* a question of "geographical science." The limits of the sea or ocean might with equal propriety be said to belong exclusively to geographical science. But admit for the sake of argument that it is. When two expounders of this science differs, as do Admiral Bayfield and Mr. Cutts, what better tribunals can be referred to, than the Courts of Law of England and of the United States, where the validity of rights, drawing their very vitality from the fact, that *certain places may or may not be rivers or arms of the sea* are discussed; where the ablest minds and the most powerful reasonings are brought to bear upon the question, and *where the decisions are above suspicion*? What better authorities can be cited than the commentators of both countries on tide waters and on maritime law?

To the introduction of a new definition of the term "river" with a view to claim the large salt-creeks and inlets of Prince Edward Island as rivers, we object, as well on account of *its error* and source, as of its partisan object.

(^{3a}) The claim of the Petitediac to be considered a river rests on the fact, that it drains an extensive section of country, and sends down to the Bay of Fundy a large stream of fresh water.

Is the assertion of Mr. Cutts of more weight than the decision of the House of Lords, or than the conclusions of Mr. Angell, the ablest writer of the United States on the subject? But Mr. Cutts' present position is, to use his own expression, singularly "unfortunate" when he *must know* that the American Commissioner himself in his argu-

Mr. Cutts' Observations.

Mr. Gray's Replies.

(4) This paragraph of generalization having no special reference to the twenty-four little brooks on the Island of Prince Edward, needs no notice except in one particular, and that is, the extraordinary theory of the Umpire in that "*the bar at the mouth is equally characteristic of its being a river.*" It is granted that all rivers have bars, but it does not necessarily follow that behind every bar there is a river. Or, because the bays, harbours, and creeks of Prince Edward Island have bars at their entrances, those bars are characteristic of their being rivers. Without referring to numberless instances, illustrative of the error of this theory, it is only necessary to refute the position by the Umpire's own decisions. In award No. 4, he decides that the *Pinnette is not a river*; and yet Bayfield says, page 111, "*Pinnette Harbour has only two feet at low water over its rocky and exceedingly dangerous bar.*" So also, his decision in award No. 10.

(5) "The recognized and admitted character the disputed places have always bore, constitute a material element in forming a conclusion." Not so. Names are often given to places by inexperienced persons, and adopted without examination, for sake of convenience and out of respect to usage. It was mutually understood between the Commissioners that the names found and adopted on the different maps and charts should be entirely discarded; and that each expanse, or body of water should be considered a bay, harbour, creek, or river according to its conformity to the true meaning of the term. If any principle adopted by the Commissioners should have been taken into consideration by the Umpire, this understanding should have been.

(6) If the Umpire alludes to the character given of these places by geographical science, then his position above quoted is admitted. Vattel says, 274, B. 2: "Technical terms or terms peculiar to the arts and sciences, ought commonly to be interpreted according to the definition given of them by masters of the art, or persons versed in the knowledge of the art or science to which the term belongs." Now Captain Bayfield was a master of the science, and after a careful survey of the island, he alludes to the so-called rivers, "as rather sea-creeks." Such authority is conclusive, if no other arguments were presented. The size of the island renders it physically impossible that thirty rivers could exist upon it.

(7) The language adopted by the Lieutenant-Governor of the island, and by the British Colonial Secretary, was not "a mere qualified mode of expression used at the time, without any definite object." On the contrary, they were discussing the real character of the island waters; and their opinions, under the circumstances, were entitled to very grave consideration. There is no objection to the Umpire denying the force of any argument on the part of the United States, or of even introducing rebutting testimony; but there is a serious objection to his endeavouring to undervalue or pervert official evidence, merely because it is favour-

ment as to the mouth of the Buctouche referred me to that very author (Angell) to show "that the limits of the sea or ocean had been legally established and defined by judicial adjudication in both nations and in substantiating the same in each." Now if legal authorities may be referred to determine what is the mouth of a river. Why not equally to determine what is a river?

(4 and 5) Require but little comment. I had stated at page 8, "That it was difficult to lay down any general proposition, the application of which would determine the question;" and at page 9, "That the decision upon any such question must after all be more or less arbitrary." The fallacy of Mr. Cutts is apparent. My position was, that the bar at the mouth is characteristic of its being a river. Mr. Cutts seeks to show that this is wrong by taking the converse of the proposition, "that it does not necessarily follow that behind every bar there is a river."

His converse to be correct should be, that it does not necessarily follow that behind every bar at the mouth there is a river. The mouth is an important ingredient in the proposition, and it would puzzle even Mr. Cutts to show a bar at the mouth of a river without there being a river behind it.

The Pinnette is exactly one of the cases where there may be a bar, there is not a river, and Mr. Cutts himself in his very quotation shows that Admiral Bayfield calls it "*Pinnette Harbour,*" not "*Pinnette River.*"

I would further remark, with reference to No. 5, that I was governed by the Treaty, the written documents submitted and my own judgment after examination and reflection as far as I could exercise it, of what was right.

(6) Requires no comment except as in connection with No. 12, Captain Bayfield's letter cited in page 11, shows what he meant by the term "sea creek," and his letter to me of July 1858, is conclusive on the point. Mr. Cutts does not seem to understand the effect of his own quotations from Vattel—the interpretation of a term is one thing, the application of it another. Bayfield is competent both for the one and the other; but Mr. Cutts seizes upon a casual expression of the witness, and then objects at Note 12, to allow a question to be put to the witness to give either interpretation, application, or explanation.

(7) I have not undervalued or perverted official evidence because it is favourable to the United States. In the first part of this paragraph here objected to, I have given in brackets the language used in referring to Sir Charles Fitzroy and Lord Glenelg. On reading that language—considering the object for which it was cited—and the line of argument in which it was brought forward, the fair inference would be, that the subject under discussion between Sir Charles Fitzroy and Lord Glenelg had been now in dispute, "the real character of the island waters," whether they were rivers or arms of the sea; and that the terms used by them

Mr. Cutts' Observations.

able to the United States. Mr. Gray should have recollected that he was the *Umpire*, and not the opposing Counsel.

(³) The continued use by the island Legislature of the term "rivers," does not make them such, except in so far as its own Government and people are concerned. The Legislature is local, not international, and no State has a right to expect that the mere fact of using a term must be conclusive with all other States that such term was properly applied.

Moreover, the Treaty is the law of the land as well in Prince Edward Island as in the several States of the Union, and *must take precedence*; and it is not to be supposed that the Legislature of Prince Edward Island, when assenting to the Treaty, did so with the mental reservation that its terms should be interpreted according to their own enactments, and not according to their own international law.

(⁴) The Treaty neither abrogates the laws or annuls the sacred privileges of that holy land, the Island of Prince Edward; neither should the laws of that Colony or the serio-comic apostrophes of the Umpire deprive American citizens of rights secured to them by Treaty with Great Britain. The Treaty is in force, all laws to the contrary notwithstanding. Those laws, &c., are not suspended for the colonists; they are only imperative as to the citizens of the United States.

If the Legislature of the island, or of Maine and Massachusetts, can determine what should be *rivers* under the Treaty, those States are the higher power. If they can determine their "*rivers*," they can determine their "*mouths*," and the duty of the

Mr. Gray's Replies.

was for the definitive object of settling that question. I felt at once that if such were the case, such decision must have a most material bearing upon any conclusion to which I might come. I thought it my duty to examine the Official Records of Prince Edward Island.

I have quoted the language used by Sir Charles Fitzroy and Lord Glenelg. That language shows that the discussion was not as to the real character of the island waters, whether they were rivers or arms of the sea, but as to what was the character of *certain reservations* in the grants of certain townships, and as to the Crown's right of property in those reservations. And the question, whether these places were geographically or legally rivers or inlets of the sea was left as much undecided as if those terms had never been used; nay, more, that the parties using them, *even had not their minds directed to that question*. A citation of a part only of the language used by Sir Charles Fitzroy and Lord Glenelg, without any preliminary statement of what was under discussion between them, if not amounting, to use a mild term, to a misrepresentation of an official communication, at any rate was not fairly conveying the true weight to which *on such a subject* that "official communication" was entitled. If Counsel before a Court were so to cite a case, all confidence in him would be at an end. Acting in such a way I should have felt myself guilty of duplicity.—Mr. Cutts may not think so; but Mr. Cutts, in note 3, *repudiates the weight* of such authorities, and contends that the question "belongs exclusively to geographical science." *Why then was this correspondence cited to me?* It is to be borne in mind that my adoption of any such line of argument was at that time entirely unknown. The awards were not delivered until six or eight months afterwards. Mr. Cutts' argument in No. 7 is inconsistent with his argument in No. 3.

(⁸) Requires no comment.

(⁹) Is unworthy of an answer.

Commissioners would be confined to a mere *compilation* of the law and *sacred privileges* of the different States and Colonies. If this was so, an Umpire would be unnecessary, because there could be no disagreement between the Commissioners. Moreover, the solemn declaration made by the Honourable John Gray, "that he would impartially and carefully examine and decide, *to the best of his judgment, and according to justice and equity, without fear, favour, or affection to his own country.* upon all such places as may be referred to him by the Commissioners, would mean *nothing* more than that *he should not view the waters of the island in a different light*" from that in which they have been hitherto regarded by the Local Legislature.

(10) The public acts and declarations of the United States and of the Supreme Court of Iowa, declare for its own citizens, *that the Mississippi River is a public highway; ergo, the Legislature of the Island of Prince Edward has a right to determine for the United States, that an inlet of the sea is a river.* To such reasoning as this it is difficult to reply. If the power of local legislation is intended to be proved, the question is granted; but if the power is claimed for one State to make for all others a law that black is white, that power is respectfully denied.

When the Supreme Court of Iowa declares the *Mississippi not to be a river*, or the Legislature of Maryland enacts that the Chesapeake Bay shall be a river, and the United States urges the British Government to adopt such extraordinary application of the term "river," and the Umpire will quote such instances, he may then have occasion to ask whether "the public acts and declarations of the Legislature" of the island shall not be considered as having equal authority to determine for the United States what are and what are not, the rivers of that island.

(11) "And particularly when those acts and declarations were made long anterior to the present question being raised." The Umpire appears to be somewhat inconsistent, and amusingly so, if it were not at our expense. In the very next paragraph Mr. Gray, entirely forgetful of the weight belonging to "a declaration given long anterior to the present question being raised," innocently informs us of his attempt to destroy the declaration of Bayfield, made more than twenty years ago. Such "long anterior declaration" must be decisive for the United States, but not for the client of the Honourable John H. Gray.

(12) Captain Bayfield testified in 1847 or earlier, *and at time an impartial witness*, that the so-called rivers of Prince Edward Island were "rather sea-creeks." This decision of a geographical question, given by a master of the science, was published by authority of the British Government, and was quoted in the Argument of the United States.

This evidence not being *palatable* to the Umpire, he descends from the bench, and communicates with Captain (now Admiral) Bayfield, with the hope of obtaining from the distinguished witness such private statement as would nullify the testimony that witness gave publicly, officially, and in open Court more than twenty years ago. Such conduct as this would not be tolerated in a five-pound Court; and as the awards of the Umpire rest very much upon the private evidence so obtained; the question is submitted, whether he has not been guilty of the "*flagrant partiality*"

(10) Requires no answer.

(11) and (12) I have not destroyed or attempted to destroy Bayfield's declaration. I have quoted his own language addressed to me on this very point. His views are thoroughly sustained by the ablest American writers. In deciding between the two Commissioners it was my duty to examine the localities. It was my duty, in a debateable point, not simply to look at what might be cited to me, but to obtain as far as I could the best evidence, and exhaust, if possible, the sources of information; and more, in accordance with Mr. Cutts' citation from Vattel, in note 6, *this was the very master of science to whom I should refer for interpretation.* The insinuation conveyed that Admiral Bayfield had ceased to be an "impartial witness," is as insulting as it is undeserved, and requires no refutation. The other observations of 11 and 12 are unworthy of notice.

Mr. Cutts' Observations.

referred to by all writers on international law, as just grounds for setting aside his awards.

(13) Neither Record, No. 9 or 10, was transmitted to the Umpire by the Commissioners. They were records of *Agreement*, and not of disagreement; and of these the Umpire had no right to possess any official knowledge. Of this fact he was well aware, because, when he asked the United States' Commissioner for an "extract from the records of the rivers, harbours, &c., on which the Commissioners may have agreed," the request was courteously declined, and for reasons the justice of which was apparently acquiesced in by the Umpire. (See letters, September 18 and 25, and October 1, 1857.)

Notwithstanding this, *he has by collusion with the British Commissioner, selected from the general records, particular cases, that would suit a partisan purpose, and ignoring all the others, and without stopping to inquire whether, in the cases selected (9 and 10) the agreement were a matter of compromise or not, he has hurriedly based upon them an argument to support the British claim. His unfairness in this particular will be more evident by a perusal of the correspondence alluded to above.*

(14) This is a mis-statement. No such argument was urged or used. To mis-state was wrong; "*to have unsuited*" was, under any circumstances, the act of *opposing Counsel*, not of an *impartial Umpire*. It was stated in the United States' argument that smuggling, competition, and the entering within the body of the country, could be done as well with, as without, the 250 lines of reservation; and to prove this it was asked, "Where are the bays, the harbours, and the creeks? Where the towns, villages, and settlements situated on the coast and along the arms of the sea, to which the Treaty expressly gives the fishermen of both countries free and unchallenged access?"

With these preliminary observations I shall take up the disputed places in Prince Edward Island, and proceed to decide upon them in the order in which they have been submitted.

No. 1.—*Vernon.*

I, the undersigned, Arbitrator or Umpire under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Vernon in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Vernon is entitled to be considered a River.

It has at low tide water for boat and shallop navigation. It has good breadth, requiring a long and strong stone bridge to cross it. Vessels are built two miles from its mouth. As you drive along its banks, there would be no hesitation in speaking of it, were no question raised, as a river. It would appear as if the salt water were an intrusion into a channel formed and supplied by a running stream, enlarging and deepening the channel, but finding it there, the banks and surrounding lands all bearing towards the Vernon, the same relative formation as the banks towards admitted rivers. It is spoken of in Bayfield's "Sailing Directions" as a river, and as such in various Acts of Assembly.

As such Arbitrator or Umpire, I decide that the Vernon is a River.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Gray's Replies.

(13) This statement is deliberately false. I inclose herewith copies of the official communication to me of my appointment as Umpire, and of the Records I received at that time—I never had any collusion with the British Commissioner. I never saw or examined the Records, or selected any particular cases from them, and do not at this moment know, and never did know, what the contents of those Records are, or what decisions or agreements the Commissioners had come to. I inclose copies of the correspondence on the subject of observations the Commissioners might desire to make, severally dated August 1, September 17-29, and October 2, 1857, and also of the letters referred to in Mr. Cutts' No. 13, viz., September 18 and 25, and October 1. I have simply to observe that, from the British Commissioner I received no reply, and was not in communication with him. During the season of 1857 he was engaged on the coast of Newfoundland.

(14) I have made no mis-statement. I have simply given what appeared to me the purport of the argument used by the American Commissioner. If nature did not place in Prince Edward Island the creeks and harbours contemplated by the Treaty or desired by the American Commissioner, surely it was not my business to do so, I could only in the exercise of my judgment say whether the waters of the island were rivers or not, and I did so.

It is puerile to say that, in giving a decision, the answering an argument used is the act of a Counsel and not of an Umpire.

The ablest judgments of Her Majesty's Courts are either the sustaining or refutation of arguments used by Counsel in the course of the cause.

No. 2.—Orwell.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Orwell, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Orwell is entitled to be considered a river.

It is spoken of by Bayfield, in conjunction with the Vernon, as a river. Has been recognized as such in the Public Acts of the island, and described under that designation as a boundary in the ancient grants as far back as 1769.

As such Arbitrator or Umpire I decide that the Orwell is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

Lot 57.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—Bayfield, page 111. "*The Orwell being quite dry at low water.*" Hence Bayfield very justly decides that the River Orwell is "rather a sea creek," being an *ocean current of salt water*, and not a river or inland current of fresh water. See Note 3.

Reason No. 2.—Public Acts and grants. Of no right whatever. See Notes 8, 9, 10, and 11.

Mr. Gray's Replies.

As to the Orwell, No. 2, page 13, Mr. Cutts cites a passage from Bayfield, "*Sailing Directions for the River and Gulf of St. Lawrence,*" page 111. "As to the Orwell's being dry at low water" as authoritative against my decision, but *these times*, in that very page, Bayfield speaks of the *Vernon*, the *Orwell*, and the *Seal* as rivers.

In Mr. Cutts' note, No. 6, he quotes from Vattel, to show "that technical terms, or terms peculiar to the arts and sciences, ought to be interpreted according to the definitions given of them by masters of the art, or persons *versed in the knowledge* of the art or science to which the term belongs," and then adds, "*Now Captain Bayfield was a master of the science,*" the purpose of his argument thus being, that the use of a term by Bayfield was conclusive as to the character of the thing spoken of. Bayfield calls the *Vernon*, the *Orwell*, and the *Seal*, rivers: does Mr. Cutts' authority condemn the Umpire or himself?

No. 3.—Seal.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Seal in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Seal is entitled to be considered a river.

The Seal is spoken of by Bayfield as a river, and recognized as such in the Public Acts of the island. It is a small tributary of the Vernon, and as such Arbitrator or Umpire I decide it is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—Bayfield, page 111. "The Orwell being quite dry at low water, as is also the *Seal* river."

"No fresh water, and therefore not a river but a salt creek."

Reason No. 2.—Public Acts of no right whatever.

Mr. Gray's Replies.

As to the "Seal," No. 3. See remarks upon the Orwell No. 2.

No. 4.—*Pinnette*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the *Pinnette*, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the *Pinnette* is a *tidal basin or harbour*, and as such Arbitrator or Umpire I decide that it is not a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Bayfield, page 111. "*Pinnette Harbour* has only two feet 'at low water over its rocky and exceedingly dangerous' bar." See Note 4.

*Mr. Gray's Replies.*No. 5.—*Murray*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the *Murray*, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the *Murray* is entitled to be considered a river.

The *Murray* is a river, and entitled to be so considered in view of its abundant supply of fresh water, its formation, and deep and navigable channel. By reference to the original grants in 1769, of lots 63 and 64, bordering on the *Murray*, it will be seen the Crown at that early day drew the distinction between the river, the harbour, and the sea coast, and bounds these lots by the harbour and river, and by the sea coast respectively. It is also recognized in the Public Acts of appropriation of the island under that designation.

As such Arbitrator or Umpire I decide that the *Murray* is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—"Fresh water, formation, deep and navigable channel." Bayfield in this instance is ignored, forgotten. It says, page 118, "within this entrance *Murray Harbour* is of great extent, containing fine wooded islands, and several rivers or *sea creeks* besides the *main inlet*, *Murray River*, which is much larger than the rest, and navigable to the distance of six miles from the entrance, or *nearly to the dam*, which has been constructed across it near its head."

All below the dam is salt water, is an inlet, not an outlet, and being a large, deep and navigable *creek* should be free to our fishermen.

Reason No. 2.—Grants and Public Acts of no weight whatever.

Mr. Gray's Replies.

With reference to the observations on the *Murray*, the *Cardigan*, the *Boughton*, the *Fortune*, and the *Sauris*, pages 16, 17, 18, 19, and 20. I have nothing to observe further than that, after a personal inspection and exercising the fairest judgment, I considered them rivers. Bayfield, in his sailing directions, speaks of them as such, and I refer in further confirmation of my conclusions to the entire and unqualified assent which he has given to these conclusions in his letter addressed to me on receiving a copy of the awards in July 1858. With reference to Mr. Cutts' second reason, as against the *Cardigan*, I have simply to remark that I know nothing of any compromise between the Commissioners as to the *Montague* and *Elliot*, and to request attention to my unqualified denial of the statement made by Mr. Cutts in his Note 13.

No. 6.—*Cardigan*.

I, the undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the *Cardigan* in Prince Edward Island, concerning which a difference of

opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States of disclosed in Record No. 11 of their proceedings, am of opinion that the Cardigan is entitled to be considered a river.

It is so described by Bayfield. It bears a close resemblance to the Montague and the Elliot, which have been declared by both Commissioners, as appears by Records Nos. 9 and 10, to be rivers. It is so designated by the Crown in the grant of Lot 34, in 1769, and repeatedly recognized as such by the Legislature.

As such Arbitrator or Umpire I decide the Cardigan is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—Bayfield, page 124 :—“ Cardigan River is navigable for the largest ships to the distance of five miles above Cardigan Point, and smaller vessels can ascend it two miles further, or to within half-a-mile of the *head of the tide*, where the fresh water is insignificant in quantity.”

Decision against the Umpire. The Cardigan is a deep and navigable sea-creek, *the fresh water being insignificant in quantity—a mere creek.*

Reason No. 2. (*See Note 13.*—A compromise on the part of the United States' Commissioner; should never have been alluded to, because Umpire was ignorant of the cause of agreement. Moreover, the *acts of the Commissioners* were not to *rule* Umpire, otherwise there was no necessity for appealing to his *judgment*.

Reason No. 3.—Grants and Public Acts of no weight whatever.

Mr. Gray's Replies.

No. 7.—*Boughton.*

I, the Undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June A.D. 1854, having proceeded to and examined the Boughton, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Boughton is entitled to be considered a river.

It is deep and broad, affording accommodation for vessels, and facilities for ship-building far in the interior. Its comparatively narrow entrance, and bar across its mouth, are observable and striking characteristics. It is described as such by the Crown, in the grant of Lot 56, in 1769; repeatedly recognized by the Legislature under the name of Grand River, and by Bayfield in his Sailing Directions. Bayfield 125.

As such Arbitrator or Umpire, I decide that the Boughton is a river.

Dated at Saint John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—Its depth and breadth make it a *valuable creek*. Its narrow entrance and bar are no more characteristics of the *Boughton* being a *river* than they are of the *Pinnette* being a *river*, which also has its bar; and yet the *Pinnette* is declared *not to be a river*. (*See Note 4.*)

Reason No. 2.—Grants and Public Acts of no weight whatever.

Reason No. 3.—Bayfield decides against him, page 125. “Immediately within the entrance *the inlet* is a mile wide,” &c. “There are flourishing settlements on each side of this *extensive inlet*,” &c.

Mr. Gray's Replies.

See for Boughton, pages 16 and 17, reply to Notes on the Murray and Cardigan.

*Mr. Cutts' Observations.**Mr. Gray's Replies.*

Now, certainly, an *inlet of salt water* does not mean an *outlet of fresh water*. Would any person the least conversant with *geographical science* ever speak or write officially of a *river*, or the *mouth of a river*, as an *inlet*? (See Note 3.)

 No. 8.—*Fortune.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A.D., 1854, having proceeded to and examined the *Fortune* in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the *Fortune* is a River.

As such Arbitrator or Umpire I decide the *Fortune* to be a River.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

*Mr. Cutts' Observations.**Mr. Gray's Replies.*

Bayfield, p. 125. "*Fortune, a tide inlet* nearly barred with sand, and having a *small stream at its head*."

Bayfield thus calls it, "a tide inlet." The *small stream at its head*" cannot destroy the large creek.—See definition of Creek, Note 1.

See "*Fortune*," pages 16 and 17, reply on Murray and Cardigan.

 No. 9.—*Souris.*

I, the Undersigned, Arbitrator, or Umpire, under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to and examined the *Souris* in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the *Souris* is entitled to be considered a river.

The *Souris* is called by Bayfield, Colville River.

As such Arbitrator or Umpire, I decide that the *Souris* is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

*Mr. Cutts' Observations.**Mr. Gray's Replies.*

Bayfield, p. 125, *Souris* "(Colville River) a *tide inlet* nearly barred with sand, and having a small stream at its head.

Reason.—And so, because Bayfield uses the words Colville *river* the Umpire decides it to be a *river*. Was not the Umpire aware that Bayfield called it *river* merely out of respect to usage, and that the place might be more readily recognized by seamen, for whose benefit he was generally writing? The use of the word *river*, throughout his directions, is adopted for the same object.

As a man of science, however, he declares it to be in reality a *tide inlet* or creek; and it was this—its true designation and character—which should have been quoted by the Umpire; and he should have decided accordingly.

See for "*Souris*" pages 16 and 17.—Reply on Murray and Cardigan.

No. 10.—*St. Peter's.*

I, the Undersigned, Arbitrator, or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to, and examined *St. Peter's* in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that *St. Peter's* is not entitled to be considered a river.

It is claimed by Her Majesty's Commissioner as a river; by the United States' Commissioner as an inlet of the sea, or at most a harbour. I think the view taken by the United States' Commissioner correct. It certainly is not formed by the Merril, the Midgie or the Marie which run into it, and the little stream called *St. Peter's* at its head is entirely unequal to the task. It is also to be observed that in the ancient grant of Lot 39 in 1769, it is given as a boundary under the designation of *St. Peter's Bay*, and in the Grants of Lots 40 and 41 in the same year (1769), partly bordering on and partly embracing within their boundaries *St. Peter's Bay*, it is described (though inaccurately as a boundary) as the sea. I do not find it anywhere recognised in the Legislation of the island as a river, but always *St. Peter's Bay*.

As such Arbitrator or Umpire I decide *St. Peter's* is not a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason No. 1.—"The little stream at its head is entirely unequal to the task of forming *St. Peter's Bay*." What a pity it is that this reasoning should not have been thought of before, and applied. The *St. Peter's* has a bar; and more fresh water empties into it than in nine out of ten of the other inlets.

Reason No. 2.—No Grants or public Acts. Does it not appear that these Grants and public Acts are the Umpire, and not the judgment of the Honourable J. H. Gray? If so, where was the necessity of appealing to him? Why did not the Commissioners themselves consult the records of *Prince Edward Island* instead of delegating that duty to the Umpire?

Mr. Gray's Replies.

The observations upon *St. Peter's*, 21, and the *Crapaud* 23, require no comment; they are not made for the purpose of invalidating the decisions but merely sustain a personal charge.—See Bayfield's letter, July 1858.

No. 11.—*Tryon.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the *Tryon* in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the *Tryon* is entitled to be considered a river.

As such Arbitrator or Umpire, I decide the *Tryon* to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

No. 12.—*Crapaud.*

I, the Undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the *Crapaud* in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in No. 11 of their proceedings, am of opinion that the *Crapaud* is not a river.

As such Arbitrator or Umpire I decide the *Crapaud* not to be a river.

Dated at St. John, in the Province of New Brunswick, this 5th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Crapaud is called "Brocklesby River" by Bayfield. He describes it (page 111) "as all dry at low water, excepting" a very "narrow channel through mud flats, by which boats can ascend to the bridge, one mile and a quarter from the entrance."

If Crapaud *is not a river*, why should the Sauris, in Award 9 (which see), be declared one? If the decision in this case is correct, and it is so, the decision in the other was wrong, because they both stand on the same footing.

Mr. Gray's Replies.

See for "Crapaud," page 21.
See St. Peter's, page 21.

 No. 13.—*Winter.*

I, the Undersigned, Arbitrator or Umpire under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Winter, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Winter is entitled to be considered a river.

Apart from its rise in the interior and its abundant fresh water, its channel through Bedford Bay (as it is called), is marked and distinct, showing a continuous flow or current of water from the interior towards the sea; a channel bounded by shoals and proving, by its deflected course, that the breach in the sands on the sea-shore forming the entrance to the so-called Bedford Bay, has been made by the water seeking an outlet for itself, not from the sea making a passage in. In fact, if there were no river or stream in the interior of sufficient strength to make the outlet and keep it open, the water of the sea would only make the embankment more solid, and there would be no bay or harbour at all.

As such Arbitrator or Umpire I decide the Winter to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.
(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

This body of water is called by Bayfield "Winter Creek." (Page 136.)

The fresh-water brook is only a few miles in length, and insignificant in quantity. It is not capable of keeping open the entrance to Great Rustico Harbour. That opening is due to the tidal waters within rushing out at low tide.

This harbour was formed by, and is part of, the sea; and, to use the language of Award 10, "the little stream at its head is entirely unequal to the task of forming this bay."

Mr. Gray's Replies.

In making his observations upon this river, Mr. Cutts is clearly under some mistake. It is not the "Winter Creek," referred to by Bayfield at 136, and has no communication whatever with Rustico Harbour. It runs into what is called Bedford Bay, through which, at low water, the channel is clearly defined. In Bayfield's Sailing Directions he does not mention this river, though he describes Tracadie Harbour, or Bedford Bay; but it is laid down distinctly on the maps of the island, and Admiral Bayfield, in his letter of July 1858, particularly refers to it. It is an entirely different stream from Winter Creek, mentioned by Mr. Cutts, and was transmitted by the Commissioners as one of the rivers on which I was to decide. Mr. Cutts can either not have visited the place, or must have forgotten.

 No. 14.—*Hunter.*

I, the undersigned, Arbitrator, or Umpire, under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to and examined the Hunter in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States, as disclosed in Record No. 11, of their proceedings, am of opinion that the Hunter is entitled to be considered a river.

As such Arbitrator or Umpire, I decide that the Hunter is a river.

Dated at Saint John, in the Province of New-Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

No. 15.—*Stanley.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to and examined the Stanley in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Stanley is entitled to be considered a river.

The Stanley is a full deep stream, having, if the expression may be used, two or three heads, and several affluents, and is surrounded from its sources to its outlet, by a succession of hills of rapid elevation and descent, converging in many different parts towards the river, and affording by their slopes and the courses at their base numerous feeders. Its large tributaries, the Trout and Old Mill Rivers, help to swell its volume. It is described as one of the boundaries of Lot 21 in the ancient grant of 1769, and recognized by the Legislature under the designation of Stanley River.

As such Arbitrator or Umpire, I decide the Stanley to be a river.

Dated at St. John, in the Province of New-Brunswick, this 8th day of April, A. D., 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Reason 1. — The description of this place as given by the Umpire would apply to the Mississippi. It is hardly applicable to two or three little brooks from half a mile to three miles in length, Bayfield, page 135. "Within the entrance (to Grenville Harbour) the harbour is three miles wide, branching into the principal and many smaller creeks, with small brooks at their heads." The two principal of these, namely Stanley and Mill Rivers, are navigable for small craft and boats to the head of the tide, a distance of six or seven miles.

According to Bayfield, and the definition of the term "Creek" given by both *Webster* and the *Imperial Dictionary*, the Stanley is a creek and as such free.

Reason 2.—Grants and Public Acts, of no weight whatever.

Mr. Gray's Replies.

The observations on the "Stanley" require no comment.

No. 16.—*Ellis.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Ellis in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Ellis is a river.

In the grants of lots 14 and 16, in 1809, it is so described. A long succession of Legislative enactments so recognizes it. Its broad deep channel; its abundant supply of fresh water; and the extent of country it drains leave no question about it.

As such Arbitrator or Umpire I decide the Ellis to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 17.—*Foxley*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Foxley in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Foxley is entitled to be considered a river.

The Foxley is described as a river in the ancient grants in 1769.

As such Arbitrator or Umpire, I decide the Foxley to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 18.—*Pierre Jacques*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Pierre Jacques in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Pierre Jacques is intitled to be considered a river.

As such Arbitrator or Umpire, I decide that the Pierre Jacques is a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 19.—*Brae*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Brae in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Brae is not entitled to be considered a river.

As such Arbitrator or Umpire, I decide the Brae is not a river.

Dated at St. John, in the Province of New Brunswick, the 8th day af April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 20.—*Percival*.

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Percival in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Percival is a river.

The Percival is spoken of by Bayfield as a river; is so described in the grant of Lot 10, 1769, and, like the Stour and the Orwell in England, owes its waters almost entirely to the sea.

As such Arbitrator or Umpire I decide the Percival to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 21.—*Enmore.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Enmore, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Enmore is entitled to be considered a river.

The Enmore was treated as a river in the grants of Lots 10 and 13, in 1769; is recognised by Bayfield; and has a bar at its mouth, formed by the conflict of the tides and the descending stream.

As such Arbitrator or Umpire I decide the Enmore to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 22.—*Ox.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Ox, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Ox is not entitled to be considered a river.

As such Arbitrator or Umpire, I decide that the Ox is not a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 23.—*Haldiman.*

I, the Undersigned, Arbitrator or Umpire, under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, A.D. 1854, having proceeded to and examined the Haldiman, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Haldiman is entitled to be considered a river.

The Haldiman is described as a river in the grant of Lot 15, in 1769, and is so regarded by Bayfield.

As such Arbitrator or Umpire I decide the Haldiman to be a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

No. 24.—*Sable.*

I, the Undersigned, Arbitrator, or Umpire, under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D., 1854, having proceeded to and examined the Sable in Prince Edward Island, concerning which a difference of opinion has arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Sable is not entitled to be considered a river.

As such Arbitrator or Umpire, I decide that the Sable is not a river.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D., 1858.

(Signed) JOHN HAMILTON GRAY.

PART SECOND.

I come now to the second division, namely:—The Miramichi and Buctouche, being admitted to be rivers, which of the lines pointed out by the Commissioners shall respectively designate the mouths of those rivers?

The Miramichi.

I, the Undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington on the 5th day of June, 1854, have proceeded to and examined the mouth of Miramichi, in the Province of New Brunswick, concerning which a difference of opinion has arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 2 of their proceedings.

With reference to the Miramichi, it will be seen by Record No. 2—"Her Majesty's Commissioner claims that a line connecting Fox and Portage Islands (marked in red, plan No. 2, Record Book No. 2), designates the mouth of Miramichi River. The United States' Commissioner claims that a line from Spit Point to Moody Point (marked in blue, plan No. 2, Record Book No. 2), designates the mouth of the said river."

By the Treaty it is provided that the "above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers and the mouths of rivers are reserved exclusively," &c.

The preceding portion of Article 1st, gives the right to fish "on the sea coasts and shores, and in the bays, harbours, and creeks."

The inner Bay of the Miramichi and the Harbour of Buctouche, are, among other grounds claimed as coming within the definition of "bays and harbours," and *it has been urged that the clause just referred to, is conclusive in favour of that claim, whether such bay or harbour, does or does not constitute the mouth of a river.* ⁽¹⁵⁾

It is therefore necessary before deciding which of the lines above designated as the mouth of the Miramichi is the correct one; to dispose of this preliminary question, namely, does the mouth of a river forfeit its exclusive character under this Treaty because it may constitute a bay or harbour? ⁽¹⁶⁾ Is the restriction imposed, limited to particular fish or locality? The spirit with which this Treaty was made, and the object it has in view, demand for it the most liberal construction, but consistently with the most liberal construction, there are many wise and judicious reasons why the exception should be made. The joint or common fishery in those places where the forbidden fish resort, would be a prolific cause of dispute. The very fact that after the forbidden fish are named, there should follow the significant expression that *all* fisheries in those places, should be reserved, is conclusive *as to the idea, predominant in the minds of the framers of the Treaty.* ⁽¹⁷⁾—they want peace;—they would not put the fishermen of the two nations together; on the same ground, where they would have unequal rights. Considerations of a national, administrative, or of a fiscal character, may have determined them to exclude the entrances of the great thoroughfares in the respective countries from a common possession. There are large and magnificent bays and harbours, unconnected with rivers; *there are bays and harbours dependent upon and formed by the mouths of rivers.* The terms are not indicative of locality. Bays and harbours may be found far up in the interior of a country—in lakes or in rivers; and on the sea-board. The "*mouths of rivers*" are found only in one locality, *namely, in that part of the river by which its waters are discharged into the sea or ocean, or into a lake,* ⁽¹⁸⁾ and that part of the river is by the express language of this Treaty excluded. Is the use of a term which may be applicable to many places to supersede that which can only be applied to a particular place, when the latter is pointedly *eo nomino* excluded? But why should such a construction be required when the object of the Treaty can be attained without it. The cause of the difficulty was not the refusal to permit a common fishery within the mouths of rivers, but within three marine miles of the sea coast. That difficulty is entirely removed by the liberty to take fish "on the sea coast and shores, and in the bays, harbours, and creeks, without being restricted to any disturbance from the shore."

The position taken by the Commissioner of the United States is further pressed upon the ground "that the terms of the grant are always to be construed most strongly against the granting party." The application of that principle to the present case is not very perceptible. This is rather the case of two contracting parties exchanging equal advantages, and the contract must be governed by the ordinary rules of interpretation. Vattel says—"In the interpretation of Treaties, compacts, and promises, we ought not to deviate from the common use of the language, unless we have very strong reasons for it." And "when we evidently see what is the sense that agrees with the intention of the

contracting parties, it is not allowable to wrest their words to a contrary meaning." It is plain that the framers of the Treaty intended to exclude the "mouths of rivers" from a common possession. Ought we, by construing the terms of the Treaty most strongly against the nation where the river in dispute may happen to be, to "wrest their words to a contrary meaning?" I think not.

Mr. Andrews, for many years the United States' Consul in New Brunswick and in Canada, a gentleman whose great researches and untiring energies were materially instrumental in bringing about this Treaty, and to whom the British Colonies are much indebted for the benefits they are now deriving, and may yet derive, from its adoption, thus speaks of the Miramichi, in his Report to his Government, in 1852 ⁽²⁰⁾:—"The extensive harbour of Miramichi is formed by the estuary of the beautiful river of that name, which is 220 miles in length. At its entrance into the Gulf this river is 9 miles in width."

"There is a bar at the entrance to the Miramichi, but the river is of such great size, and pours forth such a volume of water, that the bar offers no impediment to navigation, there being sufficient depth of water on it at all times for ships of 600 and 700 tons, or even more. The tide flows nearly 40 miles up the Miramichi from the Gulf. The river is navigable for vessels of the largest class full 30 miles of that distance, there being from five to eight fathoms of water in the channel; but schooners and small craft can proceed nearly to the head of the tide. Owing to the size and depth of the Miramichi, ships can load along its banks for miles."

In Brook's Gazetteer, an American work of authority, the width of the Potomac at its entrance into the Chesapeake is given at $7\frac{1}{2}$ miles.

In the same work, the mouth of the Amazon is given at "159 miles broad."

In Harper's Gazetteer (edition of 1855), the width of the Severn at its junction with the British Channel is given at 10 miles across. That of the Humber at its mouth at 6 or 7 miles, and that of the Thames, at its junction at the North Sea, at the Nore, between the Isle of Sheppey and Foulness Point, or between Sheerness and Southend, at 15 miles across. And the St. Lawrence, in two different places in the same work, is described as entering "the Gulf of St. Lawrence at Gaspé Point by a mouth 100 miles wide." And also, that "at its mouth, the Gulf, from Cape Rosier to Mungan Settlement in Labrador, is 105 miles in length."

Thus width is no objection. ⁽²¹⁾ The real entrance to the Miramichi is, however, but $1\frac{1}{2}$ miles wide. ⁽²²⁾ Captain Bayfield may apparently be cited by both Commissioners as authority. He says pages 30-32:—

"Miramichi Bay is nearly 14 miles wide from the sand-bars off Point Blackland to Point Escumenac beacon, and $6\frac{1}{2}$ miles deep from that line across its mouth to the main entrance of the Miramichi, between Portage and Fox Islands. The bay is formed by a semicircular range of low sandy islands, between which there are three small passages and one main or ship channel, leading into the inner bay or estuary of the Miramichi. The Negowac Gully, between the sand-bar of the same name and a small one to the south-west, is 280 fathoms wide and 3 fathoms deep; but a sandy bar, of the usual mutable character, lies off it nearly a mile to the south-south-east, and had about 9 feet over it at low water at the time of our survey. Within the gully a very narrow channel, only fit for boats or very small craft, leads westward up the inner bay. The shoal water extends $1\frac{1}{4}$ miles off this gully, but there is excellent warning by the lead here, and everywhere in this bay, as will be seen by the chart. Shoals, nearly dry at low water, extend from the Negowac Gully to Portage Island, a distance of $1\frac{1}{4}$ miles to the south-west. Portage Island is 4 miles long in a south-west-by-south direction; narrow, low, and partially wooded with small spruce trees and bushes. The ship channel between this island and Fox Island is $1\frac{1}{2}$ miles wide.

"Fox Island, $3\frac{3}{4}$ miles long, in a south-south-east direction, is narrow, and partially wooded; like Portage Island, it is formed of parallel ranges of sand hills, which contain imbedded drift timber, and have evidently been thrown up by the sea in the course of ages. These islands are merely sand-bars on a large scale, and nowhere rise higher than 50 feet above the sea. They are incapable of agricultural cultivation; but yet they abound in plants and shrubs suited to such a locality; and in wild fruits, such as the blueberry, strawberry, and raspberry. Wild fowl of various kinds are also plentiful in their season; and so also are salmon, which are taken in nets and weirs along the beaches outside the island, as well as in the gullies.

"The next and last of these islands, is Huckleberry Island, which is nearly $1\frac{1}{2}$ miles long, in a south-east direction. Fox Gulley, between Huckleberry and Fox Islands, is about 150 fathoms wide at high water, and from 2 to $2\frac{1}{2}$ fathoms deep; but there is a bar outside with 7 feet at low water. Huckleberry Gulley, between the island of the

same name, and the mainland, is about 200 fathoms wide, but is not quite so deep as Fox Gulley. They are both only fit for boats, or very small craft; and the channels leading from them to the westward, up a bay of the main within Huckleberry Island, or across to the French River and village are narrow and intricate, between flats of sand-mud and eel-grass, and with only water enough for boats. Six and a quarter miles from the Huckleberry Gulley, along the low shore of the mainland, in an east-south-east half east direction, brings us to the beacon at Point Escumenac, and completes the circuit of the bay.

"The Bar of Miramichi commences from the south-east end of Portage Island, and extends across the main entrance, and parallel to Fox Island, nearly 6 miles in a south-east by south direction. It consists of sand, and has not more than a foot or two of water over it in some parts, at low spring-tides."

He also says, pages 37 and 39 :—

"The Inner Bay of Miramichi is of great extent, being about 13 miles long from its entrance at Fox Island to Shel Drake Island (where the river may properly be said to commence), and 7 or 8 miles wide. The depth of water across the bay is sufficient for the largest vessels that can cross the inner bar, being $2\frac{3}{4}$ fathoms at low water in ordinary spring-tides, with muddy bottom.

"Shel Drake Island lies off Napan Point, at the distance of rather more than three-quarters of a mile, and bears from Point Cheval north-west by west $1\frac{3}{4}$ miles. Shallow water extends far off this island in every direction, westward to Bartiboque Island, and eastward to Oak Point. It also sweeps round to the south and south-east, so as to leave only a very narrow channel between it and the shoal, which fills Napan Bay, and trending away to the eastward past Point Cheval, forms the Middle Ground already mentioned. Murdoch Spit and Murdoch Point are two sandy points a third of a mile apart with a cove between them, and about a mile west-south-west of Shel Drake Island. The entrance of Miramichi River is three-quarters of a mile wide between these points and Moody Point, which has a small Indian church upon it, and is the east point of entrance of Bartiboque River, a mile north-west by west half west from Shel Drake Island."

But a strong, or if I may add a conclusive, point in showing the passage between Fox and Portage Island to be the main entrance, or mouth, of the Miramichi, is the peculiar action of the tides. It is thus described by Bayfield, p. 35 :⁽²³⁾—

"The stream of the tides is not strong in the open bay outside the bar of Miramichi. The flood draws in towards the entrance as into a funnel, coming both from the north-east and south-east alongshore from Tabisintac, as well as from Point Escumenac. It sets fairly through the ship channel at the rate of about $1\frac{1}{2}$ knots at the black buoy, increasing to 2 or $2\frac{1}{2}$ knots in strong spring-tides between Portage and Fox Islands, where it is strongest. The principal part of the stream continues to flow westward in the direction of the buoys of the Horse-shoe, although some part of it flows to the northward between that shoal and Portage Island."

The effect of this is thus singularly felt. A boat leaving Negouac to ascend the Miramichi with the flood tide is absolutely met by the tide flowing northerly against her until coming abreast of the Horse-shoe Shoal, or in the line of the main entrance; and a boat at the Horse-shoe Shoal, steering for Negouac, with the ebb tide making, would have the current against her, though Negouac is on a line as far seaward as the entrance to the Portage and Fox Islands—thus shewing conclusively that the main inlet and outlet of the tidal waters to the mouth or entrance of the Miramichi is between Portage and Fox Islands.⁽²³⁾

As such Arbitrator or Umpire, I decide that a line connecting Fox and Portage Islands (marked in red, plan No. 2, Record Book No. 2) designates the mouth of the Miramichi River.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed)

JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

Mr. Gray's Replies.

⁽¹⁵⁾ This statement on the part of the Umpire is incorrect. It was never urged by the United States' Commissioner that, under the clause of "bays, harbours, and creeks," the Bay of Miramichi was free, whether it *does* or *does not* constitute the mouth of a river. The claim to the bay was urged

⁽¹⁵⁾ This objection, No. 15, is of little consequence, for the reasons hereafter given. I certainly gathered from the argument of the American Commissioner that, *in addition to his position*, that the Bay of the Miramichi was no part of the river; he considered such position strengthened by

Mr. Cutts' Observations.

on the ground that it *did not constitute* the mouth of the river. The Umpire *mis-quotes* with a view to lead to unnecessary issues and to erroneous impressions as to the position assumed in the United States' argument.

(16) As the sequel to this extraordinary line of conduct for an umpire, he very naively asks the question, "Does the mouth of a river forfeit its exclusive character under this Treaty because it may constitute a bay or harbour?" To this we answer, Certainly not, if the bay or harbour is truly part and parcel of the river; but this must be proved, and not begged, or taken for granted. The general proposition should be, "Does a large bay into which a river discharges become, *ipso facto*, a part of that river?"

(17) The Umpire states that, "there are bays and harbours dependent upon and formed by the mouths of rivers." By the terms of the Treaty, "bays, harbours, and creeks" are free, while "rivers and the mouths of rivers" are reserved. The question then arises whether the Bay of Miramichi is formed by the Miramichi river or by the sea, uninfluenced by the river. This is a question of geographical science, to be decided from arguments based on the physical character of the claim, and not upon strained influences as to the "idea predominate in the minds of the framers of the Treaty." Their language is explicit. While this is so, it is unnecessary to appeal to the probable intentions of the negotiators, and it is a decided evidence of a weak cause to attempt "to twist their meaning."

The Umpire must recollect that *reservations* were the origin of the past quarrels, and that it was the expected *mission of this very Treaty* to put an end to those quarrels by liberal concessions. The assertion, therefore, made by the Umpire that peace would be jeopardised by placing the fishermen of the two nations *on the same ground and with unequal rights* is not authorized by the history of the past, or the facts in the case. If the existence of salmon or shad in certain bays or bodies of water was to constitute *unequal rights*, then, according to the Umpire, wherever the salmon and shad can be taken, those waters should be closed to American fishermen, lest perchance the peace be broken. If such was the case, then the Strait of Northumberland, as well as the Bay of Fundy, should be reserved for the exclusive use of Her Majesty's subjects, on the ground that the finest salmon and shad are caught in their respective waters. Why not therefore lay claim to the strait, and to the bay? It will be thus perceived that this argument of a supposed "idea predominant in the minds of the framers of the Treaty" leads to the virtual repeal of the Treaty. The fact is that United States' citizens would have no more unequal rights in the Bay of Miramichi than in

Mr. Gray's Replies.

the language of the Treaty as to "bays and harbours." As, however, my decision was *distinctly on the ground* that the *Inner Bay of Miramichi was a part of the river and within its mouth*, such apprehension of his argument on a collateral point, if made, was unimportant. As it was apparent from the Treaty that my award was final and irrevocable, that there was no appeal, I could have no object in raising unnecessary issues and creating "erroneous impressions." There was no one whom an impression was to be made, or to whom an issue could be submitted. It may have been superfluous to have argued the point, but *it could not be prejudicial*, and certainly was no evidence of partiality.

The decision having been clearly on the ground stated, the observations in Notes 16, 17, 18, and 19 require no comment.

the Bay of Fundy, and the argument adopted by the Umpire for reserving the former would also reserve the latter bay. Past experience also proves that the only method of securing the desired peace on the fishing grounds is not to attempt to deprive United States' fishermen of rights secured to them by Treaty stipulation.

(48) The Umpire states that "*the mouths of rivers* are found only in one locality, namely, in *that part of the river* by which its waters are discharged into the sea, ocean," &c. From this statement it might be supposed that the Umpire would have next proceeded to show that the *large Bay of Miramichi* was *part of the Miramichi* river. This, however, he does not attempt to do, but relies upon influences from the intention of the negotiators, unnecessary, illegitimate, and subversive of the Treaty.

The only question is, whether the *Bay of Miramichi* is, from its formation and extent, and the character of its shores and waters, *part of the river*, or a *part of the sea into which the river discharges*. The arguments of the United States' Commissioner in support of the latter position not being controverted or hardly alluded to by the Umpire, and constituting as they do the only proper basis for a fair and just decision, it is not readily perceived upon what ground the Umpire could deliver an adverse award. A river may gradually enlarge as it approaches its mouth, and that enlargement may be a harbour or bay, but it must bear a relative proportion to the volume and power of the inland current of water to be considered a *part of the river*. On the other hand, there are large bays into which rivers discharge, neither formed by nor influenced by the rivers. Such bays, being part of the sea, are not to be claimed *as part of the river on the ground of juxtaposition*. If such was allowable, the Susquehanna river would carry with it the Chesapeake Bay, and the River Severn the British Channel.

(49) The Umpire quotes Vattel. This is an injudicious appeal. One of the axioms of that eminent authority on the interpretation of Treaties says that, "Technical terms, or terms peculiar to the Arts and Sciences, ought commonly to be interpreted according to the definition given of them by Masters of the Art, or persons versed in the knowledge of the Art or Science to which the term belongs."

Science declares that a river is an inland current of fresh water, while the *Umpire* decides that a river is also an ocean current of salt water.

Science, through Captain Bayfield, declares that the Bay of Miramichi is *a part of the sea*, and that "it bears *no resemblance to a river*," while the *Umpire* decides it to be *part of the river*.

The language of the Treaty gives to United States' citizens the liberty to take fish in bays, harbours, and creeks, reserving "rivers and their mouths." The *Umpire* claims a bay merely *on account of its juxtaposition to the mouth of a river*. Has not, therefore, the *Umpire* emphatically violated Vattel's rule quoted by himself? "When we evidently see what is the sense that agrees with the intention of the contracting parties, it is not lawful to wrest their words to a contrary meaning."

Vattel, moreover, observes that "the language of a Treaty ought to be interpreted in such a manner as that it may have its effect, and not prove vain and nugatory." To interpret the mouth of a river "so as to deprive United States' citizens of the

Mr. Cutts' Observations.

Mr. Gray's Replies.

liberty of fishing on the valuable fishing-grounds in Miramichi Bay is so far rendering one of the terms of the Treaty vain and nugatory."

(²⁰) The panegyric bestowed on Mr. Andrews by a subject of Her Majesty may be well deserved, but cannot make him an authority on the subject at issue, even supposing that he was the actual author of the language quoted. If Mr. Andrews was asked the question, he would in all probability reply that the portion of his Report referring to New Brunswick was written by Mr. Moses H. Perley, at present Her Majesty Fishery Commissioner.

(²¹) The width of the different rivers alluded to has no special bearing on the subject. The objection to the Miramichi Bay being considered the mouth, or a part of the river, is based upon the divergence of the banks of the river, and upon the fact that it is, according to geographical science, as much a part of the sea as if the islands lying off its entrance did not exist.

(²²) The Umpire states "that Captain Bayfield may *apparently* be cited by both Commissioners as authority." What is meant by *apparently*, in connection with Bayfield's decision, it is difficult to understand. There is no ambiguity in Bayfield's language; the doubt raised in the mind of the Umpire must be the result of private and confidential correspondence with Captain Bayfield, and this correspondence the Umpire does not find it judicious to quote, as was done in the Prince Edward Island cases. If this private examination of the distinguished witness was undertaken in one case, it is fair to suppose that was done in the other, and more particularly as the decision of Bayfield in regard to the Bay of Miramichi was cited by the United States' Commissioner as *conclusive*, Bayfield must have adhered to his published opinions, and those opinions are as follows:—

Page 37. "The *inner bay of Miramichi* is of great extent, being about 13 miles long from its entrance at *Fox Island to Sheldrake Island*, where the river may be properly said to commence, and 7 or 8 miles wide."

Page 38. "Murdoch Spit and Murdoch Point are two sandy points a third of a mile apart, with a cone between them, and about a mile west-south-west of *Sheldrake Island*. The entrance of *Miramichi River* is three-quarters of a mile wide between these points and Moody Point," &c.

Page 42. "The *Miramichi River* may be said to commence at *Sheldrake Island*, for below that point the *Inner Bay*, with its low and widely receding shores, bears no resemblance to a river."

Do these quotations show that Bayfield had any doubt of the proper mouth or entrance to the Miramichi River?

(²³) "But," says the Umpire, "a *conclusive point* in showing the passage between Fox and Portage Islands to be the main entrance or mouth of the Miramichi is the peculiar action of the tides." To substantiate this *conclusive point*, the Umpire quotes a sentence from Bayfield in which the word *entrance* is used, but misunderstanding its application, draws from it an erroneous conclusion. The *entrance* alluded to is the entrance to the Inner Bay (see quotation above, page 37), and has no reference whatever to the mouth of the river. Moreover, the set, volume, and force of the tides coming from the north-east and south-east, prove

(²⁰) The aspersion in this note thrown upon Mr. Andrews I have no doubt could be answered by that gentleman himself. It is sufficient for me to know that he was an American officer; that as such he made his report to his own Government; that up to this day his Government have never repudiated that report; that it was circulated under their sanction; that they have used its contents as authoritative when they desired it; and that the *passage I have cited is to be found* in it, *and that it is true*.

(²¹) This is a matter of opinion, and on the examination of the locality I came to a different conclusion from Mr. Cutts.

(²²) A simple fact will answer the insinuations conveyed in this paragraph. I had no communication with Admiral Bayfield, either verbal or written, on the subject of the Miramichi. I would have been perfectly justified in asking and maturely considering his opinion, as a "Master of the Science," had I deemed it necessary. I did not. Mr. Cutts quotes *only a portion* of Admiral Bayfield's observations: such as were consonant to his own views. I have quoted *not only that same portion*, but also *his observations on the other side*; and, in weighing them on the ground, found the latter the strongest and decided accordingly. There are two Bays of Miramichi, the Inner and the Outer Bays, so called upon the charts, and as such well known. The inner is plainly *within the river*. In this note Mr. Cutts considers the decision of Admiral Bayfield as *conclusive*. That decision perfectly coincides with the conclusion to which I came. See his sailing directions and his letter of July 1858.

(²³) I have not misunderstood Bayfield's expression. He speaks expressly in the passage *which I have quoted*, but which Mr. Cutts omitted to quote, of the *main entrance being between Portage and Fox Islands*. He (page 30) says, "Miramichi Bay is nearly fourteen miles wide from the Sand Bars off Point Blackland, to Point Escuminac Beacon, and six and a-half miles deep from *that line across its mouth to the main entrance of the Miramichi between Portage and Fox Islands*." He is here speaking of the *outer Bay*, because he adds:—"The bay is formed by a semi-circular range of low sandy islands, between which there

Mr. Cutts' Observations.

the very contrary to what the Umpire hoped to establish. They prove the existence of the deep salt water Inner Bay, to supply which the flood-tide scours through the different channels, and most powerfully through the one between Fox and Portage Islands.

(2^o) The Umpire acting as Special Consul for Her Majesty's Government, here closes his case. *One argument, however, he has omitted.*

In the Prince Edward Island cases, he decides that certain creeks are rivers because the Statutes of the island designate them as such. Upon this fact, his awards in those cases are avowedly based. Why, therefore, have the Statutes of New Brunswick been overlooked in the case of the Miramichi? The omission certainly looked suspicious. Accordingly, the Revised Statutes of that Province were examined, and it was ascertained (Vol. i, Chap. 1, page 16), that the body of water decided by the Umpire "to be part of the river" was there designated as the "Bay of Miramichi." Now, while in our opinion the use of such terms by the Provincial Legislatures is not to supersede or override the proper interpretation of the language of the Treaty; still, if the use of such terms was, in the judgment of the Umpire, conclusive in one case, it should have been equally so in the other. The prominent position given by Mr. Gray in twenty-four cases to what may be called the "Public Act" argument, forbids the idea that it should have been forgotten in case No. 25. I am therefore constrained to believe that the examination of the Statutes was made, and not proving satisfactory, the silence of the Umpire was the result of gross partiality, and not of accident.

Mr. Gray's Replies.

are three small passages, and one main or ship channel, leading into the inner bay or estuary of the Miramichi." Now, estuary means both an arm of the sea "and the mouth of a river," and it is plain that, in this passage, Bayfield used the term in the latter sense. Mr. Cutts says, the "decision of Bayfield was cited by the American Commissioners as conclusive." I think it is, and it coincides exactly with my own. Bayfield* speaks also of the flood "drawing in towards the entrance as into a funnel, coming both from the north-east and south-east along shore, from Talusintac as well as from Point Escuminac;" a passage totally inapplicable to the passage at Sheldrake Island. Mr. Cutts' observation in the latter part of this paragraph, as to the "set, volume, and force" of the tide shows that he is profoundly ignorant of the locality. I examined the place in a boat, and had ocular demonstration of the fact.

(2^o) This charge of acting as Special Counsel for Her Majesty's Government is somewhat gross.

The assertion that I decided in Prince Edward Island that certain creeks were rivers because the Statutes of the Island designated them as such is untrue. The reasoning on pages 9, 10 and 11 of the awards, and the decisions themselves, show that these Statutes were merely elements in forming a conclusion. At page 10 it is shown that they were first referred to in answer to the position first assumed by the American Commissioner himself of the importance of official expressions; and at page 11, that they were entitled to be considered of "some authority." There is not one line to show that any award was "avowedly based" upon such a position. But with reference to the Miramichi, its distinctive features are so well marked and defined, that even the use of the term "Bay" by the Legislature of New Brunswick, as cited by Mr. Cutts, would not alter the conclusions to which an impartial observer on a local examination must come. On a further examination of the Acts of the Legislature of New Brunswick, Mr. Cutts would have found that the term was used not to designate the character of the place as distinguishable from a river. The term is used throughout the Statutes indiscriminately, with harbour,—the "Bay or Harbour of Miramichi," the "Bay or Harbour of Richilmeto," the "Bay or Harbour of Buctouche," the "Bay or Harbour of Bathurst," the "Bay or Harbour of Schediac" (*vide* same vol., page 44), thus indicating capacity and convenience more than geographical character or definition. In each of these cases, the Bays or Harbours are the outlets of large rivers. In all, more or less, contracted (after wide expansions within) at their outlets by sand bars and islands, through which the main body of the water passes in and out. That these very sand bars and islands have sprung from the conflict of the waters of the rivers and the sea, and have resulted in that formation which have narrowed the entrances and made the mouths.

And I will hazard the opinion that on an examination of the agreements to which the Commissioners themselves have come with reference to the mouths of the other rivers of New Brunswick and of the United States, of which agreements I have no knowledge, but which must be before Her Majesty's Government and the Government of the United States, it will be found that the Commissioners themselves have, *mutatis mutandis*, decided

* See Bayfield's letters July 1858 and April 1860 in Appendix, Nos. 1 and 3.

exactly on similar grounds as I have decided in the cases of the Miramichi and Buctouche. No man can go to the two latter places and decide otherwise. The local indications are much stronger than they appear on the maps or charts.

The Buctouche.

I, the Undersigned, Arbitrator or Umpire under the Reciprocity Treaty concluded and signed at Washington on the 5th day of June, A.D. 1854, have proceeded to and examined the mouth of the River Buctouche, in the Province of New Brunswick, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 1 of their Proceedings. With reference to the Buctouche it will be seen by Record No. 1 "Her Majesty's Commissioner claims that a line from Glover's Point to the southern extremity of the Sand Bar (marked in red in the plan No. 1) designates the mouth of the said River Buctouche. The United States' Commissioner claims that a line from Chapel Point, bearing South 4° West (magnetic), (marked in blue on said plan No. 1), designates mouth of said river."

On the subject of this river the United States' Commissioner addresses me as follows:—"The red line extending from 'Glover's Point' to the Point of the 'Sand Bar' is the line marked by Her Majesty's Commissioner as designating the mouth of the river; in that line I could not concur, because it excludes from the common right of fishing the whole of Buctouche Harbour, in contravention of the express words of the Treaty." "If it had been the duty and office of the Commissioners to indicate the point which constituted the mouth of the harbour, I should have been disposed to acquiesce in the point and line thus denoted; but from the proposition that it marks the entrance of these rivers, or any one of them, into the sea or bay or harbour, and constitutes their mouth, I entirely dissent."

With the views I have already expressed, that the mouth of a river does not lose its Treaty character because it constitutes a harbour, it becomes important to determine which is the principal agent in forming this harbour—the river or the sea? If it is a mere indentation on the coast, formed by the sea, a creek, a bay, or harbour, unformed by, and unconnected with, any river, one of those indentations in a coast, indebted to the sea mainly for its waters, then plainly it is not intended or entitled to be reserved; but if, on the contrary, it is formed by the escape of waters from the interior, by a river seeking its outlet to the deep, showing by the width and depth of its channel at low water that it is not to the sea it owes its formation, then plainly it is the mouth of a river, and intended to be reserved.

Captain Bayfield describes the Buctouche as follows, p. 53 and 54:—

"Buctouche roadstead, off the entrance of Buctouche river, and in the widest part of the channel within the outer bar, is perfectly safe for a vessel with good anchors and cables; the ground being a stiff, tenacious clay, and the outer bar preventing any very heavy sea from coming into the anchorage. It is here that vessels of too great draft of water to enter the river lie moored to take in cargoes of lumber.

"Buctouche river enters the sea to the south-east, through the shallow bay within the Buctouche sand-bar, as will be seen in the chart. The two white beacons which I have mentioned as pointing out the best anchorage in the roadstead, are intended to lead in over the bar of sand and flat sandstone, in the best water, namely, 8 feet at low water and 12 feet at high water, in ordinary spring tides. But the channel is so narrow, intricate, and encumbered with oyster beds, that written directions are as useless as the assistance of a pilot is absolutely necessary to take a vessel safely into the river. Within the bar is a wide part of the channel, in which vessels may ride safely in 2½ and 3 fathoms over mud bottom; but off Giddis Point the channel becomes as difficult, narrow, and shallow as at the bar. It is in its course through the bay that the Buctouche is so shallow and intricate, higher up its channel being free from obstruction, and in some places 5 fathoms deep. Having crossed the bar, a vessel may ascend about ten miles further, and boats thirteen or fourteen miles, to where the tide-water ends."

By an examination of the channel we find miles up this river a deep continuous channel, of twelve, fifteen, twenty, twenty-four and thirty feet, down to Priest Point, varying from eighteen to twenty-four to Giddis Point, and thence to a line drawn across

from the sand-bar to Glover's Point, from seven to twenty, but of greater width. On the outside of this channel which is clearly defined, and between the sand-bar and the channel, we find mud flats with dry patches and oyster beds, "flats of mud and eel grass, with dry patches at low water;" with depths from Priest Point to the sand-bar, varying from four to six feet, and from the channel off Giddis Point to the bar, from one foot to three. On the other side of the channel between Priest Point and Giddis Point, we find "flats of mud and weeds with dry patches and oyster beds." What has given depth and breadth to this channel,—the tide rises in this vicinity about four feet; would that rise create a channel of the average depth above named? Can there be any doubt that it is created by the great body of the river water finding its way to the sea? The line "from Glover's Point to the southern extremity of the sand-bar, marked in red on plan No. 1," is claimed by Her Majesty's Commissioner as the mouth of the river, and admitted by the United States' Commissioner as the mouth of the harbour, but if there were no river here, would there be any harbour at all? I think not, and this line therefore, while it constitutes the mouth of the harbour also constitutes the mouth of the river.

This conclusion is consonant with the conclusion at which the Commissioners themselves arrived in the cases of the Elliot and Montague rivers in Prince Edward Island, as shown by Records Nos. 9 and 10. The harbours of Charlottetown and Georgetown are clearly within the lines they have marked and designated as the mouths of those rivers respectively, and thus within the lines of exclusion; but the express words of the Treaty gave a right to such harbours, because "harbours," then why did the Commissioners exclude them? And why should not the same principle which governed the Commissioners in their decision with regard to those "harbours," not also govern with regard to the Buctouche harbour.

As Arbitrator or Umpire, I decide that a line from Glover's Point to the southern extremity of the sand-bar (marked in red on plan No. 1 in Record No. 1) designates the mouth of the River Buctouche.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, A.D. 1858.

(Signed) JOHN HAMILTON GRAY.

It may not come within the exact line of my duty, but I cannot forbear remarking that the true benefits of this Treaty can only be realised to the inhabitants of both countries by a course of mutual forbearance and enlightened liberality. Captious objections, fancied violations and insults should be discountenanced, and above all, there should be an abstinence from attributing to either nation or people, as a national feeling, the spirit of aggression which may occasionally lead individuals to act in direct contravention of its terms. Every friend of humanity would regret further misunderstandings between Great Britain and the United States. The march of improvement which is to bring the broad regions of North America, between the Atlantic and Pacific, within the pale of civilization, is committed by Providence to their direction; fearful will be the responsibility of that nation which mars so noble a heritage.

Dated at St. John, in the Province of New Brunswick, this 8th day of April, 1858.

(Signed) JOHN HAMILTON GRAY.

Mr. Cutts' Observations.

(²⁵) Attention is specially called to the two following extracts from the Umpire's awards. They are here quoted to show the inconsistency that must always result from blind partiality:—

In the case of the Buctouche, the Umpire states that "it becomes important to determine which is the principal agent in forming this harbour—the river or the sea. If it is a mere indentation on the coast formed by the sea—a creek, a bay, or harbour, unformed by and unconnected with any river, those indentations in a coast, indebted to the sea mainly for its waters, then plainly it is not intended or entitled to be reserved."

In award No. 20 the decision of the Umpire is as follows:—"The Percival is spoken of by Bayfield as a river. It is so described in the grant of

Mr. Gray's Replies.

(²⁵) Mr. Cutts' charge of inconsistency is not sustained by his quotations. The prominent part of the proposition in these two paragraphs is not so much the source from which the water is supplied, as the original cause of the formation in and out of which the waters pass and repass. If it be a mere indentation on a coast, entirely unformed by and unconnected with any river, it is plain it cannot be a river, or the mouth of a river—(this part of the paragraph Mr. Cutts overlooks). Again, a river may owe its waters mainly to the sea, and yet not be a mere indentation on a coast. An indentation on a coast cannot, *ex vi termini*, run far into the interior; the term does not admit of such a meaning. A river may run far into the interior—like the Avon, or the Petitcodiac, before referred

Mr. Cutt's Observations.

Mr. Gray's Replies.

latitude 10°, 1769; and, like the Stour and Orwell in England, owes its waters almost entirely to the sea.

"As such Arbitrator or Umpire, I decide the Percival to be a river."

In one case the *indentation is not to be reserved, if it is indebted to the sea mainly for its waters.*

In another case *it is to be reserved, "if it owes its waters almost entirely to the sea."*

The above statement proves that "where there is a will there is a way." The mistake committed by the Umpire was in making that way public. He should have depended upon the irrevocability of his decisions, and omitted the reasoning. Were a judge to be so governed by his friendly feelings as to use the same argument for acquittal as he had before used for condemnation, it would be difficult for his worship to avoid the loss of public confidence, or to save himself from impeachment.

to, or the Percival, and owe its waters to the sea, yet not be a mere *indentation*. *The characteristic to be sought is the first cause of the formation.* In the cases of the Buctouche and Percival the questions were different. One, whether it was a river, or not? The other, being a river, where is its mouth?

Mr. Cutts' reasoning powers lose the fineness of their perceptions from his malignity.

The latter part of this paragraph, together with several other parts of his observations, being intended for insult, and not for argument, merit no reply.

(No. 1.)

Admiral Bayfield to Mr. Gray.

Dear Sir,

Charlottetown, Prince Edward Island, July 1, 1858.

PRAY accept my thanks for your note of the 17th ultimo, with the accompanying copy of your awards on the rivers of Prince Edward Island and the mouths of the Buctouche and Miramichi. I quite coincide with you respecting the two last-named rivers. In all such cases, where there is a bar formed by the joint action of the river and the sea, the mouth or entrance of the river will be generally understood to be the channel through or over that bar into the sea. There may be what, for distinction sake, may be termed an *inner entrance*, such as I have spoken of and the American Commissioner has claimed as being between Murack Split and Moody Point; *but the channel between Fox and Portage Islands and through and over the bar remains nevertheless, and is always spoken of and understood to be the mouth or entrance from the sea of the Miramichi.*

In ages gone by, before the joint action of the rivers and the sea had formed the sand-bars, the claims of the American Commissioner might have been admitted. With respect to the rivers of Prince Edward Island I quite concur with you, or if I have any doubt at all, it is respecting St. Peter's.

I quite agree with your award that "St. Peter's is not a river;" but if the question had been, Is the Morrill a river? I think an affirmative answer might have been given for similar reasons to those you have so ably stated for deciding the Winter to be a river. It is true, as you observe, that the Morrill has not formed St. Peter's Bay, but neither has the Winter formed Bedford Bay.

However, if the question submitted to your award related solely to St. Peter's, there can be no question but that your decision is correct; for the little stream known by that name at the head of the bay could, as you observe, have had little to do with the keeping open the channel through or over the bar; and the inlet has always been and is still known as St. Peter's Bay.

Besides, whenever there appeared any difficulty in arriving at a just conclusion, the decision should, I think, be in the friendly spirit of concession and liberality implied in the excellent concluding paragraph of your awards.

I have, of course, considered your communication as private until after the result has been made public, and I intend these remarks to be submitted to you alone. I should not have troubled you with them had you not expressed a wish to know if I coincided in the conclusions you have arrived at. I should have acknowledged the receipt of your communication sooner had not the pressure of official matters, combined with a severe family affliction, prevented me.

Believe me, &c.

(Signed) HENRY H. BAYFIELD.

(No. 2.)

Mr. Gray to Admiral Bayfield.

Dear Sir,

St. John, New Brunswick, April 14, 1860.

SINCE the arrival of the last mail I have received through the British Commissioner, by the command of Lord John Russell, copies of certain correspondence which had passed between the Governments of the United States and Great Britain on the subject of an appeal against my awards, as Umpire under the Treaty of Washington, brought before Her Majesty's Government by Mr. Dallas, by letter, on the 30th of January last, together with Mr. Cutts' observations on those awards. In a few words they charge me with almost everything that would be dishonourable and disgraceful in one filling the situation of Umpire. And the British Government is called upon to disregard these awards, not simply upon the grounds of my flagrant misconduct, but also on the grounds of their being erroneous and untrue.

With reference to the first of these assertions I shall have little difficulty in answering them.

Lord John Russell has spoken in language that shows me no injustice will be done.

With reference to the second, I have to ask your permission to send to Her Majesty's Government a copy of the note addressed by you to me, on receiving a copy of the awards, in July 1858. That note, written at a time when no charge had arisen, carries with it so strong a confirmation of the correctness of my conclusions, that I deem it unanswerable; and I shall have no hesitation in referring Her Majesty's Government to you on this subject.

It is unnecessary to say Her Majesty's Government will not permit the awards to be disturbed.

My present communication to you is simply in justice to myself, and I shall ask your further permission to lay this note and your reply also before Lord John Russell.

I am, &c.

(Signed) J. H. GRAY.

(No. 3.)

Admiral Bayfield to Mr. Gray.

Dear Sir,

Charlotte Town, Prince Edward Island, April 21, 1860.

I YESTERDAY received your letter of the 14th instant requesting my permission to transmit to Her Majesty's Government a copy of the note I addressed to you on the 1st July, 1858, in reply to yours of the 7th June, 1858, which accompanied a copy of your awards on the rivers of Prince Edward Island and the mouths of the Buctouche and Miramichi rivers.

Although my note was intended to be a private communication, yet, as the opinions therein expressed remain unchanged, I can see no objection to your laying it before Lord John Russell, together with this correspondence, if you think it desirable to do so.

After a reconsideration of your awards respecting the above-named places, I am fully convinced of the spirit of strict and impartial justice from which they have sprung.

Believe me, &c.

(Signed) HENRY W. BAYFIELD.

(No. 4.)

Mr. Perley to Mr. Gray.

Sir,

St. John, New Brunswick, July 22, 1857.

I HAVE the honour to inform you that you have been duly chosen and appointed Arbitrator, or Umpire, of the joint Fishery Commission between Great Britain and the United States, under the first Article of the Reciprocity Treaty signed at Washington on the 5th day of June, A.D. 1854.

I inclose a copy of the Minute declaring your appointment, signed by the United States' Commissioner and myself in the Records of the Commission; together with copies of the Records of disagreements between the Commissioners, which are now submitted for your decision.

I have very respectfully to request your attendance at my residence this day, at 2 o'clock, to take and subscribe the declaration required by the first Article of the Treaty, before the Commissioners, and in presence of the Mayor of St. John, and the United States' Consul at this port.

You will please inform me at what time it will be convenient for you to enter upon your duties, and what facilities you will require for the performance of the same.

I have, &c.
(Signed) M. H. PERLEY.

(No. 5.)

Record No. 12.

WE, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D., 1854, having met in Eastport for the purpose of choosing an Arbitrator or Umpire under the 1st Article of the said Treaty to decide upon the disagreement between us relative to the River Buctouche, of which record was made on the 19th day of September, A.D. 1855; as also upon the disagreement between us relative to the River Miramichi, of which record was made on the 27th day of September, A.D. 1855; and likewise upon the disagreement between us relative to the rivers of Prince Edward Island, of which record was made on the 27th day of September, A.D. 1856; and each of us the said Commissioners having named a person to act as such Arbitrator or Umpire, and not agreeing thereupon, it was determined by lot, as provided by the said Treaty, that the Honourable John Hamilton Gray, of St. John, New Brunswick, should be such Arbitrator or Umpire to decide as aforesaid, of which record is made accordingly.

Dated at Eastport in the State of Maine this 20th day of July, A.D. 1857.

(Signed) H. M. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

(No. 6.)

THE copies of the other Records, inclosed with the preceding communication from Mr. Perley, are of Records Nos. 1, 2, 9, 10, and 11, given verbatim severally, at pages 3, 4, 5, 6 and 7 of the awards.

(No. 7.)

Mr. Gray to Mr. Cushman.

Dear Sir,

Charlotte Town, August 1, 1857.

YOU said, as we were about parting in St. John, that you had some idea of sending me your views upon the differences existing between Mr. Perley and yourself as to the rivers of this Island. I am extremely anxious to act fairly and impartially in this matter, and to have the fullest information on every point.

Your reasonings before me, on the spot, at the time of examination, might perhaps guide my attention to facts or circumstances which might otherwise escape notice. I shall therefore feel gratified if you would forward any suggestion to me here. My address—Terrace House, or Mayley's, at this place.

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

(No. 8.)

Mr. Gray to Mr. Perley.

Sir,

St. John, September 17, 1857.

I HAVE received from General Cushman, the United States' Commissioner, three several communications expressing separately his views and arguments on the points in

difference between you and himself respecting the rivers of Prince Edward Island, and the mouths of the Miramichi and Buctouche.

I shall be happy to receive from you your views upon those questions, should you desire to express them, at your earliest convenience.

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

(No. 9.)

Mr. Cushman to Mr. Gray.

Sir, *Bangor, Maine, September 29, 1857.*
I HAVE received your letter of the 22nd instant, and am pleased to hear that you will request Mr. Perley to express, in writing, whatever he may have to say in regard to the cases in dispute.

By the by, are the views of one Commissioner to be shown to the other, and *vice versa*; or will you look at such communications as intended entirely for your own eye?

If you decide in favour of the first plan I shall claim the privilege of being supplied with a copy of Mr. Pirley's reply, or counter-argument.

I am, &c.
(Signed) GUSTAVUS G. CUSHMAN.

(No. 10.)

Mr. Gray to Mr. Cushman.

Sir, *St. John, October 2, 1857.*
I HAVE just received yours of the 29th September. I considered the views addressed me by the Commissioners as intended simply for myself, and I have not consequently shown your communication to Mr. Perley. And I shall treat those he may make me in the same manner, unless there be some *fact* referred to which may require elucidation, or *which, in justice to yourself*, ought to be communicated. I am afraid otherwise there would be no end to the rejoinders, and we might perhaps have a war of words instead of the spirit and object of the Treaty being the main thing to be considered.

I am, &c.
(Signed) J. H. GRAY.

(No. 11.)

Mr. Gray to Mr. Cushman and Mr. Perley.

Gentlemen, *St. John, September 18, 1857.*
I THINK it would facilitate the object of my present inquiries, and assist me in arriving at a correct conclusion, if I had an extract from the Records of the rivers, harbours, &c., on which you may have yourselves agreed. I should therefore feel much obliged if you could favour me with this information at an early date.

If a chart of the coast survey of such rivers, harbours, &c., could accompany the extract, I should deem it most satisfactory; indeed, without such chart the extract would, for the purposes desired, be comparatively unintelligible.

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

(No. 12.)

Mr. Cushman to Mr. Gray.

Sir, *Bangor, Maine, September 25, 1857.*
I HAVE duly received your note of the 18th addressed officially to the Commissioners, stating that it would facilitate the object of your present inquiries, and assist you

in arriving at a correct conclusion, if you had an extract from the Records of the rivers, harbours, &c. on which the Commissioners have agreed.

This request leads me to infer that the action of the Commissioners, in the cases already amicably settled, is to have some influence with you in making up your decisions in the cases of disagreement, referred to you, as Umpire. In the communication addressed to you in August, relative to those cases of disagreement, it was supposed that your decision would refer solely to the particular points in dispute, and be the *result of your own judgment*, irrespective of any previous action on the part of the Commissioner; and it was with this view of the duty confided to the Umpire, that no allusion was made in those communications, to the marks already agreed upon, as designating certain reserved rights on the coasts of the United States and of the Island of Prince Edward. I believed then, and still hold to the opinion, that it would be inappropriate to re-open the discussion of the previous acts of the Commissioners, or either to quote them as precedents, or as reasons for your own action; but that the Umpire should, in accordance with the language of the Treaty, "impartially and carefully examine and decide, to the best of his judgment, and according to justice and equity, without fear, favour, or affection to his own country, in any case or cases in which the Commissioners may differ in opinion."

To understand the lines already agreed upon, or to allow you to take official cognizance of them, it would be necessary that you should be posted as to the reasons that governed each Commissioner in drawing or consenting to such lines. Unless this was done, you might be led into serious errors.

Do not understand me as having the slightest objection on any other ground to your request. Indeed, I will add, that if, after the perusal of this note, you still think a knowledge of what the Commissioners have heretofore done would have its influence in bringing you to a correct conclusion. I shall be most happy to supply you with the necessary information.

I have, &c.
(Signed) GUSTAVUS G. CUSHMAN.

(No. 13.)

Mr. Gray to Mr. Cushman.

Sir,

St. John, October 1, 1857.

I HAVE to acknowledge your note of the 25th ultimo, in which you seem to think it appropriate that I should permit the action of the Commissioners in the cases amicably settled to have any influence upon my decision as Umpire in the cases of disagreement. I am obliged to you for your offer of information, in case I should differ with you in opinion. My object was to exhaust every source of knowledge on question both new and important, but I am equally desirous that my decision should be strictly impartial, and I shall not, therefore, trouble you further on this point.

I am, &c.
(Signed) J. H. GRAY.

Inclosure 2 in No. 121.

Awards made by the Commissioners and Umpire, under the Reciprocity Treaty, prior to the 1st day of January, 1861.

The River Piscataqua, the Boundary between the States of Maine and New Hampshire.

We, the Undersigned, Commissioners under the Reciprocity Treaty, signed at Washington, on the 5th day of June, A.D. 1854, having examined the Piscataqua River, on the coast of the United States (the said river forming the boundary between the States of Maine and New Hampshire), do hereby agree and decide, that a line drawn from Frost Point to the southern end of Wood Island, and thence to the main land, bearing 68° 45' east (magnetic), as shown on the Plan No. 3, Record Book No. 2, shall mark the mouth, or outer limit, of the said Piscataqua River; and that all the waters within, or to the westward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Boston, United States, on this 26th day of June, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

The River Merrimack, in the State of Massachusetts.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Merrimack River, on the coast of the United States, the mouth of the said river being within the limits of the State of Massachusetts, do hereby agree and decide, that a line bearing north, 10° east from the easternmost of the two lighthouses standing upon Plum Island, on the south side of the entrance to the said river, as shown on the Plan No. 4, Record Book No. 2, shall mark the mouth, or outer limit, of said river; and that all the waters within, or to the westward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Boston, United States, on this 26th day of June, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

The River Ipswich, in the State of Massachusetts.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D., 1854, having examined the Ipswich river, on the coast of the United States, the said river being within the limits of the State of Massachusetts, do hereby agree and decide, that a line bearing north, 30° 46' west (magnetic) from the south point of the entrance to said river, as shown on Plan No. 5, Record Book No. 2, shall mark the mouth, or outer limit of the said Ipswich River; and that all the waters within, or to the westward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Boston, United States, this 26th day of June, A.D., 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

The River Taunton, in the State of Massachusetts.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Taunton river, emptying into Narragansett Bay, coast of the United States within the limits of the State of Massachusetts, do hereby agree and decide, that a line bearing northwest and south-east (magnetic) drawn through the White Beacon, standing nearly midway of the entrance of the said river, in front of the southern end of the town of Fall River, as shown on the Plan No. 6, Record Book No. 2, shall mark the mouth, or outer limit of the said Taunton River; and that all the waters within, or to the northward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Boston, United States, this 30th day of June, A.D., 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

The River Seekonk, or Providence, in the State of Rhode Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Seekonk or Providence River, emptying into Narragansett Bay, coast of the United States, the entrance to said river being within the limits of the State of Rhode Island, do hereby agree and decide, that a line drawn from the Light-house on Nayatt Point, to Comminnet Point, bearing south, 70° west (magnetic), as shown on the Plan No. 6, Record Book No. 2, shall mark the mouth or outer limit of the said Seekonk or Providence River; and that all the waters within, or to the northward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Boston, United States, this 30th day of June, A.D. 1856.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States, Commissioner.*

The River Dunk, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Dunk River, emptying into Bedeque Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide that a line drawn from the northern end of Indian Island to Green Shore or Wharf, as shown in the Plan No. 7, Record Book No. 2, shall mark the mouth or outer limit of the said Dunk River, and that all the waters within, or to the eastward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

The Rivers Elliot, York, and Hillsborough, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Elliot River, emptying into Hillsborough Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide that a line bearing north, 85° east (magnetic) drawn from Block House Point to Sea Trout Point, as shown on the Plan No. 7, Record Book No. 2, shall mark the mouth, or outer limit, of the said Elliot River; and that all waters within, or to the northward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Her Majesty's Commissioner, in marking the above line, claims the same as defining the joint mouth of the Elliot, York, and Hillsborough Rivers.

The United States' Commissioner agrees to the above line as the mouth of the Elliot River only, not recognizing or acknowledging any other river.

Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

The Rivers Montague and Brudenell, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty signed at Washington on the 5th day of June, A.D. 1854, having examined the Montague River, emptying into Cardigan Bay, on the coast of Prince Edward Island, one of the British North American Colonies, do hereby agree and decide, that a line bearing north, 72° east (magnetic) drawn from Grave Point to Cardigan Point, as shown on the Plan No. 7, Record Book No. 2, shall mark the mouth, or outer limit, of the said Montague River; and that all the waters within, or to the westward of such line shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Her Majesty's Commissioner in marking the above line, claims the same as defining the joint mouth of the Montague and Brudenell Rivers.

The United States' Commissioner agrees to the above line as marking the mouth of the Montague only, not recognizing, or acknowledging, any other river.

Dated at Bangor, in the State of Maine, United States, this 27th day of September, A.D. 1856.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
G. G. CUSHMAN, *United States' Commissioner.*

The Rivers Restigouche, Bathurst, Pokemouche, Tracadie, Tubasintac, Kouchibouguac, Richibucto, Peticodiac, Shepody, Sackville, Musquash, Lepreau, and Magaguadavic in New Brunswick; and the River Minudie, in Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854,

having examined the River Restigouche, forming the boundary between Canada East and New Brunswick; and also the Rivers Bathurst, Pokemouche, North and South Tracadie, Tabusintac, Kouchibouguac, Richibucto, Peticodiac, Shepody, Sackville, Musquash, Lepreau, and Magaguadavic, in the Province of New Brunswick; and also the Minudie River, in the Province of Nova Scotia, do hereby agree and decide that the following described lines, as shown on Plans Nos. 8, 9, 10, and 11 Record Book, No 2 shall mark the mouths or outer limits of said rivers; and that all the waters within said lines shall be reserved and excluded from the common liberty of fishing therein, under the first and second Articles of the Treaty aforesaid:—

Restigouche River.—A line connecting Point Maguacha and Bonami Rocks, as drawn on plan No. 8.

Bathurst River.—A line connecting Point Alston and Point Carron, as drawn on Plan No. 8.

Pokemouche River.—A line across Pokemouche Gully, connecting the Sand Bars, as drawn on Plan No 8.

Tracadie Rivers, North and South.—Lines across Tracadie North Gully, and Tracadie South Gully, connecting the Sand Bars, as drawn on Plan No. 8.

Tabusintac River.—A line across Tabusintac Gully, connecting the Sand Bars, as drawn on Plan No. 8.

Kouchibouguac River.—A line across Kouchibouguac Gully, connecting the Sand Bars, as drawn on Plan No. 9.

Richibucto River.—A line drawn south (magnetic), from the North Beacon on the end of the Northern Sand Bar, as shown on Plan No. 9.

Peticodiac River.—A line bearing south 130° west (magnetic), and connecting Cape Demoiselle and Point Marangouin, as drawn on Plan No. 10.

Shepody River.—A line from the northern side of Mary's Point, bearing north, 45° east (magnetic) to the Point opposite, as drawn on Plan No. 10.

Sackville River.—A line bearing south 51° east (magnetic), from Point Au Lac, as drawn on Plan No. 10.

Musquash River.—A line from Goosberry Island Point, bearing south, 73° east (magnetic), to the western extremity of the Point opposite, as drawn on Plan No. 11.

Lepreau River.—A line, bearing north (magnetic), from the Point of the Sand Bar on the northern side of the river to the opposite shore, as drawn on Plan No. 11.

Magaguadivic River.—A line connecting M'Dernott's Head on the south side, and Man's Point on the north shore, as drawn on Plan No. 11.

Minudie River.—A line from Point Minudie, bearing east (magnetic), to the opposite shore, as drawn on Plan No. 11.

Dated at Boston, in the State of Massachusetts, this 7th day of October, A.D. 1857.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

Awards by the Honourable John Hamilton Gray, Umpire under the Reciprocity Treaty.

[See page .]

Awards by the Commissioners.

The Rivers Saco, Kennebec, Penobscot, Union, and Machias, in the State of Maine.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Rivers Saco, Kennebec, Penobscot, Union, and Machias, the said rivers being within the limits of the State of Maine, do hereby agree and decide that the following described lines, as shown on Plans 15, 16, 17, and 18, shall mark the mouths, or outer limits, of the said rivers; and that all the waters within said lines shall be reserved and excluded from the common liberty of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Saco River.—A line bearing south 5° east (magnetic), from Hotel Point to the opposite shore, as drawn on Plan 15, Record Book No. 2.

Kennebec River.—A line bearing south $85\frac{1}{2}^{\circ}$ east (magnetic), from the southern extremity of Hunniwell's Point, to the southernmost extremity of Stage Island, as drawn on Plan 16, Record Book, No. 2.

Penobscot River.—A line bearing north 80° west (magnetic), from Old Fort Point, to the opposite point, as drawn on Plan 17, Record Book No. 2.

Union River.—A line bearing 87° east (magnetic), from Weymouth Point to the opposite point, as drawn on Plan 17, Record Book No. 2.

Machias River.—A line bearing north 50° east (magnetic), from Birch Point to the opposite point, as drawn on Plan 18, Record Book No. 2.

Dated at Portland, in the State of Maine, this 5th day of June, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

G. G. CUSHMAN, *United States' Commissioner.*

The Rivers Salmon, Shubenacadie, Avon, and Cornwallis, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty, between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the River Salmon, in the County of Colchester; the River Shubenacadie, the boundary between the counties of Colchester and Hants; the River Avon, in the County of Hants; and the River Cornwallis, in the County of King's, all being within the limits of the Province of Nova Scotia; do hereby agree and decide, that the following described lines, as shown on Plan 19, Record Book, No. 2, shall mark the mouths, or outer limits of said rivers; and that all the waters within the said lines shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid:—

Salmon River.—A line bearing north (magnetic), from the southern side of the opposite shore, as drawn on Plan No. 19, Record Book No. 2.

Shubenacadie River.—A line bearing south 88° west (magnetic), from the eastern side of the river to the opposite shore, as drawn on Plan, No. 19, Record Book No. 2.

Avon River.—A line from Horton Bluff, bearing north 76° east (magnetic), to Indian Point, as drawn on Plan No. 19, Record Book, No. 2.

Cornwallis River.—A line from the Point on the southern side of the river to the opposite shore, bearing north 27° west (magnetic), as drawn on Plan No. 19, Record Book No. 2.

Dated at the city of New York, this 18th day of November, A.D. 1868.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Rivers Sissiboo and Tusket, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the River Sissiboo, in the county of Digby, and the River Tusket, in the county of Yarmouth, both being within the limits of the Province of Nova Scotia, do hereby agree and decide that the following described lines, as shown on Plan No. 20, Record Book No. 2, shall mark the mouths or outer limits of said rivers; and that all the waters within said lines shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid:—

Sissiboo River.—A line from the eastern side of the river, bearing south, 39° west (magnetic), to the opposite shore, as drawn on Plan No. 20, Record Book No. 2.

Tusket River.—A line from the southern extremity of the island, situated at the "Narrows," bearing north, 86° east (magnetic), as drawn on Plan No. 20, Record Book No. 2.

Dated at the city of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The River Liverpool, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Liverpool River, in the county of Queen's, Province of Nova Scotia, do hereby agree and decide that a line from Fort Point, bearing north (magnetic), to the opposite shore, as shown on Plan No. 21, Record Book No. 2, shall mark the mouth or outer limit of the said Liverpool River; and that all the waters within, or to the westward of such line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at the city of New York, this 18th day of November, 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Rivers La Have and Gold, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 6th day of June, A.D. 1854, having examined the Rivers La Have and Gold, in the county of Lunenburg, Province of Nova Scotia, do hereby agree and decide that the following described lines, as shown on Plan No. 22, Record Book No. 2, shall mark the mouths or outer limits of said rivers; and that all the waters within, or to the northward of said lines, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid:—

La Have River.—A line bearing north 83° west (magnetic) from the point on the eastern side of the river, to the opposite shore, as drawn on Plan No. 22, Record Book No. 2.

Gold River.—A line bearing west (magnetic), from the point on the eastern side of the river to the opposite shore, as drawn on Plan No. 22, Record Book No. 2.

Dated at the city of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The River St. Mary's, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the river St. Mary's, in the county of Guysborough, in the Province of Nova Scotia, do hereby agree and decide that a line bearing south 48° west (magnetic), drawn from a point on the eastern side of the river to the opposite shore, as shown on Plan No. 23, Record Book No. 2, shall mark the mouth or outer limit of the said river; and that all the waters within, or to the northward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at the city of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The River Pictou, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the River Pictou, in the county of Pictou, in the Province of Nova Scotia, do hereby agree and decide that a line bearing north, $21^{\circ} 45'$ east (magnetic), drawn from the lighthouse on the south side of the entrance to the bluff on the opposite shore, as shown on the Plan No. 24, Record Book No. 2, shall mark the mouth or outer limit of the said river; and that all the waters within, or to the westward of said line, shall be reserved and excluded from the common liberty of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at the city of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The River Wallace, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Wallace River, in the county of Cumberland, in the Province of Nova Scotia, do hereby agree and decide, that a line bearing north 14° east (magnetic), drawn from Caulfield Point to Palmer Point, as shown on the Plan No. 25, Record Book No. 2, shall mark the mouth or outer limit of the said river; and that all the waters within, or to the westward of the said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Rivers Pugwash and Phillip, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Rivers Pugwash and Phillip, in the county of Cumberland, in the Province of Nova Scotia, do hereby agree and decide that the following described lines, as shown on Plan No. 26, Record Book No. 2, shall mark the mouths or outer limits of the said rivers; and that all the waters within the said lines shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Pugwash River.—A line bearing north 68° west (magnetic), connecting Pineo's Point and Fox Point, as drawn on Plan No. 26, Record Book No. 2.

Phillip River.—A line bearing north $28^{\circ} 45'$ west, connecting Bergeman Point and Lewis Head, as drawn on Plan No. 26, Record Book No. 2.

Dated at the city of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Pawcatuck River, the Boundary between the States of Connecticut and Rhode Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the Pawcatuck River, separating the States of Connecticut and Rhode Island, in the United States, do hereby agree and decide, that a line bearing south 29° east (magnetic), drawn from Pawcatuck Point to the opposite shore, as shown on the Plan No. 27, Record Book No. 2, shall mark the mouth or outer limit of the said river; and that all the waters within, or to the eastward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The River Thames, in the State of Connecticut, United States.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the River Thames, in the State of Connecticut, United States, do hereby agree and decide, that a line bearing north 83° east (magnetic), drawn from Eastern Point, to the lighthouse opposite, as shown on Plan No. 28, Record Book No. 2, shall mark the mouth, or outer limit, of said river; and that all the waters within, or to the northward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

Connecticut River, in the State of Connecticut.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the Connecticut River, in the State of Connecticut, United States, do hereby agree and decide, that a line bearing south 67° west (magnetic), drawn from Griswold's Point to the lighthouse on Lyndes' Point, as shown on the Plan No. 29, Record Book No. 2, shall mark the mouth, or the outer limit, of the said river; and that all the waters within, or to the northward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of New York, this 18th day of November, A.D., 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Housatonic River, in the State of Connecticut.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, 1854, having examined the Housatonic River, in the State of Connecticut, United States, do hereby agree and decide, that a line bearing south, 39° west (magnetic), drawn from the extremity of the Sand Point on the eastern side, to the opposite shore, as shown on the Plan No. 30, Record Book No. 2, shall mark the mouth, or outer limit, of the said river; and that all the waters within, or to the northward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of New York, this 18th day of November, A.D. 1858.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

BENJN. WIGGIN, *United States' Commissioner.*

The Rivers Vernon, Orwell, Seal, Cardigan, Fortune, Souris, Tryon, Winter, Hunter, Stanley, Ellis, Pierre Jacques, Percival, Enmore, and Haldiman, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocal Treaty between Great Britain and the United States, signed at Washington, on the 5th day of June, A.D., 1854, having examined the Rivers Vernon, Orwell, Seal, Cardigan, Fortune, Souris, Tryon, Winter, Hunter, Stanley, Ellis, Pierre Jacques, Percival, Enmore and Haldiman, all lying within the limits of the Island of Prince Edward, one of the British North American Provinces, and which said places being the subject of a difference of opinion, as exhibited in Record No. 11, were referred to an Umpire, appointed in conformity with the Treaty, and by him decided to be rivers, do hereby agree and decide, that the following described lines, as shown on Plan No. 7, Record Book No. 2, shall mark the mouths, or outer limits, of said rivers; and that all the waters within the said lines, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid:—

Vernon, Orwell, Seal.—A line bearing south $71^{\circ} 15'$ east (magnetic), from China Point to Port Selkirk, as drawn on Plan No. 7, Record Book No. 2.

Cardigan.—A line bearing north $49^{\circ} 30'$ east (magnetic), from Cardigan Point to the point on the opposite shore, as drawn on Plan No. 7, Record Book No. 2.

Fortune.—A line bearing south $39^{\circ} 15'$ west (magnetic), connecting the Sand Spit on the northern side of entrance with the opposite shore, as drawn on Plan No. 7, Record Book.

Souris.—A line bearing north 65° (magnetic), connecting the Sand Spit on the eastern side of entrance with the opposite shore, as drawn on Plan No. 7, Record Book No. 2.

Tryon.—A line bearing south $51^{\circ} 15'$ east (magnetic), connecting Tryon Head with Birch Point, as drawn on Plan No. 7, Record Book No. 2.

Winter.—A line bearing south 74° east (magnetic), connecting the two Sand Points, as drawn on Plan No. 7, Record Book No. 2.

Hunter.—A line bearing north $22^{\circ} 30'$ west (magnetic), connecting the west end of Rustico Island with the opposite point, as drawn on Plan No. 7, Record Book No. 2.

Stanley.—A line bearing north 42° west (magnetic), connecting the Sand Spit on east side of entrance with the opposite point, as drawn on Plan No. 7, Record Book No. 2.

Ellis.—A line bearing north 7° west (magnetic), connecting Black Point with Ferry Point, as drawn on Plan No. 7, Record Book No. 2.

Pierre Jaques.—A line bearing north $41^{\circ} 15'$ east (magnetic), connecting the end of the long Sand Spit with the opposite shore, as drawn on Plan No. 7, Record Book No. 2.

Percival.—A line bearing south $50^{\circ} 30'$ east (magnetic), connecting Grand Digue, on the west side of the entrance, with the opposite shore, as drawn on Plan No. 7, Record Book, No. 2.

Enmore.—A line bearing south $56^{\circ} 30'$ east (magnetic), being a prolongation of the line marking the mouth of the Percival River, as drawn on Plan No. 7, Record Book No. 2,

Haldiman.—A line bearing north $67^{\circ} 15'$ east (magnetic), connecting the Sand Spit, on the west side of entrance, with the opposite shore, as drawn on Plan No. 7, Record Book No. 2.

Dated at the City of Boston, United States, this 16th day of November, A.D. 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Murray River, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Murray River, in the Island of Prince Edward, one of the British North American Provinces, do hereby agree and decide that a line bearing north (magnetic), drawn from the northern extremity of Old Store Point, on the south side of entrance, to the end of the Sand Spit, on the opposite shore, as shown on Plan No. 31, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within or to the westward of the said line shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 16th day of November, A.D. 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Boughton, or Grand River, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the Boughton or Grand River, in the Island of Prince Edward, one of the British North American Provinces, do hereby agree and decide that a line bearing north 4° east (magnetic) drawn from the end of the Sand Spit, extending northwardly from Solander Point, on the south side of the entrance, to the Ferry Road, on the opposite shore, as shown on Plan No. 32, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within or to the westward of said line shall be reserved and excluded from the common right of fishing therein, under the 1st and 11th Articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 16th day of November, A.D., 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Foxley River, in Prince Edward Island.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington, on the 5th day of June, A.D., 1854, having examined the Foxley River, in the Island of Prince Edward, one of the British North American Provinces, do hereby agree and decide, that a line bearing north 24° east (magnetic), drawn from Kildare Point, on the north side of entrance, to the point on the opposite shore, as shown on Plan No. 33, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the westward

of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 16th day of November, A.D., 1860.
(Signed) M. H. PERLEY, *Her Majesty's Commissioner*.
JOHN HUBBARD, *United States' Commissioner*.

The River Sydney, in the Island of Cape Breton, in the Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington, on the 5th of June, A.D. 1854, having examined the River Sydney, in the Island of Cape Breton, Province of Nova Scotia, do hereby agree and decide, that a line bearing north $38^{\circ} 30'$ west (magnetic), drawn from the western extremity of South East Bar, to the eastern end of the North-West Bar, on the opposite shore, as shown on Plan No. 34, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the southward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 16th day of November, A.D. 1860.
(Signed) M. H. PERLEY, *Her Majesty's Commissioner*.
JOHN HUBBARD, *United States' Commissioner*.

The Rivers Miré and Grand, in the Island of Cape Breton, Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington, on the 5th day of June, A.D. 1854, having examined the Rivers Miré and Grand, in the Island of Cape Breton, Province of Nova Scotia, do hereby agree and decide, that the following described lines, as shown on Plan No. 35, Record Book No. 2, shall mark the mouths, or outer limits of said rivers; and that all the waters within said lines shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid:—

Miré River.—A line bearing north 44° east (magnetic), connecting Miré Point with the point on the opposite shore, as drawn on Plan No. 35, Record Book No. 2.

Grand River.—A line bearing north $53^{\circ} 30'$ east, (magnetic), connecting Grand River Point with the point on the opposite shore, as drawn on Plan No. 35, Record Book No. 2.

Dated at the City of Boston, United States, this 16th day of November, A.D. 1860.
(Signed) M. H. PERLEY, *Her Majesty's Commissioner*.
JOHN HUBBARD, *United States' Commissioner*.

The River Des Habitans, in the Island of Cape Breton, Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the river Des Habitans, in the island of Cape Breton, Province of Nova Scotia, do hereby agree and decide that a line bearing south 80° east (magnetic), drawn from River Point on the west side of entrance to the point on the opposite shore, as drawn on Plan No. 36, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the northward of said line, shall be reserved and excluded from the common right of fishing therein, under the 1st and 2nd Articles of the Treaty aforesaid.

Dated at the city of Boston, United States, this 16th day of November, A.D. 1860.
(Signed) M. H. PERLEY, *Her Majesty's Commissioner*.
JOHN HUBBARD, *United States' Commissioner*.

The River Mabou, in the Island of Cape Breton, Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the river Mabou, in the Island of Cape Breton, Province of Nova Scotia, do hereby agree and decide that a line bearing north 52° east (magnetic), drawn from the high bluff point on the south side of entrance, to the southern extremity of the

sand point on the opposite shore, as shown on Plan No. 37, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the eastward of said line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the city of Boston, United States, this 16th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The River Marguerite, in the Island of Cape Breton, Province of Nova Scotia.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the river Marguerite, in the island of Cape Breton, Province of Nova Scotia, do hereby agree and decide that a line bearing north, 76° 30' west (magnetic), drawn from the end of the Sand Spit, on the east side of the entrance to Lawrence's Point on the opposite shore, as shown on Plan No. 38, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the southward of said line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the city of Boston, United States, this 16th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The River Hudson, in the State of New York, United States.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, signed at Washington on the 5th day of June, A.D. 1854, having examined the River Hudson, in the State of New York, United States, do hereby agree and decide that the two following described lines, to wit: The first bearing north 5° 30' east (magnetic) from the northern end of Sandy Hook to the western extremity of Coney Island; the second bearing south, 33° 45' east (magnetic), drawn from Fort Schuyler on Throg's Neck to the point on the opposite shore, as shown on Plan No. 39, Record Book No. 2, shall mark respectively the southern and eastern mouths, or outer limits, of said river; and that all the waters within, or to the westward of said lines, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 17th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBERD, *United States' Commissioner.*

The River St. Lawrence, in the Province of Canada.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the river St. Lawrence, in the Province of Canada, do hereby agree and decide that a line bearing north, 40° west (magnetic), connecting Cape Chatte with Point Des Monts, as shown on Plan No. 40, Record Book No. 2, shall mark the mouth or outer limit of said river; and that all the waters within, or to the westward of said line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the city of Boston, United States, this 19th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Rivers Moisie, Châtte, Saint Anne, Mont Louis, and Magdalen, Province of Canada.

We, the Undersigned Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the River Moisie, on the north coast, and the Rivers Châtte, Sts Anne, Mont Louis, and Magdalen, on the south coast of the north-west arm of the Gulf of St. Lawrence, all being within the limits of the Province of Canada, do

hereby agree and decide that the following described lines, as shown on Plan No. 41, Record Book No. 2, shall mark the mouths, or outer limits of said rivers; and that all the waters within said lines shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid:—

Moisic.—A line bearing north, $64^{\circ} 15'$ east (magnetic), connecting Moisic Pont with the Sand Point on the opposite shore, as drawn on Plan No. 41, Record Book No. 2.

Chatte.—A line bearing north, $82^{\circ} 15'$ west (magnetic), connecting the point of land on the east side of entrance with the high bank on opposite shore, as drawn on Plan No. 41, Record Book No. 2.

St. Anne.—A line bearing north, $69^{\circ} 15'$ west (magnetic), connecting the point of land on the east side of entrance with the high bank on the opposite shore, as drawn on Plan No. 41, Record Book No. 2.

Mont Louis.—A line bearing north, $52^{\circ} 30'$ west (magnetic), connecting the sand point on each side of entrance with the opposite shore, as drawn on Plan No. 41, Record Book No. 2.

Magdalen.—A line bearing north, $50^{\circ} 30'$ east (magnetic), connecting the Sandy Point on the south side of the entrance with Cape Magdalen, as drawn on Plan No. 41, Record Book No. 2.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
JOHN HUBBARD, *United States' Commissioner.*

The Rivers Saint John and Mingan, on the North Coast of the Gulf of Saint Lawrence; and the River Jupiter, in the Island of Anticosti, Province of Canada.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Rivers St. John and Mingan, on the north coast of the Gulf of St. Lawrence, and the River Jupiter, on the south side of Anticosti, all being within the limits of the Province of Canada, do hereby agree and decide that the following described lines, as shown on Plan No. 42, Record Book No. 2, shall mark the mouths, or outer limits, of said rivers; and that all the waters within the said lines shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid:—

St. John.—A line bearing north, $63^{\circ} 30'$ west (magnetic), connecting the sand point on the east point of entrance, with the point of high land on the opposite shore, as shown on the Plan No. 42, Record Book No. 2.

Mingan.—A line bearing north 70° west (magnetic), connecting Sea Trout Point to Poullet Point, as drawn on Plan No. 42, Record Book No. 2.

Jupiter.—A line bearing north (magnetic), connecting the point of beach on the south side of entrance with the rocky bluff on the opposite shore, as drawn on Plan No. 42, Record Book No. 2.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
JOHN HUBBARD, *United States' Commissioner.*

The River Fox, in the Island of Anticosti, Province of Canada.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the River Fox, in the Island of Anticosti, Province of Canada, do hereby agree and decide, that a line bearing north (magnetic), connecting the main land with the point of sand on the northern side of entrance, as shown on Plan No. 43, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within, or to the westward of said line, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd articles of the Treaty aforesaid.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed) M. H. PERLEY, *Her Majesty's Commissioner.*
JOHN HUBBARD, *United States' Commissioner.*

The Rivers Dartmouth, York, and St. John, in the Peninsula of Gaspé, Province of Canada.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the Rivers Dartmouth, York, and St. John, in the peninsula of Gaspé, Province of Canada, do hereby agree and decide that the following described lines, as shown on Plan No. 44, Record Book No. 2, shall mark the mouths, or outer limits, of said rivers, and that all the waters within said lines shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid:—

Dartmouth.—A line bearing south 46° 30' west (magnetic), from Point Panard to the Rocky Point on the opposite shore, as drawn on Plan No. 44, Record Book No. 2.

York.—A line bearing north 32° 30' west (magnetic), connecting Point Lourde with the high rocky point on the opposite shore, as drawn on Plan No. 44, Record Book No. 2.

St. John.—A line bearing north 20° 30' east (magnetic), connecting the two long sand points, as drawn on Plan No. 44, Record Book No. 2.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Rivers Grand, Bonaventure, and Cascapédiac, Province of Canada, and the River Caraquette, Province of New Brunswick.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington, on the 5th day of June, A.D. 1854, having examined the Rivers Grand, Bonaventure, and Grand Cascapédiac, emptying into the Bay of Chaleur, Province of Canada, and also the River Caraquette, on the south side of the same bay, Province of New Brunswick, do hereby agree and decide, that the following described lines as shown on Plan No. 8, Record Book No. 2, shall mark the mouths, or outer limits, of said rivers; and that all the waters within the said lines shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid:—

Grand.—A line bearing east and west (magnetic) connecting the sand point on the west side of the entrance with the opposite shore, as drawn on Plan No. 8, Record Book No. 2.

Bonaventure.—A line bearing north 12° west (magnetic), connecting the two Sand Spits, as drawn on Plan No. 8, Record Book No. 2.

Grand Cascapédiac.—A line bearing north 4° west (magnetic), connecting Richmond Point with the point on the opposite shore, as drawn on Plan No. 8, Record Book No. 2.

Caraquette.—A line bearing south 14° 45' west (magnetic), extending from Point Mizzinette to the opposite shore, and in the direction of the Catholic Church on the south side of the entrance, as drawn on Plan No. 8, Record Book No. 2.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

The Rivers Cocagne, Shediac, and Saint John, in the Province of New Brunswick.

We, the Undersigned, Commissioners under the Reciprocity Treaty between Great Britain and the United States, concluded and signed at Washington on the 5th day of June, A.D. 1854, having re-examined the differences of opinion as exhibited in Record No. 15 of this Book, in regard to the mouths of the Rivers Cocagne, Shediac, and St. John, in the Province of New Brunswick, do hereby agree and decide that the following described lines as shown on Plans Nos. 45, 46, and 47, Record Book No. 2, shall mark the mouths or outer limits of the said rivers; and that all the waters within the said lines, shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid:—

Cocagne.—A line commencing at the end of Long's Wharf, and extending across the water to the opposite shore, in the direction of the Roman Catholic Church, and bearing north 16° 30' west (magnetic), as drawn on Plan No. 45, Record Book No. 2.

Shediac.—A line drawn from the northern extremity of Porier Point, marked A to

the opposite point marked B and bearing north 28° east (magnetic), as shown on Plan No. 46, Record Book No. 2.

St. John.—A line extending from Sheldon Point to the southern extremity of Partridge Island, and thence by another line from the last named point to Cranberry Point, as drawn on Plan No. 47, Record Book No. 2.

Dated at the City of Boston, United States, this 19th day of November, A.D. 1860.

(Signed)

M. H. PERLEY, *Her Majesty's Commissioner.*

JOHN HUBBARD, *United States' Commissioner.*

Inclosure 3 in No. 121.

List of Charts.

Prince Edward Island.

- No.
1,973. Murray Harbour.
2,005. Boughton or Grand River.
2,027. Cascumpeque Harbour.

Cape Breton.

- 2,024. Sydney Harbour.
2,028. Mabou Harbour.

Nova Scotia.

- 2,324. Gut of Canso, Chedabucto Bay.

River St Lawrence (below Quebec).

309. Cape Chat to Bic Island.

Gulf of St Lawrence.

- 1,430. Sheet 1. St Lavis Sound to Esquimaux Islands, Straits of Belle Isle.
1,431. " 2. Esquimaux Islands to Lake Islands.
305. " 3. Lake Islands to Pashasheebo Point.
306. " 4. Pashasheebo Point to Magpie Bay.
307. " 5. Magpie Bay to Point de Monts.
1,163. Gaspé and Mal Bays.
1,941. Cocagne Harbour.
1,943. Shediac Bay and Harbour.

Bay of Fundy.

- 1,551. St. John Harbour.

Neufoundland.

271. North Part and Straits of Belle Isle.
273. Griguet Bay.
273. St. Lunaire Bay.
274. Braha Harbour.
276. Cremalliare and Goose Coves.
278. Croque Harbour.
280. Cape Freels to Partaide Point.
293. Trinity Harbour to Cape Freels.
294. Bonavista Bay, north-west arm.
296. Trinity and Conception Bays.
297. Grace Harbour.
298. St. John's Harbour.
299. Lance Point to Cape Spear.
1,839. Trepassy Harbour.
300. Placentia Bay (two sheets).
301. Little Southern Harbour, Placentia Bay.
1,702. Lamalin Harbour.
303. Port of St. Pierre Island.
Chapeau Rouge to Cape Angouille.
Cape Angouille to Point Ferrolle.

St. John, New Brunswick, April 1, 1861.

(Signed)

GEO. H. PERLEY,

Surveyor to Commission.

No. 122.

Mr. Hammond to the Secretary to the Admiralty.

Sir,

Foreign Office, April 17, 1861.

I AM directed by Lord John Russell to transmit to you herewith, to be laid before the Lords Commissioners of the Admiralty, an extract of a despatch from Mr. Perley, Her Majesty's Commissioner appointed under the Treaty with the United States of the 5th of June, 1854, requesting to be supplied with certain charts for the use of the Commission; and I am to request that you will move their Lordships to give directions for copies of these charts to be made and forwarded to Mr. Perley.

I am, &c.

(Signed) E. HAMMOND.

No. 123.

Mr. Hammond to Sir F. Rogers.

Sir,

Foreign Office, April 17, 1861.

I AM directed by Lord John Russell to transmit herewith, for the information of the Duke of Newcastle, a copy of a despatch from Mr. Perley, inclosing a printed copy of the awards made by the Commissioners and Umpire, under the Reciprocity Treaty, up to the 1st of January last.

I am, &c.

(Signed) E. HAMMOND.

No. 124.

The Secretary to the Admiralty to Mr. Hammond.—(Received April 20.)

Sir,

Admiralty, April 20, 1861.

IN reply to your letter of the 17th instant, I am commanded by my Lords Commissioners of the Admiralty to state, for the information of Lord John Russell, that the 350 charts with which Mr. Perley, Her Majesty's Commissioner under the Treaty with the United States of 5th June, 1854, has requested to be supplied, for the use of the Commissioners at Newfoundland and Labrador, will be forwarded by the present mail to the care of Messrs. Cunard and Co., Halifax, Nova Scotia.

I am, &c.

(Signed) W. G. ROMAINE.

No. 125.

Earl Russell to Mr. Perley.

(No. 1.)

Sir,

Foreign Office, April 20, 1861.

I HAVE to acquaint you that the charts, of which you requested copies in your despatch of the 1st instant, will be forwarded to you by the Board of Admiralty by the present mail, addressed to the care of Messrs. Cunard and Co., Halifax, Nova Scotia.

I am, &c.

(Signed) RUSSELL.

No. 126.

Mr. Perley to Earl Russell.—(Received March 6.)

(No. 36.)

My Lord,

St. John, New Brunswick, February 15, 1862.

I HAVE the honour to forward by this mail, twelve copies of the awards made by the Commissioners and Umpire under the Reciprocity Treaty, and two complete sets of the plans and charts referred to in those awards.

2. The two printed copies of the awards sent by me with despatch No. 35 of 1st April last, are defective, the printer having accidentally omitted one award, which is inserted in the present copies on pages 5 and 5a. I beg that the copies previously sent may be cancelled.

3. As heretofore directed, I have forwarded to the Governor-General of Canada, to the Governor of Newfoundland, and to the Lieutenant-Governors of New-Brunswick, Nova Scotia, and Prince Edward Island, each, three copies of the awards, and a complete set of the plans and charts referred to.

4. His Excellency Lord Musgrave, Lieutenant-Governor of Nova Scotia, demurs to laying these awards and plans before the Legislature until he has instructions from the Colonial Office. I have therefore sent two copies of the plans and charts, that one set, if your Lordship sees fit, may be sent to the Colonial Office, in order that their receipt there may be announced to the several Governors and Lieutenant-Governors before mentioned.

I have, &c.
(Signed) M. H. PERLEY.

No. 127.

Mr. Perley to Earl Russell — (Received March 6.)

(No. 37.)

My Lord,

St. John, New-Brunswick, February 17, 1862.

I HAVE the honour to report that, on the 25th June last, by appointment, I met the Honourable Mr. Hamlin, my new colleague, at Calais, in Maine, on the boundary, where he was duly sworn into office.

2. I then proposed that we should at once proceed to examine the rivers south of New York, as far as James' River in Virginia, the southermost river to be examined under the Commission; but those rivers being in the very midst of the Civil War, Mr. Hamlin declined going there, even with a regiment at his back. He was evidently under the impression that the brother of the Vice-President of the United States would not be very safe in that quarter.

3. I next proposed that we should visit Newfoundland, to examine the rivers in that island; but this Mr. Hamlin declined, fearing the long sea voyage, the fatigue, and the exposure. I may here mention, that Mr. Hamlin has some disease of the eyes, which affects his sight greatly; that he is unaccustomed to the sea, and cannot bear much toil or fatigue.

4. Mr. Hamlin states that he would prefer taking the rivers not previously examined on the coast of Canadian Labrador as his season's work, while I should proceed to Newfoundland, and ascertain what rivers there it would be necessary for him to visit. This arrangement was entered upon. Mr. Hamlin went to Quebec in July last, accompanied by Mr. Cutts, whom Mr. Hamlin persisted in retaining as Surveyor, although I intimated that his presence on the Commission was by no means acceptable. While they were at Quebec endeavouring to hire a steamer, they received intelligence of the affair of Bull's Run. Mr. Cutts instantly fled back to Washington where he has his home and family, and Mr. Hamlin returned to his home at Bangor, Maine. Thus ended this season's work.

5. I proceeded via Halifax, with my Surveyor, to St. John's, Newfoundland, where I engaged a small steamer, in which I examined all the harbours and rivers between St. John's and Cape Ray, and thence westwardly on the south coast of Newfoundland. The weather all the season was unusually wild and stormy, and the steamer was entirely too small for the service. On one occasion we very nearly went down in her, I managed however, to do a great deal of work, but dare not go to the northern part of the island in such a small and unsuitable vessel.

6. On my return to Halifax, I saw Vice-Admiral Milne, who informed me that, in all probability, he should, this year, send a greater number of Her Majesty's steamers to the coasts of Newfoundland than have been employed there heretofore. On expressing my desire to visit such parts of Newfoundland as had not already been examined by me, in one of these steamers, the Vice-Admiral stated that those parts would be quite in the line of duty of some of them, and he saw no reason why I should not be accommodated, especially as it would save very considerable expense; and further, that he would be most happy to give me the requisite facilities, on receiving an order to that effect from the Admiralty.

7. I have therefore respectfully to request that your Lordship will be pleased to

move the Admiralty for an order to Vice-Admiral Milne, to grant accommodation for myself, my surveyor, and one servant, on board some one of Her Majesty's steamers to be employed on the coasts of Newfoundland and Labrador the coming season, with all needful facilities and assistance for prosecuting my work, which it is desirable should commence early in June, or so soon as the ice will permit.

I have, &c.
(Signed) M. H. PERLEY.

No. 128.

Mr. Perley to Earl Russell.—(Received March 6.)

(No. 38.)

My Lord,

St. John, New Brunswick, February 17, 1862.

I HAVE the honour to state that, in April last, after receiving notice from Lord Lyons of the appointment of Mr. Hamlin, I forwarded to Mr. Hubbard, my former colleague, a copy of the awards, and took formal leave of him.

In reply, I received from Mr. Hubbard a letter which, although not strictly official, yet is so much connected with the business of the Commission, that I venture to send a copy of it, which is appended hereto.

I have, &c.
(Signed) M. H. PERLEY.

Inclosure in No. 128.

Mr. Hubbard to Mr. Perley.

My dear Sir,

Hallowell, Maine, April 12, 1861.

I HAVE great pleasure in acknowledging the receipt of yours of the 2nd instant, accompanied by the document.

For your kind remembrance of me please accept my sincere thanks, and be assured that the kindly sentiments and confidence expressed by you towards me are fully reciprocated on my part.

Where the object is, as I always on your part found it to be, to do simple practical justice to both of the parties interested, without any of the ruses and chicanery of diplomacy, to repudiate nice scientific technicalities and hair-spun distinctions which when adhered to would defeat the ends of justice and lead to practical results unfriendly to the harmony of the parties in their future operations, there need be, and I am happy to say with us there was, no difficulty in arriving at satisfactory conclusions.

Our official and personal intercourse will always be to me a source of pleasant reminiscence.

After so much labour performed by me, with the deep interest felt to bring the business of the Commission to a speedy and satisfactory termination, I should have been gratified to continue to act with you, but my Government have decided otherwise.

Personally considered, I am not so vain as to suppose this end may not be so well attained by another as by myself.

Nevertheless, the frequent changes of Commissioners on the part of our Government have, in my judgment, been in violation of the spirit and intentions of the Treaty, of its express language, contrary to good faith, and they have and will cause much unnecessary delay and embarrassment in bringing the Commission to a final adjustment.

Yours truly,
(Signed) JOHN HUBBARD.

No. 129.

Sir F. Rogers to Mr. Hammond.—(Received August 13.)

Sir;

Downing Street, August 12, 1862.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, a copy of a letter from the Admiralty inclosing copy of a despatch from the naval Commander-in-chief on the North American station as to the right to a salute

of the British Commissioner under the Reciprocity Treaty between Great Britain and the United States. His Grace would be glad to be informed of the answer which, in Earl Russell's opinion, should be returned to the Admiralty.

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

Inclosure 1 in No. 129.

The Secretary to the Admiralty to Sir F. Rogers.

Sir, *Admiralty, August 4, 1862.*
I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Her Majesty's Secretary of State for the Colonies, a letter from Vice-Admiral Sir Alexander Milne, dated 16th July, No. 538, requesting to be informed whether Mr. Perley, British Commissioner under the Reciprocity Treaty between Great Britain and the United States, is entitled to be saluted.

My Lords request to know what rank Mr. Perley holds.

I am, &c.
(Signed) W. G. ROMAINE.

Inclosure 2 in No. 129.

Vice-Admiral Sir A. Milne to the Secretary to the Admiralty.

Sir, *"Nile," at Halifax, July 16, 1862.*
BE pleased to acquaint the Lords Commissioners of the Admiralty, that Mr. Perley, British Commissioner under the Reciprocity Treaty between Great Britain and the United States, proceeds in Her Majesty's ship "Desperate" to the coast of Newfoundland and Labrador this afternoon, in execution of the special duties devolving on him by the terms of the above Treaty.

2. Mr. Perley informed me that when he formerly embarked in 1857 in one of Her Majesty's ships he was saluted with thirteen guns, as he holds the rank, &c., corresponding with that of a Lieutenant-Governor; but not being aware of any authority to recognize this rank, or to order him to be saluted, I have not done so. I shall, therefore, be glad to receive such instructions as their Lordships see fit to give, in order that, if entitled to a salute, it may be carried out on his disembarkation.

I have, &c.
(Signed) ALEX. MILNE.

No. 130

Memorandum relative to the claim of Mr. Perley for a Salute as British Fishery Commissioner in North America.

NO regulation appears to exist with regard to the saluting of Commissioners by Her Majesty's ships of war. The Queen's Regulations includes only diplomatic and Consular officers, but no mention is made of persons holding the position of Commissioner.

Various works have been consulted to ascertain what class, if any, Commissioners belong who are employed to manage matters between different Governments.

The Règlement of the Congress of Vienna, 1815, "Sur le rang entre les Agens Diplomatiques" make no mention of them; and the descriptions generally given of Consuls and their duties are equally silent respecting Commissioners.

The authorities are rather conflicting; but Commissioners would appear to be an intermediate description of functionary without any definite or uniform occupation, who are not usually recognized as possessing the diplomatic character, nor even the commercial powers of Consuls; although the duties which they have to perform would seem at times to comprehend the one or the other, and occasionally both.

Admiral Milne, in his letter to the Admiralty, states that Mr. Perley informed him that when he formerly embarked, in 1857, in one of Her Majesty's ships, he was saluted

with thirteen guns, as he held the rank corresponding with that of a Lieutenant-Governor.

There is certainly nothing in the Foreign Office Instructions to Mr. Perley on his appointment in 1855, to sanction his claim to such precedence, nor does there appear to be any regulation defining the rank and precedence of a Commissioner.

Foreign Office, August 18, 1862.

No. 131.

Mr. Layard to Sir F. Rogers.

Sir, *Foreign Office, August 27, 1862.*

I HAVE laid before Lord Russell your letter of the 12th instant, inclosing copies of letters from the Admiralty, and Vice-Admiral Milne, requesting to be informed whether Mr. Perley is entitled to a salute as the British Commissioner under the Reciprocity Treaty of 1854 between this country and the United States.

I am, in reply, to transmit to you a Memorandum on the subject, which has been drawn up in this office; and I am to request that, in laying the same before the Duke of Newcastle, you will state that Lord Russell is not disposed to think that Mr. Perley's rank as a Commissioner gives him any right to a salute.

I have, &c.
(Signed) A. H. LAYARD.

No. 132.

The Secretary to the Admiralty to Mr. Hammond.—(Received September 5.)

Sir, *Admiralty, September 3, 1862.*

THE person named on the other side hereof, having been entertained on board Her Majesty's ship "Desperate," on the occasions, and between the dates stated against his name, I am commanded by my Lords Commissioners of the Admiralty to request that you will move Earl Russell to cause me to be informed whether the expense of the entertainments is to be borne by the public.

I am, &c.
(Signed) W. G. ROMAINE

Inclosure in No. 132.

LIST of Passengers entertained on board Her Majesty's ship "Desperate."

Name.	Rank.	Passage.		Dates (inclusive).		Remarks.
		From.	To.	From.	To.	
Mr. Perley.	Commissioner under the Reciprocity Treaty between this country and the United States.	Halifax, Nova Scotia.	To visit coast of Newfoundland and Labrador	1862 July 5	1862 July 29	Entertained at the Captain's table.

No. 133.

Mr. Hammond to the Secretary to the Admiralty.

Sir, *Foreign Office, September 6, 1862.*

I AM directed by Earl Russell to request that you will state to the Lords Commissioners of the Admiralty that His Lordship is of opinion that the expense incurred for the entertainment of Mr. Perley on board Her Majesty's ship "Desperate," on the occasion, and between the dates specified in your letter of the 3rd instant, should be charged to the public account.

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

Mr. G. H. Perley to Earl Russell.—(Received September 29.)

My Lord,

St. John, New Brunswick, September 12, 1862.

I HAVE the melancholy duty of announcing to your Lordship the death of my father, Mr. M. H. Perley, Her Majesty's Commissioner under the 1st and 2nd Articles of the Reciprocity Treaty between Great Britain and the United States, signed at Washington, on the 5th day of June, 1854.

Mr. Perley died on the 17th June last on board Her Majesty's ship "Desperate," at Forteau, Labrador, of gastric fever, ending in effusion on the brain and paralysis. He died while in the performance of his duty, and his grave marks the last spot where that duty called him, a lonely bay in the iceberg-haunted Straits of Belle Isle.

2. In accordance with the arrangements made for the prosecution of the business of the Commission for the season of 1862, Mr. Perley, accompanied by myself as Secretary and Surveyor to the Commission, left Halifax, Nova Scotia, on the 16th July last, in Her Majesty's ship "Desperate," to visit and examine the rivers of Newfoundland and Labrador. On the 21st July the "Desperate" arrived at St. John's, Newfoundland, having spent a day at the Port of St. Pierre *en route*. At St. John's there was some delay in proceeding north, owing to the promotion and transfer to another ship of the Commander of the "Desperate."

After leaving St. John's, Mr. Perley complained of being unwell, but was able to direct my surveys at Exploits River, at Chateau Bay, and at Red Bay.

I would respectfully state to your Lordship that the Exploits is the largest river on the eastern coast of Newfoundland, and one which, from the value of the fisheries at its mouth, and from its being south of the French rights on that shore, Mr. Perley was very anxious to examine. He satisfied himself where the limit of fishing should be defined, and I have all the necessary bearings and notes in my possession.

At Chateau and Red Bays Mr. Perley, although suffering, directed my work and noted much valuable information.

Commander Thrupp furnished me with a copy of his letter to Vice-Admiral Sir Alexander Milne on the occasion of Mr. Perley's death, and I have taken the liberty of inclosing a copy to your Lordship.

3. At the beginning of this season there remained to be examined and decided upon by the Commissioners under the Treaty, the following rivers:—

Northern Rivers, British North America.

- | | |
|----------------|---------------|
| 1. Natashquan. | 4. Pentecost. |
| 2. Agawanus. | 5. Trinity. |
| 3. Nabesippi. | |

and the rivers on the eastern and western coasts of Newfoundland.

Southern Rivers, United States of America.

- | | |
|------------------|------------------|
| 1. Delaware. | 8. Patapsco. |
| 2. Poahoke. | 9. Severn. |
| 3. Nanticoke. | 10. Patuxent. |
| 4. Choptank. | 11. Potomac. |
| 5. Chester. | 12. Rappahannoc. |
| 6. Elk. | 13. York. |
| 7. Susquehannah. | 14. James. |

Mr. Perley's reasons for not having before examined these last-named rivers are best expressed in his letter on the subject to the United States' Commissioner, of which I take the liberty of inclosing a copy.

4. I beg to state, for your Lordship's information, that all the charts and other official documents belonging to the Commission are in my possession, and I shall continue to hold the same, subject to your Lordship's directions.

5. I beg respectfully to mention, for your Lordship's information, that for many years past I have always accompanied Mr. Perley in his examinations of the fisheries and natural history of the British North American Colonies, have been constantly with him in the performance of the duties of the Fishery Commission, have met all the different United States' Commissioners, and taken part in the various discussions consequent on the decision of the questions at issue between them and Her Majesty's Commissioner, and I would now respectfully ask that your Lordship will allow me to close the business of the Commission already so nearly completed.

I ask this, knowing from the correspondence which has passed through my hands that there is an earnest desire to close the business of the Commission, and feeling that if any one, a stranger to what had been done, was deputed to perform that work great delay would ensue.

6. As I have always received the allowance paid for my services through the late Commissioner, I beg respectfully to ask how in future, if it is your Lordship's pleasure, I may receive that allowance.

I have, &c.
(Signed) GEO. H. PERLEY,
Secretary and Surveyor to Commission.

Inclosure 1 in No. 134.

Commander Thrupp to Vice-Admiral Sir A. Milne.

Sir,

"Desperate," August 22, 1862.

THE melancholy event which has taken place (namely, the death of the Honourable Mr. M. H. Perley, Her Majesty's Fishery Commissioner) on board Her Majesty's ship "Desperate," having quite prevented my carrying out the orders received from you, I thought it incumbent with my duty to write this special letter reporting the same.

When leaving St. John's, Newfoundland, Mr. Perley complained of being very unwell, and seldom left his cabin, sometimes improving, and then again having a relapse, all the time struggling with the disease, and endeavouring to perform the duty he was sent on.

So he continued until the 13th of August, when both Dr. Saunders and Dr. Johnstone considering that he was in danger, and consulting his son Mr. George Perley and myself, we thought it advisable that the "Desperate" should leave at once for Shediac, being within four hours of his home, and endeavour to get him home alive.

After leaving Red Bay on the morning of the 14th, I informed him of my intention to take him home; he then appeared quite satisfied, and said, "Do whatever you please with me."

In the afternoon, Dr. Saunders was of opinion that a favourable change had taken place; shortly afterwards Mr. Perley requested to see me, and expressed his regret at our determination to take him home now that he felt so very much better; he begged that I would turn back, as he felt strong enough to return to his duty; he stated that politically he would be ruined if he did not this season complete his surveys and visits to the different bays and fishing-stations. So urgent was he, that I turned back to Forteau Bay, after taking the opinion of his son Mr. George Perley and the medical men. It all came to the conclusion that to carry out the Commissioner's wishes would best tend to his improvement in health.

From that time he rallied considerably, and on the morning of the 16th of August breakfasted with me; during the afternoon, sat on deck in a chair and fished for cod, but in the evening he became worse, and insensible on Sunday morning; in which state he remained until he breathed his last at 5.58 P.M. of that day, the 17th of August.

The funeral took place on Tuesday morning the 19th of August, and the next day, after finishing carving a head-stone, we left Forteau for the anchorage of Shediac.

Inclosing, Sir, the medical Report of Dr. Saunders, I have, &c.

(Signed) ARTHUR T. THRUPP.

Inclosure 2 in No. 134.

Mr. Perley to Mr. Hamlin.

Sir,

St. John, New Brunswick, November 23, 1861.

I HAVE the honour to acknowledge your letter of the 25th ultimo, informing me that you were prepared to mark the mouths of all rivers as well on the coasts of the United States as on those of the British Provinces of North America not already marked, and inviting me to meet you for that purpose.

The rivers south of New York which are stated in the list furnished me, I have not yet examined; I have waited hitherto with the hope that the progress of public events would permit me to do so with propriety before this year closed, but I now perceive that such is not likely to be the case.

During the past season I have visited and examined a number of rivers on the southern and eastern coasts of Newfoundland, but these I should be unwilling to mark until I had seen the whole of the rivers of that island, in order that, from their peculiar character, they might be marked with uniformity on one general principle.

I have made preliminary arrangements for visiting Newfoundland and the Labrador Coast as early as possible next season, after which I shall be prepared to meet you and mark the whole of the rivers in Newfoundland, as also all those not yet marked on the north shore of the Gulf of St. Lawrence from Point des Monts to and through the Straits of Belle Isle, as far north as Nain, on the Coast of Labrador.

I have, &c.
(Signed) M. H. PERLEY.

No. 135.

Mr. Gray to Earl Russell.—(Received September 29.)

My Lord,

St. John, New Brunswick, September 15, 1862.

BY the present or the preceding mail your Lordship will, I presume, have received official intelligence of the death of Mr. Perley, Her Majesty's Commissioner for the British North American fisheries, under the Treaty of Washington. Should it be the intention of Her Majesty's Government to appoint any person to complete that portion of the work Mr. Perley's unexpected death may have left unfinished, I would respectfully ask your Lordship to permit me to be considered an applicant for the situation. I doubt, my Lord, whether any one can discharge its duties as efficiently as Mr. Perley did, but my previous acquaintance with this Treaty, having already in one capacity acted under it, may, perhaps, give me an advantage others may not yet possess.

Of the mode in which I acted on that occasion your Lordship, in a letter addressed to me of the 7th July, 1860, was pleased to say, "that upon a careful and dispassionate consideration of all the papers, Her Majesty's Government are of opinion that you have amply vindicated yourself from the charge of partiality, and that they entirely recognize the ability as well as the fair and impartial spirit which you have shown in these transactions."

I have since, my Lord, been engaged on the Commission to inquire into the land disputes of Prince Edward Island, for which his Grace the Duke of Newcastle has pleased to select me. The Report and Award in which case were delivered to Her Majesty's Government in August 1861.

If your Lordship should be pleased on the present occasion to select me for so important a duty, I should endeavour, as Commissioner under the Treaty of Washington, to exercise the judgment, firmness, and discretion which are so essentially requisite in dealing with the authorities of the United States.

I have, &c.
(Signed) JOHN HAMILTON GRAY.

No. 136.

Mr. Archibald to Earl Russell.—(Received September 29.)

My Lord,

13, Palace Garden Villas, Kensington, September 25, 1862.

I RESPECTFULLY solicit the appointment of Commissioner under the Reciprocity Treaty (5th June, 1854), vacant by the death of the late Commissioner, M. H. Perley, Esq.

The position which my family has long held in North America is already known to your Lordship, and the testimonials which I have herewith the honour to present will, I trust, assure your Lordship of my personal fitness and ability to undertake the duties of the office.

I have, &c.
(Signed) C. D. ARCHIBALD

No. 137.

*Mr. Archibald to Mr. Bergne.*My dear Sir, 13, *Palace Garden Villas, Kensington, October 6, 1862.*

I HAVE not thought it right or necessary to ask any one of my friends to speak or write to Earl Russell in support of my application for the appointment of Commissioner under the Reciprocity Treaty. My testimonials will, I hope, show that my nomination would be acceptable to the people of Canada and the other Provinces, and I have the advantage of being favourably known to leading men of all parties and opinions in the United States, including the President of the Confederate States. In evidence of this I beg to hand you a few additional testimonials.

I felt it due to Lord Lyons to acquaint him of my intention to apply for the appointment.

I remain, &c.
(Signed) C. D. ARCHIBALD.

No. 138.

*Mr. Elliot to Mr. Hammond.—(Received October 1.)*Sir, *Downing Street, September 30, 1862.*

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, a copy of a letter, with inclosures, from Mr. John Kent (who was associated with Commodore Dunlop on the Newfoundland Fishery Commission in 1859), applying for the office of British Commissioner under the Reciprocity Treaty with the United States in the place of Mr. Perley.

His Grace desires me to state that he is unable to recommend Mr. Kent for this appointment.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure in No. 138.

*Mr. Kent to Mr. Merivale.*Sir, *St. John's, Newfoundland, September 4, 1862.*

I OBTRUDE myself on your attention to say that accounts have reached this place of the death of Mr. Perley, British Commissioner, under the Reciprocity Treaty with the United States. Mr. Perley died at Forteau, on the coast of Labrador. Should an appointment be made to fill the vacancy occasioned by Mr. Perley's death, I beg to offer my services. I venture to do so under the impression that, as Joint Commissioner with Commodore Dunlop, in a somewhat analagous office, that of Commissioner to take evidence and report on the operation of the Treaties affecting the respective rights of British and French fishermen on the coast of Newfoundland, I afforded to Her Majesty's Government every satisfaction. I consider myself justified in saying so, by the fact that when my services were no longer required his Grace the Duke of Newcastle, through the medium of his Excellency Sir Alexander Bannerman, returned me thanks for my services. My personal bearing during the progress of the mission alluded to I now wish to illustrate by craving your reference to the documentary evidence inclosed and referred to.

1st. Earl Carnarvon's letter when receiving my appointment;
2nd. The Report of Captain Dunlop in the Colonial Office; and,
3rd. Two private letters from the Marquis de Montagnac and the Count de Gobineau, demonstrative of their feelings towards me after our official separation.

I have, &c.
(Signed) JOHN KENT.

No. 139.

Mr. Hamilton to Mr. Hammond.—(Received October 1.)

Sir,

Treasury Chambers, September 30, 1862.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to transmit herewith a letter from the Admiralty, dated 23rd instant, requesting that the sum of 15*l.* 9*s.* may be transferred to the credit of naval funds, as the amount to which Commander Ross is entitled as compensation, on account of expenses incurred in the entertainment, on board Her Majesty's ship "Desperact," of Commissioner Perley, from 15th to 29th July last.

I am to request that you will return the inclosed letter, with any observations which Earl Russell may wish to make in reference to this claim.

I am further to request that you will observe to the Secretary of State, that although it is stated in the Admiralty letter that Earl Russell, by his letter of the 6th instant, has signified his opinion that the expense should be borne by the public, there is no indication of the locality in which the service was performed, nor is the name of the individual sufficiently clearly defined, to afford a guide as to his identity, or the character of his public functions.

I am to add that the imperfect information given in the Admiralty return makes it necessary that Mr. Lowe should have recourse to the Foreign Office for corroboration and explanation.

I am, &c.
(Signed) GEO. A. HAMILTON.

No. 140.

Mr. Hammond to Mr. Hamilton.

Sir,

Foreign Office, October 1, 1862.

IN reply to your letter of the 30th ultimo, I am directed by Earl Russell to request that you will state to the Lords Commissioners of the Treasury, that Mr. Perley, the gentleman entertained on board Her Majesty's ship "Desperate," between the 15th and 29th of July last, was the British Commissioner for the demarcation of the limits of the North American Fisheries, under the Treaty between this country and the United States of the 5th of June, 1854, and was employed at the time specified in carrying out the duties of the Commission. Mr. Perley is since deceased.

The inclosure in your letter is returned herewith.

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

No. 141.

Mr. Elliot to Mr. Hammond.—(Received October 2.)

Sir,

Downing Street, October 2, 1862.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the consideration of Earl Russell, the inclosed applications from Mr. Charles Watters, a Member of the Executive Council, and Solicitor-General of New Brunswick, and from Mr. R. D. Wilmot, formerly a Member of the Executive Council and Provincial Secretary of that Province, applying for the appointment of Her Majesty's Commissioner of Fisheries for North America, vacant by the death of Mr. M. H. Perley.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 141.

Mr. Watters to the Duke of Newcastle.

My Lord Duke,

St. John, New Brunswick, September 8, 1862.

I BEG most respectfully to solicit from your Grace the appointment to the office of Her Majesty's Commissioner for settling the rights of fishermen on the shores of North America, vacant by the demise of Moses H. Perley, Esquire.

I also desire very respectfully to assure your Grace that my appointment by your Grace would be gratifying to every Member of Her Majesty's Executive Government of this Province.

I have, &c.

(Signed) CHARLES WATTERS,
*Member for the City of St. John, Member of the Executive,
and Solicitor-General for New Brunswick.*

Inclosure 2 in No. 141.

Mr. Wilmot to Earl Russell.

My Lord,

Belmont, Sunbury, New Brunswick, September 12, 1862.

IN consequence of the lamented death of Moses H. Perley, Esq., late Her Majesty's Commissioner for the North American Fisheries, under the Reciprocity Treaty with the United States of America, a vacancy has occurred in that office. Should Her Majesty's Government decide upon filling that vacancy by appointing a Colonial subject, I most respectfully request that my name may be submitted to Her Majesty as an applicant for it.

If the performance of public duties can be considered a ground for making this request, then I beg to say that, until recently, I have for fifteen years been connected with the public business of this Province, having uninterruptedly during that period been a Member of the Legislature for St. John, the chief commercial city of New Brunswick, and have filled at different times the offices of Mayor of St. John's, Surveyor-General of the Crown Lands and Fisheries of the Province, and Provincial Secretary—the two latter offices I held in connection with a seat in the Executive Council with Sir Edmund Head, when Governor of this Province, and also with Mr. Manners-Sutton, the late Governor; to both of these gentlemen I beg respectfully to refer, as to my capability for performing my official duties.

I have been intimately acquainted and connected with the trade, fisheries, and resources of the Province, and have had extensive intercourse and business communication with the United States.

I am, &c.

(Signed) ROBT. D. WILMOT.

No. 142.

Mr. Elliot to Mr. Hammond.—(Received October 2.)

Sir,

Downing Street, October 2, 1862.

I AM directed by the Secretary of State to transmit to you, for the information of Earl Russell, a copy of a despatch from the Acting Lieutenant-Governor of New Brunswick, reporting the death of Mr. Perley, Her Majesty's Commissioner under the Reciprocity Treaty with the United States, on the 17th of August last.

I am, &c.

(Signed) T. FREDK. ELLIOT.

Inclosure in No. 142.

Acting Lieutenant-Governor Cole to the Duke of Newcastle.

My Lord Duke;

Fredericton, New Brunswick, September 9, 1862.

I HAVE the honour to inform your Grace that Moses H. Perley, Esq., Her Majesty's Commissioner of Fisheries for North America, died of gastric fever on board Her

Majesty's ship "Desperate," at Forteau, Labrador, on the 17th of August last, when engaged in the performance of his duties on that coast.

I have, &c.
(Signed) JOHN A. COLE.

No. 143.

Mr. Hammond to the Secretary to the Admiralty.

Sir, *Foreign Office, October 10, 1862.*
I AM directed by Earl Russell to state to you, for the information of the Lords Commissioners of the Admiralty, that his Lordship is of opinion that the cost of the entertainment of Mr. M. H. Perley, on board Her Majesty's ship "Desperate," on the occasion, and between the dates, mentioned in your letter of the 7th instant, should be borne by the public.

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

No. 144.

Mr. Elliot to Mr. Hammond.—(Received October 23.)

Sir, *Downing Street, October 22, 1862.*
I AM directed by the Secretary of State for the Colonies to transmit to you, for the consideration of Earl Russell, the inclosed copy of a despatch from the Governor of Newfoundland, forwarding an application from Mr. Matthew H. Warren to be appointed Fishery Commissioner, under the Reciprocity Treaty with the United States, in the place of the late Mr. Perley.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 144.

Governor Sir A. Bannerman to the Duke of Newcastle.

My Lord Duke, *Government House, Newfoundland, October 6, 1862.*
I HAVE been requested to forward the inclosed application from Mr. Matthew H. Warren to be appointed Fishery Commissioner in the room of the late Mr. Perley.

I have informed the applicant that I would accede to his request, but very much doubted whether the vacancy occasioned by Mr. Perley's death would be filled up, as the Convention under which he acted would terminate in two years, and might not be again renewed.

Mr. Warren was, as he says, appointed by the Colonial Government to protect the fisheries several years ago, and he may again be employed by the Colony on the same service, as I believe he is well informed on the subject of the fisheries.

I have, &c.
(Signed) A. BANNERMAN.

Inclosure 2 in No. 144.

Mr. Warren to Governor Sir A. Bannerman.

Sir, *St. John's, Newfoundland, October 4, 1862.*
I BEG most respectfully, through you, to offer my services to Her Majesty's Government, as Commissioner of Fisheries for the British North American Provinces, that office having been lately made vacant by the decease of Moses H. Perley, Esq., the late Commissioner.

The grounds upon which I make this application are, past services in this Department under commission from this Colony, and a long and intimate connection and acquaintance with the fisheries and coasts both of Newfoundland and Labrador.

As long ago as 1840, and during the last visit of Captain, now Admiral Milne, to Labrador, my name was mentioned by him in his Report in connection with the trade carried on there by my father, under my agency.

In the year 1853 I was appointed Superintendent of the Fisheries of Newfoundland, and received the thanks of the Governor and the Admiral of the station for what they were pleased to term my efficient performance of that service.

In the course of my connection with the trade and fisheries of Newfoundland and Labrador, I have visited more than 200 harbours on their coasts, and have made the fisheries a subject of special interest and study; several lectures delivered by me in Canada and here upon the fisheries of British North America have been published, and are deemed reliable authority on the matters on which they treat.

Your, &c.

(Signed) MATTHEW H. WARREN.

No. 145.

Mr. Tobin to Earl Russell.—(Received October 15.)

My Lord,

Halifax, Nova Scotia, September 16, 1862.

SINCE I had the honour of addressing your Lordship on the subject of the rumoured appointment of a British Consul at St. Pierre, the office of Commissioner of Fisheries for the coasts of New Brunswick and Nova Scotia has become vacant by the death of Mr. Perley.

My long and intimate acquaintance with the North American Fisheries, having been specially selected as Delegate from the Newfoundland Legislature in the Convention of 1857, as well as practically employed on the Treaty Coasts for some years, with the sanction of the Imperial Government, and appointed to a salary with the consent of the then Colonial Minister, the Earl Grey, previous to the introduction of responsible Government into Newfoundland, by which measure the Legislature undertook to abolish my office, "because the inhabitants of the distant coasts, outside of legislation and civilization, refused to contribute by taxes to the support of the local Government."

I have at all times cheerfully afforded to many Governors of Newfoundland information on the important subjects connected with the fishing interests of England and France, which necessarily require cautious and delicate management; and the special bearings and interpretations of Treaties, affirmed by long practical usage, observable by both nations, have been my study and constant observation for over thirty years.

I can confidently point to the frequent recognition of the ability and accuracy of my acquaintance with the great question of the North American fisheries by Legislatures, Governors, and the community generally; and the late Commissioner Perley more than once submitted points of difficulty to me to aid his future guidance, and gratefully acknowledged the assistance I afforded him.

His Excellency Sir G. Le Marchant, during his command in Newfoundland, specially requested me to supply information to enable his Excellency to reply to official questions from the Right Honourable Viscount Palmerston, then Foreign Minister, on various points of the Newfoundland coast fisheries open to foreign participation. Your Lordship, as Colonial Minister, having submitted my name for Her Majesty's approval, in 1841, as a member of the Executive and Legislative Councils of Newfoundland, is a fair test of long legislative experience.

My respected friend, Lord Herries, has permitted me on a former occasion to make reference to him, and I feel sure both his Lordship and the Lord Fermoy would speak favourably of me. My relative, Dr. Lyons, M.P. for Cork, and many other Parliamentary friends, would, if required, exert themselves in my behalf. The death of the late Sir Robert Newman, Baronet, deprives me of a kind and good advocate with your Lordship.

Confiding in the belief that, on the score of qualification for the office of Commissioner of Fisheries, my application will not meet many competitors with equal competence, I respectfully hope your Lordship may condescend to give to my claim your Lordship's high and favourable consideration.

I have, &c.

(Signed) JAMES TOBIN.

No. 146.

Mr. Haliburton, M.P., to Earl Russell.—(Received November 1.)

My Lord,

Gordon House, Isleworth, October 29, 1862.

I BEG leave to inclose two testimonials, one from Admiral Sir Alexander Milne, and the other from General Doyle, commanding at Halifax, in favour of the application of Mr. R. Haliburton, which I had the honour to forward to your Lordship some time since, for the appointment of Commissioner of the Fisheries, vacant by the death of Mr. Perley, Lord was absent in Canada, or his recommendation would have accompanied the inclosed.

I am in possession of many others sent to me for another object from the Chief Justice and Judges of the Supreme Court, and others of distinction in the Colony, which I should be very glad to be permitted to submit to your Lordship.

I am, &c.

(Signed) T. C. HALIBURTON.

No. 147.

Memorial from Citizens of St. John, New Brunswick.

To the Right Honourable Earl Russell, Her Majesty's Secretary for Foreign Affairs, &c.

The Memorial of the undersigned Citizens of the City of St. John, New Brunswick, British America.

Respectfully sheweth—

THAT the Reciprocity Treaty entered into between Great Britain and the United States of America has been advantageous to Her Majesty's subjects resident in the North American Colonies.

That the Fishery Commission appointed by Her Majesty under the provisions of the said Treaty, to mete out the boundaries of the bays and rivers of the Provinces beyond which fish may be caught by citizens of the United States, has, so far, been one of deep solicitude to the inhabitants thereof, and is considered by them of great importance to the future of British North America.

That the demise of Her Majesty's late Commissioner, M. H. Perley, Esq., on the Coast of Labrador, while in the performance of his duties, creates, in the opinion of your Memorialists, a void in that particular service not easily filled up.

That George Hayward Perley, a son of the late Commissioner, has been in attendance on the Commission since its organization in the capacity of Secretary, has accompanied his father in all his various tours of duty, and consequently is intimately acquainted with all the labours and details connected with that important service.

That the said George Hayward Perley is desirous of being continued in the service of Her Majesty's Government in order to finish and complete the work so far arranged and superintended by his late father.

That your Memorialists would earnestly recommend the said George Hayward Perley to your Lordship's most favourable consideration, in the reconstruction of the Fishery Commission, or in the filling up of the vacancy occasioned by the death of the late Commissioner.

And as in duty bound, your Memorialists will ever pray.

(Signed)

THOS. Mc WILY, Mayor.

(And 31 others.)

No. 147.

The Duke of Newcastle to Earl Russell.

My dear Lord Russell,

Downing Street, December 31, 1862.

EACH time that I have met you I have forgotten to speak to you about the successor to Mr. Perley.

The only other man in Nova Scotia or New Brunswick who could put forward claims to compete with Mr. Howe is Mr. Hamilton Gray, and I certainly think Mr. Howe's position, as a public man, superior.

I thought our Yankee neighbours might owe Howe a grudge on account of the old

enlistment quarrel, and in conversation I mentioned it to him. He wrote me the inclosed in reply.

Howe is still in London, if you have any wish to see him.

I am, &c.
(Signed) NEWCASTLE.

Inclosure in No. 147.

Mr. Howe to the Duke of Newcastle.

My Lord Duke, 10, Sackville Street, December 1, 1862.

REFERRING to our recent conversation, I have thought it due to Lord Russell and your Grace to condense the reasons why our friends the Americans ought not to be consulted about the matter we spoke of, and could not make much of a case even if they were to raise objections.

1. The Commissioner does not reside in this country, and therefore stands in a different relation to them from a Consul or a Minister whom they may dismiss.

2. The independent discharge of the duties requires a person who will sincerely act in the interest of his own country. No such person can be got if the English Commissioner is to hold his office on the sufferance of the American Government.

3. Exception could only be taken to me on one of two grounds, for participation in the Foreign Enlistment policy, or for the expression of my opinions in this country during the Trent excitement. In the first place I did nothing more than I was ordered to do by the Queen's Government, acting through the highest authority in the country; and, to this hour, the Americans have never been able to show that I did an illegal act. For my connection with that policy, as your Grace is already aware, I was a severe sufferer in many ways.

4. Even if they could have fastened illegality upon my proceedings in 1855, they have "condoned" the offence, as lawyers agree in Sir Creswell's Court. Mr. Howe and I spent a fortnight in Washington, in 1857, and were received by the President, and at the houses of most of the leading men on both sides of politics. I have been invited to three public celebrations in Boston since 1855, at one of which I was called upon to return thanks for the Queen's health, and, at another, spoke before the *élite* of New England society. This summer I was invited to attend a great meeting in the State of Maine, to celebrate its settlement by the British, and was asked to speak to a toast highly complementary to the public men of my own Province.

5. If the free expression of my opinions on the Trent affair gave offence, there are but few British Americans who do not share them; and to discourage loyal conduct to please the Americans would hardly be found policy.

6. Mr. Adams ought not to object to me on personal grounds. I was his father's friend, the first to show him respect when he visited Nova Scotia. He dined and spent a day with me, and I afterwards dined with him at Washington, and was introduced by him to all the people best worth knowing at that period.

I have, &c.
(Signed) JOSEPH HOWE.

No. 148.

Mr. Hammond to Messrs. Mc Wily, Mc Grath, and others.

Gentlemen,

Foreign Office, December 12, 1862.

IN reply to your Memorial recommending Mr. G. H. Perley to succeed the late Mr. M. Perley as Her Majesty's Commissioner, under the Treaty between Great Britain and the United States of the 5th of June, 1854, I am directed by Earl Russell to express to you his Lordship's regret that he cannot confer that appointment on Mr. G. H. Perley, another arrangement having been made.

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

No. 149.

*Mr. Hammond to Mr. Kent.**

Sir, *Foreign Office, December 12, 1862.*
 IN reply to your letter addressed to the Duke of Newcastle of the 4th of September, I am directed by Earl Russell to express to you his Lordship's regret that he cannot appoint you to succeed the late Mr. Perley as Her Majesty's Commissioner, under the Treaty between Great Britain and the United States of the 5th of June, 1854, another arrangement having been made for filling that appointment.
 Your testimonials are returned herewith.

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

No. 150.

Mr. Hammond to Mr. Haliburton, M.P.

Sir, *Foreign Office, December 12, 1862.*
 IN reply to your letter of the 29th October, I am directed by Earl Russell to express to you his Lordship's regret that he cannot appoint Mr. R. Haliburton to succeed the late Mr. Perley as Her Majesty's Commissioner, under the Treaty between Great Britain and the United States of the 5th of June, 1854, another arrangement having been made for filling that appointment.

The testimonials inclosed in your letter are returned herewith.

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

No. 151.

Mr. Hammond to Mr. Archibald.†

Sir, *Foreign Office, December 12, 1862.*
 IN reply to your letter of the 25th of September last, I am directed by Earl Russell to express to you his Lordship's regret that he cannot appoint you to succeed the late Mr. Perley as Her Majesty's Commissioner, under the Treaty between Great Britain and the United States of the 5th of June, 1854, another arrangement having been made for filling that appointment.

The testimonials inclosed in your letter are returned herewith.

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

No. 152.

Earl Russell to Mr. Howe.

Sir, *Foreign Office, December 12, 1862.*
 THE appointment of British Commissioner under the 1st and 11th Articles of the Treaty between this country and the United States of the 5th of June, 1854, having become vacant by the death of Mr. Perley, Her Majesty's Government have recommended you to the Queen for that appointment, and I now transmit to you herewith your commission under the Royal Sign-Manual.

I have to instruct you, as soon as you can make arrangements for doing so, to proceed to Washington, and after communicating with Lord Lyons, and having received from him any information or instructions he may have to give you, you will repair to the place where the British portion of the Commission may be established, and enter at once on your duties.

The archives of the Commission which will henceforward be under your charge, will sufficiently inform you as to the nature and object of the duties you are called upon to execute, and you will take up the work of the British Commission from the point at which you find it, and act upon the principles heretofore pursued by your predecessor.

You will keep Her Majesty's Government and Her Majesty's Minister at Washington

* Similar letters were addressed to Mr. C. Watters and Mr. R. D. Wilnot.

† Similar letters were addressed to Mr. J. H. Gray and Mr. J. Tobin.

informed of the progress made by the Commission, and will at all times attend to any instructions which Her Majesty's Minister at Washington may give you.

Your salary will be at the rate of 750*l.* a year, to commence from the date of your departure from this country, and you are authorized to draw in regard of it and of the other expenses of the Commission bills, from time to time, at thirty days' sight, upon Mr. George Lenox Conyngham, the Chief Clerk of this Office.

For all such expenditure, including your own salary, you will as soon as possible after the 31st of December in each year, transmit to this Office an account, supported by vouchers; and as no regular account appears to have been sent in by your predecessor for some years past, you will cause such account to be prepared, as far as possible, from the date of his first undertaking the duties of his office until the time of your assumption of them, and forward it to this Office, with vouchers for the several items of expenditure.

I should also wish to receive from you, as soon as you shall have made yourself sufficiently master of the subject to admit of your doing so, a Report as to the probable length of time during which it will be necessary to keep the Commission open.

I am, &c.
(Signed) RUSSELL.

No. 153.

Mr. Hammond to Mr. G. H. Perley.

Sir, *Foreign Office, December 12, 1862.*
WITH reference to your letter of the 12th of September last, I am directed by Earl Russell to state to you that his Lordship regrets that he cannot appoint you to succeed your late father as Her Majesty's Commissioner under the Treaty between Great Britain and the United States of the 5th of June, 1854, another arrangement having been made.

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

No. 154.

Mr. Hammond to Mr. Warren.

Sir, *Foreign Office, December 12, 1862.*
THE Duke of Newcastle has forwarded to Lord Russell your application for the appointment of Her Majesty's Commissioner under the Treaty between Great Britain and the United States of the 5th of June, 1854, and I am directed by his Lordship to express to you his regret that he cannot confer this appointment upon you, another arrangement having been made.

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

No. 155.

Mr. G. Perley to Mr. Hammond.—(Received March 30.)

(Private.)

Sir, *St. John, New Brunswick, March 16, 1863.*
I TAKE the liberty of writing to you in this manner, being prompted so to do by the very unsatisfactory position in which I am placed with regard to the Fishery Commission; and knowing the many kindnesses which you extended to my late father, I have hopes you will not refuse me a word of advice.

In my despatch of 12th September, 1862, in which I officially announced to the Foreign Office the death of my father, I took occasion to ask in what way I was to receive my allowance in future. Since then I have had no instructions on the subject, and have been compelled to live on my own means.

It is asking, I feel, very much of you, but could you do anything for me, or in any way advise me? for with me it is a matter of great importance.

Trusting you will forgive me for troubling you with my affairs,

Believe me, &c.
(Signed) GEO. H. PERLEY.

Mr. Howe to Earl Russell.—(Received May 26.)

My Lord,

St. John, New Brunswick, May 9, 1863.

REFERRING to the instructions sent to me in December last with my Commission, I have now the honour to report that I have assumed the custody of the archives of the Fishery Commission, which were promptly handed to me by Mr. Perley's son, and have read with care all the correspondence (which is on file) with Her Majesty's Ministers, and with the gentlemen who have from time to time represented the interests of the United States.

From the correspondence, I gather the conviction that there are two points which Her Majesty's Government desire should be steadily kept in view,—that the Commissioners should act in harmony, and that the business should be closed up without unnecessary delay.

I regret it has not yet been in my power to proceed to Washington. The Earl of Mulgrave has written to Lord Lyons explaining the reason of this delay.

My connection with the Government of Nova Scotia will close at the end of this month, when I shall go at once to Washington, and place myself at the disposal of Lord Lyons, and in the meantime shall have made all necessary preparations for the summer's work in the Gulf, should his Lordship have no other commands.

Your Lordship will, I have no doubt, approve of my retaining the services of Mr. George H. Perley. He is familiar with the work, and has an equitable claim to consideration.

I have the honour to inclose copies of the correspondence which has passed between us, and from which it will appear that the financial statement that I was instructed to furnish from the books of the late Commissioner has been asked for, and is in course of preparation.

I shall send a copy of this Report and correspondence to Lord Lyons.

I have, &c.

(Signed) JOSEPH HOWE.

Inclosure 1 in No. 156.

Mr. Howe to Mr. G. Perley.

Sir,

St. John, New Brunswick, May 8, 1863.

HAVING been appointed, by the Queen, on the 12th December last, to the office, left vacant by the death of your late father, of British Commissioner, under the 1st and 2nd Articles of the Treaty between Great Britain and the United States, of the 5th June, 1854, I will be happy to show you my Commission and instructions, and will be prepared to assume the custody of all books, plans, reports, accounts, and papers belonging to the Commission, at such time as it may be convenient for you to hand them over.

You will perceive by a clause in my instructions that I am directed "to cause a regular account to be prepared" of the receipts and expenditures of the Commission from the appointment to the close of the labours of the late Commissioner.

Will you be good enough to furnish such account so far as you can gather materials from the books and papers of the deceased.

Should you desire to continue in the service of the Commission, I shall be very happy to have your co-operation, on the same terms as have been sanctioned, subject, of course, to the approval of Her Majesty's Secretary of State for the Department of Foreign Affairs, and of Her Majesty's Minister at Washington.

I am, &c.

(Signed) JOSEPH HOWE.

Inclosure 2 in No. 156.

Mr. G. Perley to Mr. Howe.

Sir,

St. John, New Brunswick, May 8, 1863.

I HAVE the honour to acknowledge the receipt of your letter of this date and beg to congratulate you on having been honoured by Her Majesty with the appointment to the office of Commissioner under the Treaty of the 5th June 1854.

With this note I send the records and other papers of the Commission, and will immediately wait upon you in person.

The accounts which you inform me your instructions require you to furnish, will take some time to prepare, as the late Commissioner never kept a regular set of books of account, nor entrusted me with aught but the petty items of travelling expenses.

I shall be obliged to search for the information among the private papers of the deceased, to which as one of the administrators of his estate I have free access, and consequently will be obliged to ask you for a few weeks for this purpose.

I thank you very much for the kind manner in which you have offered to continue me in my office of Surveyor to the Commission, and, in accepting, promise you all the assistance which it is in my power to render.

I have, &c.
(Signed) GEO. H. PERLEY.

Inclosure 3 in No. 156.

Mr. Howe to Mr. G. Perley.

Sir, *St. John, New Brunswick, May 9, 1863.*
AS you are familiar with all the details of the service, I will thank you to report to me, with as little delay as possible what work remains to be done in order to complete the labours of the Fishery Commission.

I am, &c.
(Signed) JOSEPH HOWE.

Inclosure 4 in No. 156.

Mr. G. Perley to Mr. Howe.

Sir, *St. John, New Brunswick, May 9, 1863.*
IN answer to your note of this date, desiring me to furnish you with a statement of what work remains to be performed by the Commission, I will quote from the report which I sent to the Foreign Office on my return from Labrador after the death of Mr. Perley.

“At the beginning of this season there remained to be examined and decided upon by the Commissioners under the Treaty the following rivers:—

Northern Rivers, British North America.

- | | |
|----------------|----------------|
| 1. Natashquan. | 4. Penticosti. |
| 2. Agawanus. | 5. Trinity. |
| 3. Nabisippi. | |

“And the rivers on the eastern and western coasts of Newfoundland:—

Southern Rivers, United States of America.

- | | |
|------------------|-------------------|
| 1. Delaware. | 6. Patapoco. |
| 2. Pockahoke. | 9. Severn. |
| 3. Nanticote. | 10. Patuxent. |
| 4. Choptauk. | 11. Potomac. |
| 5. Chester. | 12. Rappahannock. |
| 6. Elk. | 13. York. |
| 7. Susquehannah. | 14. James. |

All the mouths of these rivers remain to be defined by the Commissioners.

The east coast of Newfoundland and part of Labrador were visited last season by the late Commissioner, and I can, if you require, inform you of his opinions when you visit the different localities.

I have, &c.
(Signed) GEO. A. PERLEY.

No. 157.

Earl Russell to Mr. Howe.

(No. 1.)

Sir,

Foreign Office, May 30, 1863.

I HAVE received your despatch of the 9th instant, and I have to signify to you my approval of your retaining Mr. George H. Perley in the service of the Commission.

I am, &c.

(Signed) RUSSELL.

No. 158.

Mr. Howe to Earl Russell.—(Received July 20.)

My Lord,

Halifax, Nova Scotia, July 8, 1863.

I HAVE the honour to report that I left this city for Washington on the 6th June, and having spent four days there and two in Bangor, where my brother Commissioner resides, returned to Halifax on the 27th.

Lord Lyons gave me such instructions as seemed to be required, and treated me very kindly. I met Mr. Seward at the Embassy, and renewed an acquaintance formed some years ago. He presented me to the President, and gave me a letter of introduction to Mr. Hamlin, a copy of which I have the honour to inclose.

Mr. Perley is here, and we shall embark for Newfoundland as soon as Admiral Milne, who has kindly placed a steamer at my disposal, returns from Cape Breton.

I have, &c.

(Signed) JOSEPH HOWE.

Inclosure in No. 158.

Mr. Seward to Mr. Hamlin.

Dear Sir,

Department of State, Washington, June 15, 1863.

THIS letter will be handed to you by Mr. Joseph Howe, of Halifax, Nova Scotia, recently appointed Her Britannic Majesty's Commissioner under the Reciprocity Treaty, and who is now about to enter upon the duties of his office. I take great pleasure in introducing him to your acquaintance, and do not doubt that the duties of the Commission will progress harmoniously under your joint direction.

I am, &c.

(Signed) WM. H. SEWARD.

No. 159.

Mr. Howe to Earl Russell.—(Received October 26.)

My Lord,

Halifax, Nova Scotia, October 14, 1863.

ON my return from Washington Vice-Admiral Sir Alexander Milne kindly consented to place at my disposal, for the summer, one of Her Majesty's ships on this station, so soon as he had one to spare. The troubled state of things along the southern seaboard, and the exigences of the public service, led to some delay, but on the 7th August I got afloat in Her Majesty's corvette "Greyhound," Commander Hickley, and returned here on the 5th instant from an extensive and very satisfactory cruise around the coasts of Newfoundland and Labrador.

As my predecessor, Mr. Perley, died before he could make any Report upon the Bays and Rivers visited in 1862, I thought it proper to take up the work where he had left it, and to continue the examination beyond the point at which his labours had terminated, until driven home by the advance of the season or the want of coal.

Having explained my wishes to Vice-Admiral Milne, and availed myself of his Excellency's general knowledge of the coasts to be visited, instructions were framed which authorized the Commander of the "Greyhound" to touch at certain places considered of most importance, but left him free to limit or extend the cruise, as the course

of the winds, the expediture of fuel, or the discretion of the Commissioner might seem to render most in accordance with the interests of this peculiar service.

As there are no depôts of coal, and none to be purchased, north of St. John's, Newfoundland, we ran down to that place, where every available part of the ship was stowed with fuel.

We found at St. John's Her Majesty's ship "Vesuvius," Captain Hamilton, charged with the general service of protecting the fisheries, and also a French man-of-war, "Le Bertholet," of 1,000 tons, and mounting six guns, which vessel has been for some years on the North American coasts, watching over the interests of the Imperial Government.

I found also at St. John's, the Baron Boileau, French Consul-General for North America, who appeared to be collecting information for his Government, or was charged with some policy which, it is fair to assume, is designed to extend and consolidate the fishing and maritime interests, which the French Government, under all changes of rulers, have fostered in these waters with persistent and undeviating care for nearly three centuries.

I had met Baron Boileau at Quebec in 1861 and 1862, and being on friendly terms with him, and knowing the intimate relations which have for some years subsisted between Her Majesty's Government and that of the Emperor, without attempting to extract any information that he did not seem at liberty to volunteer, I took care to make it clearly understood that the performance of my duties would not in any way interfere with French interests, or raise any question as to the exercise of rights of fishery by Treaty long established. We parted in the most friendly spirit, and I have acted on this policy throughout; for, though I visited several of the principal bays, rivers, and fishing stations along what is called the French Shore, I have taken care, while collecting such information as may hereafter be useful to Her Majesty's Government, to express no opinion, and to stir no controversy which could by possibility create embarrassment.

While at St. John's I was honoured with the confidence of Sir Alexander Bannerman, who I had long known, and his Excellency discussed freely with me whatever seemed to bear upon the service in which I was engaged. I also collected from the public Departments and from every available private source, whatever could be gathered, in print or in manuscript, that could illustrate the topographical aspects, commercial resources, or social condition, of the shores I was about to examine.

As several of the great bays lying east and west of St. John's are connected with that city by practicable roads, local steamers, or other means of communication, and may be visited in fine weather when a man-of-war cannot be spared, I thought it best to leave these behind me, and to make the most of the summer, in visiting the more distant places, which, though of great interest, and the centres of an active fishery, could scarcely be reached or examined without the facilities then happily at my disposal.

On the East Coast of Newfoundland, Gander Bay, the Bay of Exploits, Halls Bay, and Green Bay, were visited, and the necessary information collected to enable me to discuss with the American Commissioner the lines to be adjusted. We also visited on this coast the important centres of Croc and Quirpon, where the French fishery is extensively carried on.

Passing across the Straits of Belle Isle we visited Chateau, Red, Temple, Antelope, Black, and Forteau Bays, and the anchorage of Blanc Sablon, on the coast of Labrador. We then recrossed the strait and ran down the west coast of Newfoundland, examining Bonne Bay, the Bay of Islands, St. George's Bay, Cod Roy, and Port au Basque. The season being now far advanced, and our coal nearly expended, it was necessary under the Admiral's orders to return to Halifax where we arrived on the 5th October.

Though I do not think it necessary to trouble your Lordship with much detail, I beg to assure you that I have been deeply interested in this service. The beauty of the scenery of both Newfoundland and Labrador, far beyond any conception I had formed of it, the struggle for the rich fisheries, between Her Majesty's British and Colonial subjects, and the citizens of France and of the United States, so intensely active, the volcanic character of the strata of the island, in so many places indicating undeveloped mineral wealth, and the strange expedients to which the resident population of many settlements, thinly scattered, or for so many months chilled by the arctic stream, are driven to sustain life and surround their families with its necessaries, present a field for thoughtful investigation, upon which any rational student of his fellow-men, or of his country's interests, would gladly enter.

To these subjects I shall give my leisure hours, and hope by-and-by to so master them as to be able to furnish Her Majesty's Government with a complete view of the North American fisheries, and with some suggestions for the improvement of the condition of the resident population along the shores where they are carried on.

In the meantime I shall discuss with Mr. Hamlin the immediate business to be disposed of, and hope from the experience gathered this season, that we shall be enabled to make in the next, very satisfactory progress in the work which remains to be done.

I shall report again to your Lordship after I have seen Mr. Hamlin, and will forward at its close the accounts for the year.

I have, &c.
(Signed) JOSEPH HOWE.

No. 160.

Mr. Howe to Mr. Hammond.—(Received November 13.)

(Private.)

My dear Sir,

Halifax, Nova Scotia, October 15, 1863.

BY this mail I have forwarded to Earl Russell a general Report of my proceedings during the summer visitation of the coasts of Newfoundland and Labrador. I could have made it more full, but was afraid to make it tedious. I shall be glad to have a hint should I have erred on this subject.

Having received, by your despatch of the 30th May, Earl Russell's confirmation of Mr. George H. Perley's appointment as Surveyor and Secretary to the Commission, I drew upon Mr. Conyngham on the 9th of August (Mr. Perley having been appointed on the 9th of May) for his quarter's salary. The draft has been returned, and I have paid it with the expenses. I am at a loss to account for this, having no letter, but I suppose there may be some error in point of form.

As another quarter's salary will soon be due, and as I assume that Mr. Perley is to be paid out of the general fund for disbursements, I shall draw upon Mr. Conyngham for an additional 300*l.*, which will, I trust, be sufficient for all purposes until the close of the year. I hope to be able to keep the expenses of the Commission within two-thirds of the amount ordinarily expended.

I have referred Mr. Conyngham to you, and will be much obliged if you will put these small matters all right.

If I can be of any service to the Department on this side of the Atlantic, freely command me, and believe me, &c.

(Signed) JOSEPH HOWE.

No. 161.

Mr. Hammond to Mr. Howe.

(Private.)

Dear Sir,

Foreign Office, November 21, 1863.

I HAVE made inquiries about the bill to which you allude in your letter of the 16th of October, and I learn that acceptance of it was refused, because, being dated the 9th of August, it was presented for acceptance on the 4th of August, an irregularity which necessarily caused its refusal.

Very faithfully, &c.
(Signed) E. HAMMOND.

No. 162.

Mr. Howe to Mr. Hammond.—(Received February 16.)

(Private.)

My dear Sir,

Astor House, New York, February 2, 1864.

I HAVE been on to Philadelphia to meet my brother Commissioner, Mr. Hamlin. I will send you an official communication, on my return to Halifax, with an account current for the year.

You are, no doubt, aware that a motion has been made in Congress to induce the Government of the United States to give to Her Majesty's Government the notice required to terminate the Reciprocity Treaty. The advantages of the Treaty to both countries are so obvious that it can only be imperilled by class interests operating upon this Government, or by a desire to retaliate by commercial restrictions for our want of active sympathy and assistance in this deplorable war.

As much ignorance prevails as to the general scope and bearing of the Treaty, I have thought it my duty to endeavour to throw some light on its origin and operation. I send inclosed the first of a series of short letters addressed to the editor of the New York "Albion," with his prefatory observations, and will forward by the next mail two other numbers.

Will you be good enough to show these to Lord Russell, and let me know if his Lordship sees any objection to my discussing this, or any other subject in which British interests are concerned, in a spirit of moderation which can give no offence.

I wrote to Lord Lyons yesterday, and will, of course, do nothing of which his Lordship does not approve; but, knowing how much you are all pressed and overworked with all sorts of questions, I would gladly aid you if I could when anything is to be dealt with that I understand.

Be good enough to favour me with ten lines of advice on this subject, addressed to Halifax, and oblige yours, &c.

(Signed) JOSEPH HOWE.

Inclosure in No. 162.

Extract from the "Albion."

THE RECIPROCITY TREATY.—While we were considering how it were best to follow up our remarks of last Saturday upon the foolish proposal to rescind the mutually advantageous compact between the United States and British North America which is widely known by the above title, the doubt was admirably solved by a correspondent. That the writer in question is extremely well informed on the topic that he discusses will be found manifest in his communication, whereof the first instalment appears in another part of this day's "Albion;" and we deem it only necessary to add that his position and opportunities for forming a correct judgment are within our personal knowledge. Furthermore, it may be added that, to address arguments and statements to Colonial readers, who are content with the actual state of commercial intercourse, would be a work of supererogation. It is, therefore, to influential and deeply-interested Americans that we should fain commend these reasonings and appeals. If they suffer themselves to be biassed in a matter of so much moment by feelings of international pique—no matter how well or how ill founded—they will be adopting a very suicidal policy, the consequences of which will, in no small measure, recoil upon their country. On this special point it has been justly observed in several quarters, that while anti-British prejudices obtain largely in France, and are unceasingly revived by the political occurrences of the hour, the French Government were not so insane, on a recent occasion, as to deprive its people of the practical benefits resulting from the Treaty negotiated by Mr. Cobden.

In the present number, the immense profit accruing to this Republic from the existing condition of the North Atlantic fisheries is mainly touched upon. This point will be followed up by citations proving that all has not been net gain to the Colonists, and that they too have grievances to which they submit for the sake of harmony and the general weal. In the last place, the writer will address himself more particularly to the authorities of the State of Maine, and to those other inconsiderate persons who are advocating a change under the prompting of vague animosity. Again, we commend the theme to the careful and temperate judgment of sober-minded Americans.

THE RECIPROCITY TREATY.

To the Editor of the "Albion."

Sir,

I do not believe that any statesman or financier, who will consider this subject only with reference to the facts disclosed by the official returns of trade and commerce, can decide otherwise than for a renewal of the Treaty. These are so overwhelming and satisfactory, that on a calm and dispassionate review they decide the whole case. But as I am quite aware that stupid prejudices are to be appealed to, beyond the domain of economic science, I propose to touch a few of the arguments that are to be sustained, more by figures of speech than by figures of arithmetic.

In the first place, let it be observed that the Treaty was no hasty measure. It resulted from an exhaustive process of investigation, conducted by able men in both countries for a long series of years. Before it was signed by Mr. Marey and ratified by

the Senate, a volume of statistics, collected by Mr. Andrews under the authority of the Government of the United States, had been laid before Congress, to which anybody interested in the subject can make easy reference now; and if the Treaty is to be abrogated it should only be done, when a similar volume, based upon the past ten years' experience, can be shown to conduct to directly opposite conclusions. I presume that, if the notice given is to be seriously entertained, the information, upon which the fate of the Treaty is to be decided, will be condensed and given to the world in some official form.

But it is sometimes said that the Treaty gave to the Provinces of British North America a disproportioned share of its advantages—whatever these were. This cannot be true; it is certain that some of the Provinces did not think so; and, that in one or two of them, Lord Elgin was much blamed for sacrificing their in-shore fisheries for very insufficient considerations.

Let us look for a moment at this matter of the fisheries. Anybody who will take the trouble to consult the valuable Report, made to Congress some years ago by Lorenzo Sabine, Esq., Secretary of the Board of Trade at Boston, will perceive how largely the desire to enjoy the rich fisheries of the north influenced the policy of the old Thirteen Colonies, and moulded and directed the warlike expeditions which the New Englanders sent to the St. Lawrence, or launched upon the shores of Annapolis or Cape Breton. When Sir William Pepperal led that extraordinary combination of New England mechanics, farmers, and fishermen, which achieved the conquest of Louisburg, they knew well what they were about. They were not fighting for a French walled town, which was of little intrinsic value when they had got it, but for the undisturbed use of the richest fisheries in the world, extending from Hudson's Bay to the Bay of Fundy, embracing ten thousand miles of cloven and indented sea line, with banks larger than European kingdoms, bays and rivers innumerable, and which were annually replenished by a bountiful Creator with whales and seals, and cod, halibut, haddock, pollock, shad, mackarel, herring, and caplin, besides myriads of smaller fish of less commercial value. These were what the New Englanders fought for at that period; and over their interests in these rich fisheries the diplomatists of this country, animated by the spirit of the people, have kept a watchful guardianship ever since the Revolution. Daniel Webster knew what he was talking about, when, at the risk of a war with Great Britain, he declared his intention to protect the people of Gloucester and Cape Cod in the use of these fisheries, "hook and line, bob and sinker." He knew, as we all know now, that the commercial interests of this country, of Maine and New England more especially, rested primarily on the use of these invaluable fisheries.

For nearly three hundred years, the French people have known the value of these great fisheries; and, to their honour be it said, their Governments, through all the vicissitudes and perils of the national life, have stimulated the national industry in this direction. The gloomy fanaticism or luxurious sloth of the earlier Monarchs rarely checked this vast branch of industry. When the streets ran blood under the Directory, or the victorious armies of Bonaparte were trampling down the liberties of Europe, the adventurous fishermen of Biscay and Brittany launched their barks as spring came round, and, leaving the distractions of Europe behind, proceeded to the shores of Cape Breton and Newfoundland. Occasionally a great Monarch or a great Minister arose, and when that happened still greater attention was bestowed on this popular branch of national employment. Until the final fall of Quebec and Louisburg, there is no doubt the French Government cherished the hope that, by crushing the old Thirteen Provinces, it would ultimately control the great fisheries of the north. When Canada was lost, it would not have been surprising had the French fishermen been withdrawn. But they were not. French diplomacy still struggled for a footing upon the sea coast, after all hope of retaining the magnificent territory behind had been abandoned. Getting possession of the small and barren islands of St. Pierre and Miquelon, and stipulating for certain joint rights of fishery on the western shores of Newfoundland, France has steadily acted upon the determination to raise up a mercantile marine, and the nucleus of a naval power, on the banks and seacoasts of North America. Stimulated by high bounties, the French fishermen for three-quarters of a century have resorted to these fisheries, annually gathering experience, and becoming more numerous, and passing without a murmur, whenever their services were required, into the national ships. People wonder how it is that France has become a great naval Power. England's naval reserve is husbanded around the shores of the British islands—that of France is to be seen in the great fisheries of North America. Perhaps at no time has this nursery for seamen been watched with deeper interest and cherished with greater care than under the vigorous administration of the present Emperor. St. Pierre and Miquelon have become busy hives of industry. National vessels are kept all the summer upon the coast, and visit every

harbour where they may be required to give countenance or protection; and I am quite within the mark when I assert that, whenever the Emperor may chance to be involved in a great war, he can readily draw into his navy 10,000 hardy seamen from the fisheries of the north.

At the close of the American revolutionary war, the Government of this country drove into exile a vast body of Loyalists, who, adhering to the British Crown, or refusing to take up arms against it, were expatriated and lost their property by confiscation. A generous Act of Amnesty would have retained or turned back again the great mass of these people, whose only crime was a conscientious difference of opinion. Had the Yorkists driven out all the Lancastrians, or the Independents banished all the adherents of Charles, they would have done what the Republic did in 1783, and England would have lost, as it did—besides the blood shed in the civil war—a large part of its population, with the increase of wealth and numbers in all time to come. But the act was done, and cannot be recalled. A good many of these Loyalists returned to England. Some entered the British army and navy, and won high distinctions. A good many sank into despondency, and died of broken hearts. Thousands of the more vigorous and energetic threw themselves into the Northern Provinces at a time when their sparse and disjointed settlements were without leaders, with but little decided political sentiment, and very imperfect municipal or administrative organization. The Loyalist emigration supplied, just at the critical moment, what all these provinces wanted—decided opinion, energetic leadership, and resolute pioneers of industry, accustomed to all its forms of development in a new country.

The results are before us. There are five noble Provinces on the Atlantic seaboard, Canada, Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland—with a population of 4,000,000, with organized Civil Governments as free as any upon the globe, with a mercantile marine that excites our special wonder, with educational institutions which, if not as perfect as some are, command our sincere respect, with elegant and refined society in all the large towns, which does not unfavourably compare with the most exclusive circles of Boston or New York. Around the shores which front, or the harbours that inclose these great North American fisheries, these people, and the British emigrants whose industry they control and guide, have spread and are rapidly spreading. Their lines of occupation extend from the Moravian Settlement on the coast of Labrador to Quebec, and from Quebec all round Lower Canada, New Brunswick, and Nova Scotia to the St. Croix, including the Magdalens and the great Islands of Anticosti, Prince Edward, and Newfoundland. By their occupancy, these people have acquired certain territorial rights over these great fisheries, which they enjoyed exclusively down to 1854. These rights, secured to them by Treaty and by the general provisions of national law, Americans never attempted to dispute, though they sought to evade them, and under various pretexts were continually trespassing upon the in-shore fisheries. Then men-of-war were sent to guard these territorial rights, and cutters were employed by the Colonial Governments to protect their revenues. Then came seizures and collisions. United States' fishermen were captured or driven off; and national vessels had to be sent down, "to ask the reason why?" And then came spicy diplomatic notes, and strong probabilities of a dead lock or of a war: and then, good sense and moderate counsels prevailed; and Lord Elgin and Mr. Marcy got together, and the Reciprocity Treaty was signed.

Peace, and a mutual participation in common blessings designed by the great Creator for the use of all, have for ten years resulted from that Treaty. Then why disturb it? It is difficult to answer; but those who desire to disturb it must remember that, when it is disturbed, the 4,000,000 of British Americans will fall back upon their territorial rights, and that in addition to the complications, numerous enough, which the American Government has now upon its hands, it will be called to reassume those, from which there seemed to shrewd statesmen to be no outlet in 1854—but by the Reciprocity Treaty.

SYDNEY.

No. 163.

Mr. Howe to Mr. Hammond.—(Received March 4.)

(Private.)

My dear Sir,

Revere House, Boston, February 16, 1864.

I WROTE to you from New York by last mail. Inclosed you will find the other two letters of the series on the Reciprocity Treaty. If Earl Russell has time to read them I trust they will not be disapproved.

I shall spend a fortnight here collecting information which may be useful. If my

services can be turned to account in any way in the winter months, freely command me, and believe me, &c.

Believe me, &c.
(Signed) JOSEPH HOWE.

Inclosure in No. 163.

THE RECIPROCITY TREATY.—No. 2.

To the Editor of the "Albion."

Sir,

BUT it is said that in the commercial arrangements the British Provinces have secured very decided advantages, for which the people of the United States have obtained no corresponding equivalents. Not only is this not the case, but the very reverse of this proposition can be easily proved.

The free navigation of the great rivers of British America has been secured, by Treaty, to the citizens of the United States. Their great rivers are closed against the Colonists.

They can register steamers and sailing-vessels, built in this country, in all the Colonial ports; and though fair reciprocity in this respect has been claimed by the provincials, the privilege has never been granted. At this moment hundreds of American ships are sailing with British registers, and thus escape heavy war insurance risks, and are secure upon the sea from visitation and destruction by Confederate cruisers.

American vessels freely participate in the advantages of British and Colonial coasting trade. But the coasting trade of these United States has been secured, with wise or unwise jealousy, to their own ships and mariners.

Here are three grounds of very just complaint to the Colonists, on either or all of which they would be justified in demanding more liberal relaxations. The British Government would have a fair case, if the demand were made; and, if refused, Americans could not complain if notice to abandon the Reciprocity Treaty were given.

But the British Americans have another fair ground of complaint, to which some weight attaches in the consideration of this subject. By the Reciprocity Treaty it was arranged that twenty-four leading articles, the produce of the tilled soil, the forest, and the mine, in an unmanufactured state, should be freely exchanged between the two countries. Let it be borne in mind that this was all that the Colonists obtained. The United States got the coasting trade, the registry of their ships, the free navigation of rivers and canals, and the in-shore fisheries in addition. They have used and enjoyed all that they got, for the whole ten years, freely and without interruption. For nearly three years, or during the whole continuance of the Civil War, the Colonists have been deprived of nearly one half the privileges for which Lord Elgin stipulated. From the Potomac to the Rio Grande this Republic has maintained a rigorous blockade. It has freely enjoyed, with the whole British Empire, all the rights secured to it by Treaty, and yet has excluded British ships from all its southern seaports, and has denied to the Provincials the consumption of their staples by several millions of its population.

But, it has been said, that the Republic ought to revoke the Treaty, because, during the Civil War, the British Americans have sympathized with the South. On this subject, a good deal of stupid misapprehension prevails in this country. It is time that it was corrected.

For seventy years, since the Loyalists were driven out, the people of British America have lived and thriven beside this country in peace and good neighbourhood; and no man can trace to them any attempt to trespass on its soil or interfere with its institutions. When it marched armies into Canada, and fitted out men-of-war and privateers to cut off their commerce, from 1812 to 1815, they fought bravely by land and sea. At Chateaugay and Lundy's Lane, at Bloody Creek and Queenstown, these United States learnt how another free people, no less attached to their own Government and defending their own soil, could fight. The maritime Provinces took their share of the hazards of war, on their own peculiar element. There were no more active or more gallantly fought privateers, than those fitted out from Halifax and Liverpool, Nova Scotia. The first frigate lost by the States was taken into his native port by a Nova Scotian; and Admirals Philip and George Westphall, both Nova Scotians, were distinguished by gallantry and seamanship in many of the most hardy enterprises conducted against the river towns and sea-coasts of this country. What then? They were honourable foes, engaged in lawful war; and when the war was over, the Colonists resumed their peaceful

occupations, and never showed themselves other than good neighbours on land or sea. Scarcely a year goes by, in which the President does not present a telescope or a pecuniary reward to some Colonial sea-captain for bravery and humanity in rescuing American shipwrecked mariners; and of the thousands of Americans, who ramble for health or pleasure through the British Provinces, what family, properly introduced, has ever had to complain of a want of hospitality or courtesy either?

It might be hinted, if the point were pushed to extremes, that the Republic itself has not always acted a neighbourly part. Since the commencement of the present Civil War, not a British American has crossed the frontier, in arms, to aid the "rebels." When a conspiracy is hatched in Canada by Southern refugees, it is promptly suppressed by the authorities. When the "Chesapeake" is taken into Halifax, her captors are declared pirates by the highest judicial authority. On the other hand, when one of the British Provinces was disturbed by insurrections of no great moment, in 1838 and 1839, how different was the conduct! Americans threw armed sympathizers across the frontier, and actively engaged in a quarrel with which they had nothing to do. They only desisted when it became evident that the Colonists would retaliate and bring on an international war.

With the civil war of this country the British Colonist, as I have already stated, have, as communities, never interfered. Hundreds, I believe thousands, of adventurous young men from the Provinces are to be found in the armies of the United States. They have fought, and bled, and died in all the great battles. I do not believe that there are a dozen in the armies of the Southern Confederacy. When the war commenced, there was no exultation across the Border. A feeling of deep sorrow pervaded all circles in the Provinces, fitly expressed by this resolution, moved by the leader of the Government in Nova Scotia, seconded by the leader of the Opposition, and adopted by unanimous vote:—

Resolved,—That the House of Assembly of Nova Scotia have heard, with deep sorrow and regret, of the outbreak of civil war among their friends and neighbours in the United States. That this House, without expressing any opinion upon the points in controversy between the contending parties, sincerely lament that those who speak their language and share their civilization should be shedding each others' blood, and desire to offer up their fervent prayers to the Father of the universe for the speedy restoration of peace."

The people and press of this country are to blame for any change of feeling or of sentiment which subsequently took place in the British Provinces. The outbreak of feeling, which here followed the Queen's needful Proclamation of neutrality, very naturally provoked some indignation there; and this was heightened by the attack on the "Trent," and by all the bluster which preceded and followed that unfortunate violation of international law. The British colonists would be something more or less than men, if they did not resent the threats to "whip" England and invade and conquer their country, which were for months flung across the frontier in American sensational newspapers. But they have borne all these provocations to unfriendly feeling with infinite good humour. They have preserved the neutrality enjoined by the Queen's Proclamation with good faith and wise circumspection. They have not complained of American violations of their rights under the Reciprocity Treaty, which resulted inevitably from the civil war. To what, then, can this country object, unless it be as unreasonable as the wolf, who complained that the waters were troubled by the lamb lower down the stream—unless it desires to seek for pretexts, why an act, not just or right in itself, should be done in a fit of ill-temper?

SYDNEY.

THE RECIPROCITY TREATY.—No. 3.

To the Editor of the "Albion."

Sir,

THE Governor of Maine has discovered a novel reason for opposition to the Treaty. "The British Americans were formerly so fond of this country," he says, "that they desired to be annexed to it—the current of feeling now runs all the other way. We should cease to trade with these people on fair terms, in order to compel them to adopt our political institution, or to punish them for preferring their own." This is the Governor's argument in plain English, if I understand it.

Now, in the first place, let it be remembered that the Provinces preserved their attachment to British institutions through the whole course of the revolutionary war,

and the war of 1812-15, in spite of endeavours to coerce them by arms, and by embargoes, and non-intercourse arrangements as stringent as they could be made. Tom Hood somewhere humorously denies the policy of knocking a man's eye out, in order to convince his judgment or secure his affections. It is scarcely needful to resort to exploded theories which our own experience condemns.

It is true that, during the ten years when the British Americans were working out that peaceful revolution by which they secured self-government, some persons, doubting the magnanimity and wisdom of the mother-country, looked to annexation to the United States as the only practicable remedy for grievances which all acknowledged to exist; but this feeling was confined to a very small number of persons in all the Provinces—in some of them it hardly seemed to prevail, and rarely found expression. Yet—whatever may have been felt or said in moments of despondency or political excitement—when the British Government generously came forward and conferred upon the Provinces constitutions as free as that of England, nobody thought of seeking for annexation as the remedy for grievances which no longer existed. Having by peaceful agitation secured all that was gained here by a bloody revolution and eight years of civil war, there was nothing to check the natural flow of feeling; and the British Americans are now as loyal to the mother-country as the revolted Americans would have been had self-government been conferred upon them a week after the first fight at Concord. The British Americans now appoint all their own officers, raise their own revenues, and manage their own affairs, voting only what they deem necessary as a contribution to national defence. Their surplus revenue is expended in making roads, building railroads, and educating the people. There is not now, in any of the Provinces, a single unsettled question to cause irritation to the parent land. Why should a people who have been thus generously treated desire political separation from the British Islands and annexation to the United States?

There is another reason for the change of feeling upon which the Governor of Maine remarks that he entirely overlooks. Are American institutions as attractive to outsiders now as they were ten or twenty years ago? They who are inside must make the best of them, and improve them as they gather wisdom and experience; but those who are fortunately exempt from the perils by which its people are beset, and the taxes by which they are to be burthened, may well pause before deciding to accept more intimate political relations with this Republic.

The British Americans, having constitutions modelled after that of the mother-country, are never at a loss for precedent and guidance whenever difficulties arise. They have but to open Hatsell or the Journals of Parliament, and the most intricate question is solved by the record. Then they have no Presidential elections; and yet, escaping the quadrennial strife and intrigues by which this country is perplexed from term to term, they have always a strong Executive and personal freedom controlled by only legal powers. They do not elect their Judges, and have Courts that are independent and unsuspected. Their Executive officers are bound to defend their policy and their measures on the floor of Parliament, and the Colonists, as they are called, prefer that system to the one that prevails here. They have no slaves, and have no occasion to face the difficulties of emancipation, and the responsibilities which have shaken this country to its centre. Finally, they are at peace. Is it to be supposed then that, for all the advantages of the Reciprocity Treaty, they would accept a share of this war, with its conscription, its personal suffering, and its pecuniary burthens? When the war ends the United States will be saddled with a National Debt, which, looking to their high rate of interest, will not be much less than that of England. The British Americans pay no portion of the interest on the National Debt of the United Kingdom. Surely, if they do not go mad, they will not volunteer to pay a portion of that which is here incurred.

If, then, the Governor of Maine will review the matter calmly, he will perceive that the state of feeling in the British Provinces underlies, very far down, the Reciprocity Treaty, and would not be very much changed by any act of fiscal folly or diplomatic injustice in the power of the American Government to perpetrate. It is clear, therefore, that the Reciprocity Treaty ought to be discussed upon its own merits—not as a political but an economic question. If politics enter into the discussion at all, Congress ought to take broad Continental views, and measure the duties of the present hour—not by its passions and prejudices, but by the great future, and by the enlightened principles of commercial freedom which form the most solid foundation for mutual respect and fraternity among nations.

The British Americans occupy, and will control, a territory as large as the United States. Starting in the race of improvement more than half a century after these States were populous and wealthy; shackled, for three-fourths of that period, by the old commercial system, and by political institutions which chafed for a long time after they

were outgrown, these people have made a noble country out of a wilderness, in spite of a rigorous climate. Their provinces include all that any people can desire, to sustain national life and commercial activity. Annually, they extend their breadth of cultivation, discover new mines, build ships by hundreds, and enlarge the range of their commercial enterprises. Annually, their capital increases and their cities improve. They are as numerous now, and better off, than were Americans at the Revolution. They double every twenty years; and there will be 20,000,000 inhabitants in those Provinces, before many who read these lines shall have ceased to breathe. Those people are now among America's best customers, and will ever continue to be if they are treated fairly; if their political obligations are honourably respected, and if it be sought only to perpetuate friendly commercial and social intercourse, upon terms of mutual advantage and mutual respect. The relations of the United States with the South are at present sufficiently unsettled; he is no true friend to his country who desires to disturb their relations with the North.

Having, I trust, cleared the consideration of this great subject of much extraneous and foreign matter calculated to mislead the judgment, I am contented to leave the Treaty in the hands of the able statesmen by whom it will be calmly reviewed at Washington, and whose action, I doubt not, will be governed by a logical examination of the statistical returns by which alone its value can be determined.

SYDNEY.

No. 164.

Mr. Hammond to Mr. Howe.

(Private.)

My dear Sir,

Foreign Office, March 11, 1864.

I HAVE received your letters of the 2nd and 16th of February. There is no objection to your publishing letters in support of the Reciprocity Treaty, provided that the spirit of them can give no offence, and that they are written entirely in your private capacity, with no assumption of an official character.

Believe me, &c.
(Signed) E. HAMMOND.

No. 165.

Mr. Howe to Mr. Hammond.—(Received May 7.)

(Private.)

My dear Sir,

Halifax, Nova Scotia, April 13, 1864.

I SEND forward, as instructed, a bundle of accounts inclosed to me by the son of the late Commissioner, with his letter of explanation. I have made no comment upon these papers in my public despatch to Earl Russell, as it would be indelicate for me to offer observations, unless specially instructed so to do, upon financial transactions for which I am in no measure responsible.

I wish to guard the Office, however, from the impression that the past expenditure will be any guide for the future. It would appear that Mr. Perley drew, in a little over seven and a half years, 19,270*l.* sterling, or, on the average, in round numbers, 2,400*l.* sterling per annum. The lowest year, 1855, was 1,730*l.*; and the highest, 1861, 3,450*l.*

In 1863 I drew 1,350*l.*, out of which I had a balance of 179*l.* in hand at the close of the year—the actual outlay being but 1,171*l.*; 540*l.* sterling less than the late Commissioner's lowest year, 1,229*l.* less than his average, and 2,279*l.* less than his charges for 1861.

I do not expect to get through the present year at so low a figure, because there will be a whole year's salary to pay the secretary, and some more travel to charge; but I am quite sure that, providing for everything liberally, the annual expenditure can be kept 700*l.* or 800*l.* under the cost which the Department has been accustomed to pay.

I shall not, unless specially instructed, attempt to send vouchers for travelling expenses, except where vessels have been hired, or where some unusual outlay has been made. As no receipts are given for railway, steamboat, or coach fares, and are never taken for the numerous small expenditures which a traveller is always making, vouchers cannot be furnished for this class of expenditure, and hotel bills I do not suppose the Office care to inspect. I shall endeavour to keep all disbursements within reasonable

compass, charging nothing but what has been expended, and relying with entire confidence on the fairness and liberality of Her Majesty's Government.

Believe me, &c.
(Signed) JOSEPH HOWE.

No. 166.

Mr. Hamilton to Mr. Hammond.—(Received June 30.)

Sir.

Treasury Chambers, June 30, 1864.

WITH reference to your letter of the 10th instant, I am desired by the Lords Commissioners of Her Majesty's Treasury to acquaint you that the Paymaster-General has been directed to issue to Mr. Lenox Conyngham, of your office, the sum of 1,000*l.* on account of the expenses incurred in connection with the Treaty of Washington of 5th June, 1854, relative to Fisheries, Commerce, and Navigation.

My Lords desire me to request that you will move Earl Russell to cause their Lordships to be informed of the probable future expense and duration of this Commission, which has already cost 22,000*l.*

I am, &c.
(Signed) GEO. A. HAMILTON.

No. 167.

Mr. Howe to Earl Russell.—(Received August 16.)

My Lord,

Halifax, Nova Scotia, July 25, 1864.

MY letter of the 14th of October last detailed the operations of the Fishery Commission while afloat in Her Majesty's ship "Greyhound."

In January I met Mr. Hamilton, the United States' Commissioner, at Philadelphia, and discussed with him, generally, the business with which we were charged. We both agreed that it was very desirable, if that were possible, to complete the examination of the Island of Newfoundland this summer, that all the rivers might be marked, and all the questions, arising out of its peculiar configuration and fisheries, might be disposed of in the next autumn and winter.

With this view I addressed a letter to his Excellency Vice-Admiral Hope, on his arrival here in Her Majesty's ship "Duncan," respectfully requesting that, if the exigencies of the public service permitted, the same facilities extended last year might be given to me this summer, and the Vice-Admiral has promptly placed at my disposal Her Majesty's ship "Lily," now daily expected from Bermuda.

I hope to be at sea by the 1st of August, and shall report to your Lordship on my return.

The southern rivers, on the coasts of the United States, lying between the Hudson and the 36th parallel of north latitude, have not yet been disposed of. As the shores of some of these are disturbed by a civil war, and as I wished to ascertain how the information wanted in respect to others could be obtained with the greatest facility and at the least expense.

I spent the month of June in Maryland, New Jersey, Delaware, and Pennsylvania, running on to Washington for a few days, that I might pay my respects to Lord Lyons, and have the benefit of his Lordship's counsel and instructions.

I hope to be able to adjust all questions in relation to this part of the coast in the course of another year.

I have, &c.
(Signed) JOSEPH HOWE.

No. 168.

Mr. Howe to Mr. Hammond.—(Received August 16.)

(Private.)

My dear Sir,

Halifax, Nova Scotia, July 25, 1864.

YOU are aware that the attempts made to disturb the Reciprocity Treaty have been defeated. Though these may be renewed, I am assured by a leading Member of Con-

gress that they can never be successful. The Trade Returns submitted by Mr. Chase, just before he went out of office, bear powerfully upon the argument, and the merchants of New York, startled by what took place last winter, are bestirring themselves to collect and circulate reliable information illustrative of the value of the Treaty.

As a proof that the prejudices sought to be aroused are passing away, it is now proposed, by leading men, representing, I presume, the State of California, to extend the provisions of the Treaty to the Pacific coasts of the two countries.

Believe me, &c.
(Signed) JOSEPH HOWE.

No. 169.

Mr. Howe to Mr. Hammond.—(Received August 16.)

(Private.)

My dear Sir,

Halifax, July 26, 1864.

BY the last mail I sent forward the accounts for 1863. By this, a Report goes to Earl Russell on the general business of the Commission. The Admiral will put me afloat in the "Lily" in a few days, and I shall probably spend the remainder of the summer on the coasts of Newfoundland.

Shortly after his arrival here, our new Governor, Mr. Richard McDonell, mentioned to me that his Government and himself wished to include me in a Commission to be sent from this Province to confer with Commissioners from the other Colonies, on the subject of a union, partial or general, of the British American Provinces. I understood from his Excellency that Lord Monck, in view of recent changes in Canada, was anxious that this Conference should be held without delay, but as no time has been I am reluctant to interfere with my summer's work, and naturally anxious to have Earl Russell's permission before accepting the proposition, if made in official form.

Will you be kind enough to ask his Lordship if he has any objection to my going on this mission. I have no wish about it myself, but will cheerfully lend any aid in my power if left free to take part in the Conference.

Believe me, &c.
(Signed) JOSEPH HOWE.

No. 170.

Mr. Hammond to Mr. Howe.

(Private.)

My dear Sir,

Foreign Office, August 24, 1864.

I HAVE laid before Lord Russell your private notes of the 25th and 26th of July, and by his direction I have shown them to Mr. Cardwell.

As regards the Reciprocity Treaty, the best thing to be done seems to be to let it alone, unless the American Government seek to disturb it.

As regards the question of your being a Member of the Commission appointed to consider the question of a legislative union between the Lower Provinces, Lord Russell thinks that the first thing to be attended to by you is the Commission on which you are now engaged under the order of this office; but if, without neglecting or delaying your duties in that respect, you could render your assistance to the other Commission of which it is proposed that you should be a Member, Lord Russell would have no objection to your doing so.

But the Fishery Commission has been going on for so long a time that Lord Russell is not disposed to sanction your undertaking any other duties by which the conclusion of its labours might be delayed.

Believe me, &c.
(Signed) E. HAMMOND.

No. 171.

Mr. Howe to Earl Russell.—(Received December 19.)

My Lord,

Halifax, Nova Scotia, November 28, 1864.

ANTICIPATING your Lordship's decision upon the point submitted, as conveyed to me in Mr. Hammond's letter of the 24th August, I declined, when the offer was made

to me in official form, to accept the appointment of Delegate to the Provincial Conference, the deliberations of which, adjourned from Charlotte Town to Halifax, and from Halifax to Quebec, occupied the entire summer.

Her Majesty's ship "Lily," a vessel of light draught, and admirably suited to the service, having been kindly placed at my disposal by his Excellency the Commander-in-chief, I embarked on the 17th of August and spent the next three months on the coast of Newfoundland, thoroughly exploring Bonavista, Trinity and Conception Bays, and visiting every important centre of commerce and the fisheries along the intermediate shore lines.

I was compelled to bring my labours to a close, by the advance of the season, before the examination of Placentia and Fortune Bays could be completed. These, with the coast extending westward to Port au Basque, where the explorations terminated in 1863, I shall visit next summer, and hope then to be able to adjust all questions presented for the consideration of the Commission by this large and very valuable Province.

As the islands of St. Pierre and Miquelon lay in my track homeward, I thought a day or two might be profitably spent in a careful examination of the chief seat of the French fishery. The Commandant (M. Cren) received me very kindly, and left me free to examine the defences or to gather any information that I might require as to the commerce of the islands or the mode in which they are governed.

As some question was raised in Parliament a year or two ago as to the extent to which the French had fortified these islands, it may be proper for me to report that the defences appeared to me very slight, scarcely more than sufficient to protect the place from piratical intrusion, but offering no means of resistance which a single frigate or heavily-armed gunboat could not overcome.

There are but fourteen guns in position; eight of them have been for many years mounted upon a battery at the mouth of the harbour of St. Pierre, the other six were placed on a small fort built in front of the town by the late Commandant during the Crimean War.

I have, &c.
(Signed) JOSEPH HOWE.

No. 172.

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

Sir, *Foreign Office, December 21, 1864.*
I AM directed by Earl Russell to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying extract of a despatch from Mr. Howe. Her Majesty's Commissioner under the Treaty with the United States, of June 5, 1854, respecting a visit which he recently paid to the islands of St. Pierre and Miquelon.†

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

No. 173.

Mr. Hammond to Sir F. Rogers.

Sir, *Foreign Office, December 1, 1864.*
I AM directed by Earl Russell to transmit to you, to be laid before Mr. Secretary Cardwell, the accompanying copy of a despatch from Mr. Howe containing a Report of his proceedings, and of a visit which he paid to the Islands of St. Pierre and Miquelon.†

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

No. 174.

Earl Russell to Mr. Burnley.

(No. 89.)
Sir, *Foreign Office, March 11, 1865.*
WITH reference to your despatch No. 112 of the 17th ultimo, I have to inform you that I have instructed Mr. Howe to report to me how soon it will be possible for him and

* A similar letter was addressed to the War Office.

† No. 171.

his United States' colleague to close the Fishery Commission established under the Treaty of 1854.

I am, &c.
(Signed) RUSSELL.

No. 175.

Mr. Hammond to Sir F. Rogers.

Sir,

Foreign Office, March 11, 1865.

I AM directed by Earl Russell to state to you, for the information of Mr. Secretary Cardwell, that Her Majesty's Chargé d'Affaires at Washington, has forwarded to this office a copy of a note from Mr. Seward, expressing the wish of the United States Government that, the labours of the Fishery Commission established under the Reciprocity Treaty of 1854, may be terminated as soon as possible, and that Lord Russell has consequently instructed Mr. Howe, the British Member of the Commission, to report how soon it will be able to close the Commission.

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

No. 176.

Mr. Hammond to Mr. Hamilton.

Sir,

Foreign Office, March 11, 1865.

WITH reference to your letter of the 30th of June last, I am directed by Earl Russell to state to you, for the information of the Board of Treasury, that Mr. Howe, the British Member of the Fishery Commission established under the Reciprocity Treaty of 1854, has been instructed to report to Lord Russell how soon it will be possible to close the Commission.

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

No. 177.

Earl Russell to Mr. Howe.

Sir,

Foreign Office, March 11, 1865.

I HAVE received from Her Majesty's Chargé d'Affaires at Washington a copy of a note from Mr. Seward, in which he expresses the wish of the United States' Government, that the labours of the Fishery Commission may be terminated as soon as possible, and I have therefore instructed you to report to me how soon it will be possible for you and your colleague to close the Commission.

I am, &c.
(Signed) RUSSELL.

No. 178.

Mr. Howe to Earl Russell.—(Received April 24.)

My Lord,

Halifax, Nova Scotia, April 12, 1865.

WHEN the Fishery Commission met in January last at Boston, Mr. Hamlin and myself were aware of the action of Congress, and knew that our labours would be brought to a close in March 1866, should the Reciprocity Treaty expire. We therefore arranged the work so as to enable us to finish by that time whatever was in progress, without embarrassment to either Government, and this, I have no doubt, we shall be able to do.

Since the receipt of your Lordship's despatch of the 11th of March, with which I was honoured by the last mail, a letter dated Bangor, 5th April, has reached me from Mr. Hamlin, who says—"I returned from Washington a short time since. I found that certain persons had made representations to the State Department in relation to the

delay of the Commissioners under the Reciprocity Treaty in not finishing the work. In an interview with the Department this was explained, and I think the Department was satisfied."

If any impression has prevailed in either Department that there has been unnecessary delay in forwarding the business of the Commission, I beg respectfully to assure your Lordship that there is no fair foundation for it. My movements to the North have been controlled by the short seasons, and by the co-operation of the Admiral in command, and to the south by the disturbed state of the country in the near neighbourhood of some of the rivers to be examined. The southern coast will now be open and his Excellency Sir James Hope has kindly promised to enable me, early in the summer to complete the examination of the coasts of Newfoundland.

I have, &c.
(Signed) JOSEPH HOWE.

No. 179.

Mr. Hammond to Sir F. Rogers.

Sir,

Foreign Office, April 28, 1865.

WITH reference to my letter of the 11th ultimo, I am directed by Earl Russell to transmit to you, to be laid before Mr. Secretary Cardwell, a copy of a letter from Mr. Howe, reporting upon the proceedings of the North American Fisheries' Commission and the time when its labours could be brought to a close.*

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

No. 180.

Earl Russell to Sir F. Bruce.

(No. 161.)

Si,

Foreign Office, April 28, 1865.

WITH reference to my despatch No. 89 of the 11th of March last, I inclose a copy of a letter from Mr. Howe, relative to the proceedings of the Fishery Commission, and the time at which its labours can be brought to a close, and I have to instruct you to communicate the substance of Mr. Howe's letter to the United States' Government.

I am, &c.
(Signed) RUSSELL.

No. 181.

Sir F. Bruce to Earl Russell.—(Received June 17.)

(No. 327.)

My Lord,

Washington, June 1, 1865.

IN accordance with the instructions contained in your Lordship's despatch No. 161 of the 28th April, I communicated to the United States' Government the substance of Mr. Howe's letter of the 12th of that month relative to the proceedings of the Fishery Commission.

I have the honour to transmit copy of my note to Mr. Hunter, and a copy of his reply upon this subject.

I have, &c.
(Signed) FREDERICK W. A. BRUCE.

Inclosure 1 in No. 181.

Mr. Hunter to Sir F. Bruce.

Sir,

Department of State, Washington, May 30, 1865.

I HAVE the honour to acknowledge the receipt of your note of the 19th instant, informing me, at the instance of Earl Russell, that the labours of the Fishery Commission

would probably be completed by the 1st of March, 1866, the time of the termination of the Reciprocity Treaty, and that the climate and circumstances have heretofore prevented the Commissioners from prosecuting the work with that despatch which they would have desired. In reply, I have the honour to inform you that the Department is aware of the difficulties which have existed, and it feels assured by the statement of Mr. Howe that he will employ every opportunity to accomplish the end for which the Commission was organized.

I have, &c.
(Signed) W. HUNTER.

Inclosure 2 in No. 181.

Sir F. Bruce to Mr. Hunter.

Sir,

Washington, May 19, 1865.

HER Majesty's Principal Secretary of State for Foreign Affairs has forwarded to me a copy of a letter which he has received from Mr. J. Howe, stating that, when the Fishery Commission met last January in Boston, Mr. Hamilton and he arranged the work so as to enable them, by March 1866 (in the event of the termination of the Reciprocity Treaty at that time), to finish whatever was in progress without embarrassment to either Government.

Mr. Howe states that he had no doubt that they would be able to do this.

He then quotes a letter which he has received from Mr. Hamblin, who writes as follows on the 11th March:—

"I returned from Washington a short time since. I found that certain persons had made representations to the State Department in relation to the delay of the Commissioners under the Reciprocity Treaty in not finishing the work. In an interview with the Department this was explained, and I think the Department was satisfied."

Mr. Howe concludes by declaring that there is no fair foundation for the imputation, if such there has been, that there has been unnecessary delay in forwarding the business of the Commission; that his movements to the North have been controlled by the short seasons and by the co-operation of the Admiral in command, and to the south by the disturbed state of the country in the near neighbourhood of some of the rivers to be examined; that the southern coast will now be opened, and that Sir James Hope has promised to enable him early in the summer to complete the examination of the coasts of Newfoundland.

I have, &c.
(Signed) FREDERICK W. A. BRUCE.

No. 182.

Mr. Hammond to Sir F. Rogers.

Sir,

Foreign Office, June 19, 1865.

WITH reference to my letter of the 28th of April, I am directed by Earl Russell to transmit to you, to be laid before Mr. Secretary Cardwell, a copy of a despatch from Sir F. Bruce, inclosing copies of a correspondence with the United States' Government on the subject of the Fishery Commission.

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

No. 183.

Mr. Howe to Mr. Hammond.—(Received November 10.)

My dear Sir,

10, Sackville Street, November 8, 1865.

ALL matters referred to me having been disposed of, Earl Russell gave me permission to return home by this boat, which I shall not be sorry to do, having only been four days with my family during the last seven months.

I would have called and paid my respects to Lord Clarendon, but know that just now his Lordship must be much engaged.

I will lose no time in going over to New Brunswick, and doing whatever can be done to wind up Mr. Perley's affair.

I hope, before the spring, to place the business of the Fishery Commission in such a form as to preclude the possibility of embarrassment when the Treaty expires.

I have lodged my own accounts with Mr. Conyngham, with such explanations as will, I trust, be satisfactory to the Department.

The Fenians will, or I am much mistaken, give us trouble on the frontier before the winter is over. Should anything occur worth reporting, I will keep you informed.

Believe me, &c.
(Signed) JOSEPH HOWE.

No. 184.

Mr. Childers to Mr. Hammond.—(Received November 30.)

Sir, *Treasury Chambers, November 30, 1865.*
WITH reference to the Earl of Clarendon's letter of the 14th instant requesting the immediate issue of 1,500*l.* to the Chief Clerk of the Foreign Office towards defraying the Commission appointed under the 1st Article of the Treaty of Washington of 5th June, 1854, I am desired by the Lords Commissioners of Her Majesty's Treasury to request that you will call the attention of the Secretary of State to the letter from this Board of 30th June, 1864; and, with reference to your letter of 11th March last, I am to state that it would be satisfactory to my Lords to receive a copy of any Report or information which may have been received as to the time when it is likely this Commission can be terminated.

I am, &c.
(Signed) HUGH C. E. CHILDERS.

No. 185.

Mr. Howe to the Earl of Clarendon.—(Received April 7.)

My Lord, *Washington, March 19, 1866.*
THE Treaty of Washington, better known as the "Reciprocity Treaty," terminated on Saturday, under the notice given by the Government of the United States on the 17th of March, 1865.

Ever since the notice was given, the Honourable E. L. Hamlin and myself have endeavoured to bring up the business of the Fishery Boundary Commission, so that we might close our labours as soon as possible after the termination of the Treaty without embarrassment to either Government. We met here in January 1865, and I have now the honour to report that we have adjusted, in an amicable manner, and without the necessity for the appointment of an Umpire, the boundary lines of the following rivers:—the North River, Susquehanna, Elk, Sassafras, Potapsco, Chester, Severn, Choptauk, Nantuoque, and Delaware, within the territories of the United States, and the Rivers Exploits, Gambo', and Terre Nueva, on the coasts of Newfoundland.

Charts are now being prepared by which the whole field of labour covered by the Commissioners since 1855 can be seen at a glance; when these are completed, and the awards are ready for distribution to the Governments of the five Provinces, I shall do myself the honour to forward to your Lordship a more extended Report. In the meantime all field work will cease, and the cost of the Commission be proportionably reduced.

I have, &c.
(Signed) JOSEPH HOWE.

Inclosure in No. 185.

*Records of the Fishery Boundary Commission.**Record No. 46.*

WE, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Rivers Susquehanna, North East, Elk, and the Sassafras, all in the State of Maryland, United States, do hereby agree and decide that the following described lines, as shown on Plan No. 48, Record Book No. 2, shall mark the mouths or outer limits of said rivers, and that all the waters within said lines shall be reserved and excluded from the common right of fishing thereing under the Ist and IInd Articles of the Treaty aforesaid.

Susquehanna River.—A line bearing north $73^{\circ} 15'$ east (magnetic), drawn from the lighthouse at Havre de Grace, on the west side of entrance to the opposite bank, as shown on Plan No. 48, Record Book No. 2.

North East River.—A line bearing south 61° east (magnetic), drawn from Carpenter's Point, on the west side of entrance to White Point, on the opposite bank, as shown on Plan No. 48, Record Book No. 2.

Elk River.—A line bearing north $22^{\circ} 20'$ west (magnetic), drawn from Wrothe's Point, on the south side of entrance to the lighthouse on Turkey Point, on the opposite bank, as shown on Plan No. 48, Record Book No. 2.

Sassafras River.—A line bearing south $38^{\circ} 15'$ west (magnetic), drawn from Grove Point, on the north side of entrance to the opposite bank, as shown on Plan No. 48, Record Book No. 2.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 47.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Patapsco River, in the State of Maryland, United States, do hereby agree and decide that a line bearing north $9^{\circ} 40'$ west (magnetic), drawn from Bodkin Point, on the south side of entrance to the lower lighthouse on North Point, as shown in Plan No. 49, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the westward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 48.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Chester River, in the State of Maryland, United States, do hereby agree and decide that a line bearing north 88° east (magnetic), drawn from Love Point, on Kent Island, to the north-western point of East Neck Island, on the opposite shore, as shown on Plan No. 50, Record Book No. 2, shall mark the mouth or outer limit of the said river, and that all the waters within or to the southward and eastward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 49.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Severn River, in the State of Maryland, United States, do hereby agree and decide that a line bearing north 7° west (magnetic), drawn from Tally's Point, on the south side of entrance to Greenberry Point, on the opposite shore, as shown on Plan No. 51, Record Book No. 2, shall mark the mouth or outer limits of the said river, and that all the waters within or to the westward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 50.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Choptank River, in the State of Maryland, United States, do hereby agree and decide that a line bearing north 70° east (magnetic), drawn from Castle Haven Point, the south side of entrance to Chloras Point, on the opposite shore, as shown on Plan No. 52, Record Book No. 2, shall mark the mouth or outer limit of the said river, and that all the waters within or to the southward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 51.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Patuxent River, in the State of Maryland, United States, do hereby agree and decide that a line bearing north $59^{\circ} 15'$ west (magnetic), drawn from the north extremity of Hog Island, on the south side of the entrance to Drum Point, on the opposite shore, as shown on Plan No. 53, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the westward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 52.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Nanticoke River, in the State of Maryland, United States, do hereby agree and decide that a line bearing south $86^{\circ} 20'$ east (magnetic), drawn from Clay Island Lighthouse, on the western side of entrance to the opposite shore, as shown on Plan No. 54, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the northward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 53.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Pocomake River, in the State of Maryland, United States, do hereby agree and decide that a line bearing south 29° 15' east (magnetic), drawn from the Point of Marsh on the north side of entrance to the point on the opposite shore, as shown on Plan No. 55, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the eastward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 54.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Delaware River, separating the State of New Jersey from the State of Delaware, United States, do hereby agree and decide that a line bearing north 68° 30' east (magnetic), drawn from Goose Point, on the western shore, to Ben Davis Point, on the opposite shore, as shown on Plan No 56, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the northward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 55.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the River Exploits on the northern coast of the Island of Newfoundland, do hereby agree and decide that a line bearing south 58° 45' east (magnetic), drawn from the Rocky Islet on the west bank to Burnt Arm Point on the opposite shore, as shown on Plan No. 57, Record Book No. 2, shall mark the mouth or outer limit of said river, and that all the waters within or to the southward of said line shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. L. HAMLIN, *United States' Commissioner.*

Record No. 56.

We, the Undersigned, Commissioners under the Reciprocity Treaty between the United States and Great Britain, concluded and signed at Washington on the 5th day of June, A.D. 1854, having examined the Gambo River, flowing into Freshwater Bay, and the Terra Nueva River, falling into the middle arm of Bloody Bay, on the eastern coast of the Island of Newfoundland, do hereby agree and decide that the following described lines, as shown on Plan No. 58, Record Book No. 2, shall mark the mouths or outer limits of said rivers, and that all the waters within or to the westward and southward of said lines shall be reserved and excluded from the common right of fishing therein, under the Ist and IInd Articles of the Treaty aforesaid.

Gambo River.—A line bearing south 14° west (magnetic), drawn from the north shore to a point on the opposite bank, as shown on Plan No. 58, Record Book No. 2.

Terra Nueva River.—A line bearing south 58° 30' east (magnetic), drawn from the

extremity of the long point on the western shore to a point on the opposite bank, as shown on Plan No. 58, Record Book No. 2.

Dated at the City of Washington, United States, this 13th day of February, A.D. 1866.

(Signed) JOSEPH HOWE, *Her Majesty's Commissioner.*
E. H. HAMLIN, *United States' Commissioner.*

No. 186.

Mr. Hammond to Sir F. Rogers.

Sir, *Foreign Office, April 11, 1866.*
I AM directed by the Earl of Clarendon to transmit to you, to be laid before Mr. Secretary Cardwell, a copy of a despatch from Mr. Howe, the British Member of the Joint Commission established under the 1st Article of the Treaty of Washington of June 5, 1854, reporting the steps taken by the Commissioners with a view of closing the Commission, in consequence of the termination of the Reciprocity Treaty.*

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

No. 187.

Mr. Howe to the Earl of Clarendon.—(Received May 8.)

My Lord, *Halifax, Nova Scotia, April 26, 1866.*
HER Majesty's ship "Duncan," Vice-Admiral Sir James Hope, left this harbour for the Bay of Fundy on the 17th instant, to co-operate with the land forces in the protection of the frontier. Major-General Doyle, with the 17th Regiment, went in the flag-ship.

The paper on the fisheries, a copy of which I have now the honour to inclose, was prepared at the Admiral's request. It has been sent to Sir Frederick Bruce, and is forwarded to your Lordship that any errors in statement or counsel may, if necessary, be corrected.

The presence of General Meade, of the United States' Army, on the frontier, and the emphatic declaration of the Chancellor of the Exchequer in Parliament, insure us peace. The question of the fisheries, I trust, may be adjusted by friendly negotiation.

I have, &c.
(Signed) JOSEPH HOWE.

Inclosure in No. 187.

Mr. Howe to Vice-Admiral Sir J. Hope.

My dear Sir James, *Fairfield, April 16, 1866.*
REFERRING to our conversation a few days ago, I proceed to put your Excellency in possession of such information as may be useful, bearing upon the protection of the fisheries.

The American fishing-vessels do not proceed to the shores of Newfoundland or Labrador till the month of June, so that you need not weaken the squadron by sending any vessel to those coasts for a month or six months, except for purposes of defence.

The mackerel fishery in the Gulf of St. Lawrence does not commence until Midsummer, so that no protection will be required in those waters or on the surrounding coasts of Canada, New Brunswick, Nova Scotia, Prince Edward Island, or the Magdalens, for at least two months.

The banks being in the open sea, your Excellency is aware, are free to the fishermen of all nations and require no protection at any time.

The field is thus narrowed to the fisheries in the Bay of Fundy and along the southern coasts of Nova Scotia, which I presume will alone, for some weeks at least, engage your Excellency's attention. Looking, for the present, only to this branch of the service, I will endeavour to direct attention to the principles and public documents by which our officers should be guided.

Passing over the diplomatic history of the two countries in relation to this question, which is very curious and interesting, I come at once to the Convention of 1818, and to the opinions of the Crown Officers of England, upon which our right to protect the in-shore fisheries rests; the expiration of the Reciprocity Treaty having restored to us the rights which by that Treaty we had waived, in consideration of valuable equivalents withdrawn since the 17th of March.

In 1815 the Commander of His Majesty's ship of war the "Jasseur" seized eight American fishing-vessels for fishing within sixty miles of the coasts of British America, and sent them into Halifax for adjudication. This was about the close of the American war, and when the King's forces, by land and sea, relieved from Continental engagements, enabled the Government to take high ground with our neighbours, who had taken part against us in our struggle with Buonaparte. These vessels were given up, and the proceedings of the Commander of the "Jasseur" were disavowed, it being apparent that the line of sixty miles from the coast could not be sustained.

In 1818 the schooner "Nabby" was seized by His Majesty's ship "Saracen," Captain Gore, and eleven other American vessels were seized by Captain Chambers, acting under orders from Admiral Milne (Sir Alexander's father), then commanding on this station. These captures led to the Convention of 1818, which defined the rights of both nations, and which, for thirty-six years thereafter, was over and over again recognized by both, and which was sustained again and again by decisions in our Court of Admiralty.

Let us now turn to the Convention, thus recognized, suspended by the Reciprocity Treaty in 1854, and now revived in full force by the deliberate action of the Government of the United States. This Convention was signed in London on the 20th of October, 1818, and provides—

1st. That the inhabitants of the United States shall have for ever, in common with the subjects of Great Britain, the liberty to take fish of any kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalene Islands, and also on the coasts, bays, harbours, and creeks, from Mount Joly on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to the rights of the Hudson's Bay Company.

2nd. That the Americans shall also have liberty for ever to dry and cure fish, in any part of the unsettled bays, harbours, and creeks of the southern portion of the coast of Newfoundland before described, and of the coast of Labrador, the United States renouncing any liberty before enjoyed by their citizens to take the fish within three miles of any coasts, bays, creeks, or harbours, of the British dominions in America not included within the above limits.

3rd. That American fishermen shall also be admitted to enter such bays or harbours, for the purpose of shelter, and of repairing damages therein, and also of purchasing wood and obtaining water, under such restrictions only as may be necessary to prevent their taking, drying, or curing fish therein, or abusing the privileges reserved to them.

Your Excellency will perceive that by this Convention we gave the American fishermen the same rights of fishing and curing on a part of the coasts of Newfoundland and Labrador which the French have enjoyed ever since the peace of Ryswick in 1697. On these coasts, therefore, protection is only required to keep the peace in harbours to which foreign fishermen resort in great numbers and where the resident fishermen, who are our own people, might, without the occasional presence of a British ship, be crowded or oppressed.

The river fisheries have never been conceded, and our people should be secured in their enjoyment. Foreigners have never been permitted to permanently occupy the coasts upon which they fish, except at St. Pierre and Miquelon. The rigid enforcement of this rule involves perhaps a question of doubtful policy, as retarding settlement and permanent improvement, but the right to enforce it gives to the naval commanders on the coast a certain weight, in case of disputes or unwarrantable intrusion, that it may be proper to retain.

Sweeping round the southern and eastern coasts of Newfoundland, from the Rameau to the Quirpon Islands, the three mile rule applies; and it applies to all the other coasts and bays of British America, except to the bay of Fundy, where it has been fairly modified to suit the peculiar circumstances of the case, and to which I shall hereafter refer.

The three mile line has led to a volume of controversy with which I need not trouble your Excellency. On the 24th of June, 1819, Parliament passed "an Act to enable His Majesty to make regulations with respect to taking and curing fish in certain parts of

the coasts of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a Convention made between His Majesty and the United States' of America."

This Act will be found at large in the Statute Books in the Parliamentary Library, should your Excellency desire to refer to it. It gives power to the Crown, by orders in Council, to make regulations and issue orders within the scope of the Convention; and it provides—

"That it shall not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish or take, dry or cure, any fish of any kind whatever, within three marine miles of any coasts, bays, creeks or harbours whatever, in any part of His Majesty's Dominions in America, not included within the limits specified and described in the 1st Article of the said Convention and hereinbefore recited; and that if any such foreign ship, vessel or boat, or any person on board thereof shall be found fishing, or to have been fishing, or preparing to fish, within such distance of such coasts, bays, creeks, or harbours within such parts of His Majesty's Dominions in America, out of the said limits as aforesaid, all such ships, vessels or boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited.

There was also a clause, giving effect to any orders in Council, or to any regulations issued by the Colonial Governors, under and in pursuance of such orders, in any of the Colonies. Under this clause the Provincial Legislatures passed laws, and the Governors issued regulations, copies of these will be found in the pamphlet which I have the honour to inclose. Colonial cutters were fitted out, and by the Commanders of these, and by Her Majesty's ships of war, American fishing vessels were warned off, or seized and sent in to the Admiralty Court. The records of that Court, to which your Excellency can have easy access, will furnish information as to particular cases, and the doctrine laid down, should minute information, in a doubtful issue, be required; but, for all practical purposes at the present moment, it may be sufficient to remember that the American fishermen, tempted by the profits of the in-shore fishery, or desiring to carry on illicit trade, frequently trespassed beyond the limits, and being entitled to run in for shelter, and for wood and water, when they did, and were seized, almost invariably pleaded their privilege. On the other hand, the Provincial Governments and Legislatures were disposed to press their territorial rights with fervour and rigid exactness. Questions arose as to the meaning of the clause of the Convention. The American fishermen and diplomatists contending that a line following the indentations of the coast was meant, and our people taking their stand upon the plain language of the clauses. These seizures, adjudications, and controversies led to further diplomatic correspondence between the State Departments of the two countries in 1841, when a case was prepared and submitted to the Crown officers of England. Their opinion, a copy of which I have the honour to inclose, settled the question in our favour; and although American orators and diplomatists have expended a good deal of perverse ingenuity in trying to break it down, they have not succeeded, and I presume that your Excellency will be justified in taking your stand:—1st. On the Convention of 1818; 2nd. On the Statute of 1819; and 3rd. Upon the opinion of the Law Officers of the Crown.

The local laws and regulations, or the pleadings and decisions of the Provincial Courts flowing out of these instruments, may be curious and occasionally instructive; but these three documents emanating from the Imperial Government, must form the instructions to the Naval Commander-in-chief until modified or changed by the proper authorities.

There is one point which, in the present position of affairs, will not escape your Excellency's attention—the relaxation of the three-mile rule in the Bay of Fundy. Heavy fogs prevail in that bay; the tides and currents are impetuous; and, for a considerable distance on the western shore, it is bounded by the territory of the United States. Yielding to obvious and very fair arguments, urged by Mr. Everett in 1845, Lord Aberdeen consented to relax the rule as respects this Bay. The language employed, however, even in making this concession, is significant, and bears strongly on the right to enforce the rule elsewhere:—

"The Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, duly referred to the Colonial Department the note which Mr. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, did him the honour to address to him on the 25th of May last, respecting the case of the 'Washington' fishing vessel, and on the general question of the right of United States' fishermen to pursue their calling in the Bay of Fundy, and having shortly since received

the answer of that Department, the Undersigned is now enabled to make a reply to Mr. Everett's communication, which he trusts will be found satisfactory.

"In acquitting himself of this duty the Undersigned will not think it necessary to enter into a lengthened argument in reply to the observations which have at different times been submitted to Her Majesty's Government by Mr. Stevenson and Mr. Everett, on the subject of the right of fishing in the Bay of Fundy, as claimed on behalf of the United States' citizens. The Undersigned will confine himself to stating that, after the most deliberate consideration of the subject, and with every desire to do full justice to the United States, and to view the claims put forward on behalf of United States' citizens in the most favourable light, Her Majesty's Government are nevertheless still constrained to deny the right of United States' citizens, under the Treaty of 1818, to fish in that part of the Bay of Fundy which, from its geographical position, may properly be included within the British dominions.

"Her Majesty's Government must still maintain—and in this view they are fortified by high legal authority—that the Bay of Fundy is rightfully claimed by Great Britain as a bay within the meaning of the Treaty of 1818. And they equally maintain the position that was laid down in the note of the Undersigned, dated 15th April last, that with regard to the other bays on the British American coasts, no United States' fisherman has, under that Convention, the right to fish within three miles of the entrance of such bays, as designated by a line drawn from headland to headland at that entrance."

After giving his reasons for relaxing the rule, Lord Aberdeen says, "the Undersigned has accordingly much pleasure in announcing to Mr. Everett the determination to which Her Majesty's Government have come to relax, in favour of the United States' fishermen, that right which Great Britain has hitherto exercised of excluding those fishermen from the British portion of the Bay of Fundy; and they are prepared to direct their Colonial authorities to allow henceforward the United States' fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the Treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick."

Fairly construing Lord Aberdeen's language, it would appear that we have only the right, in those western waters, to exclude the Americans from fishing in the Basin of Mines above Partridge Island, in the Basin of Annapolis, and St. Mary's Bay. Small herrings are caught inside of Digby Gut, and shad in the Basin of Mines, but very few codfish. Mackerel and codfish are caught in St. Mary's Bay, where the American fishermen occasionally poach in the autumn; but their spring fishing is chiefly carried on in the open bay around Grand Manan, Campo Bello, and along their own seaboard. It is not likely that at this season there will be any intrusions, unless there be a disposition to try conclusions and provoke a quarrel, which I trust there is not. It may be as well for any man-of-war going westward to look into St. Mary's Bay and Digby occasionally; but it will scarcely be worth while to send them to the Basin of Mines.

Your Excellency will, perhaps, pardon the suggestion that, as a question of public policy, it may be as well, unless there be some case of flagrant outrage or intrusion which cannot be overlooked, to exercise our rights, even over the smaller bays, with great moderation till the Irish difficulty blows over.

The Fenians, who are assembling at Eastport, Castine, and Calais, are endeavouring to fraternize with and excite the resident inhabitants along the coasts of Maine. They will, for this purpose, endeavour to make them believe that our squadron in the bay are there to enforce a harsh construction of the Treaty. You may disappoint them by making it generally understood that the ships are there to co-operate with the land forces in the two Provinces, and to protect our soil from raids and armed intrusions. We can deal with both questions better, if we avoid complications and keep them entirely distinct. This paper has grown to a greater length than I had at first intended; but I could not well make it shorter, and bring out the points to which it is desirable that your Excellency's attention should be promptly turned.

Believe me, &c.
Signed) JOSEPH HOWE.

No. 188.

Mr. Howe to the Earl of Clarendon.—Received July 14.)

My Lord,

Halifax, Nova Scotia, July 4, 1866.

I HAVE the honour to report that I have closed up the business of the Fishery Boundary Commission with as little delay as possible after the expiration of the

Reciprocity Treaty, and forward to the Foreign Office by this mail all the marked charts by which the boundaries of rivers excluded from the common right of fishing by the people of both nations are defined.

A general chart, which covers the whole labours of the Commission, has been prepared by the United States' Coast Survey Department, and I have ordered a copy of this to be made and forwarded to the Foreign Office.

I send to your Lordship twelve copies of the awards made at Washington in March last, in printed form. Copies of marked charts and awards have been forwarded to the Governor-General of Canada and to the Lieutenant-Governors of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland.

The accounts of the Commission have been closed and are forwarded by this mail. They show that the expenses of it have, under my management, been largely reduced below the average sum drawn by my predecessor; and that in three years and a-half the saving to the Department has been 2,890*l*.

I have, &c.
(Signed) JOSEPH HOWE.
