

But the Tribunal is unable to agree with this contention:—

(a.) Because the term “liberty to fish” was used in the renunciatory clause of the treaty of 1818 because the same term had been previously used in the treaty of 1783 which gave the liberty; and it was proper to use in the renunciation clause the same term that was used in the grant with respect to the object of the grant; and, in view of the terms of the grant, it would have been improper to use the term “right” in the renunciation. Therefore the conclusion drawn from the use of the term “liberty” instead of the term “right” is not justified;

(b.) Because the term “liberty” was a term properly applicable to the renunciation which referred not only to fishing in the territorial waters, but also to drying and curing on the shore. This latter right was undoubtedly held under the provisions of the treaty and was not a right accruing to the United States by virtue of any principle of international law.

3. The United States also contend that the term “bays of His Britannic Majesty’s Dominions” in the renunciatory clause must be read as including only those bays which were under the territorial sovereignty of Great Britain.

But the Tribunal is unable to accept this contention:—

(a.) Because the description of the coast on which the fishery is to be exercised by the inhabitants of the United States is expressed throughout the treaty of 1818 in geographical terms and not by reference to political control; the treaty describes the coast as contained between capes.

(b.) Because to express the political concept of dominion as equivalent to sovereignty, the word “dominion” in the singular would have been an adequate term and not “dominions” in the plural; this latter term having a recognized and well settled meaning as descriptive of those portions of the earth which owe political allegiance to His Majesty, *e.g.*, “His Britannic Majesty’s Dominions beyond the Seas.”

4. It has been further contended by the United States that the renunciation applies only to bays six miles or less in width “inter fauces terræ,” those bays only being territorial bays because the three mile rule is, as shown by this treaty, a principle of international law applicable to coasts and should be strictly and systematically applied to bays.