

ably exercised by Great Britain without the consent of the United States:—

Considering that the recognition of a concurrent right of consent in the United States would affect the independence of Great Britain, which would become dependent on the Government of the United States for the exercise of its sovereign right of regulation, and considering that such a co-dominium would be contrary to the constitution of both sovereign States; the burden of proof is imposed on the United States to show that the independence of Great Britain was thus impaired by international contract in 1818 and that a co-dominium was created.

For the purpose of such proof it is contended by the United States:—

(10.) That a concurrent right to co-operate in the making and enforcement of regulations is the only possible and proper security to their inhabitants for the enjoyment of their liberties of fishery, and that such a right must be held to be implied in the grant of those liberties by the treaty under interpretation.

The Tribunal is unable to accede to this claim on the ground of a right so implied:—

(a.) Because every State has to execute the obligations incurred by treaty *bona fide*, and is urged thereto by the ordinary sanctions of international law in regard to observance of treaty obligations. Such sanctions are, for instance, appeal to public opinion, publication of correspondence, censure by Parliamentary vote, demand for arbitration with the odium attendant on a refusal to arbitrate, rupture of relations, reprisal, &c. But no reason has been shown why this treaty, in this respect, should be considered as different from every other treaty under which the right of a State to regulate the action of foreigners admitted by it on its territory is recognized;

(b.) Because the exercise of such a right of consent by the United States would predicate an abandonment of its independence in this respect by Great Britain, and the recognition by the latter of a concurrent right of regulation in the United States. But the treaty conveys only a liberty to take fish in common, and neither directly nor indirectly conveys a joint right of regulation;

(c.) Because the treaty does not convey a common right of fishery, but a liberty to fish in common. This is evidenced by