

The Tribunal is unable to agree with this contention:—

(a.) Because the commercial treaties contemplated did not admit foreigners to all and equal rights, seeing that local legislation excluded them from many rights of importance, *e.g.*, that of holding land; and the purport of the provisions in question consequently was to preserve these discriminations. But no such discriminations existing in the common enjoyment of the fishery by American and British fishermen, no such provision was required;

(b.) Because no proof is furnished of similar exemptions of foreigners from local legislation in default of treaty stipulations subjecting them thereto;

(c.) Because no such express provision for subjection of the nationals of either Party to local law was made either in this treaty, in respect to their reciprocal admission to certain territories as agreed in Article III, or in Article III of the treaty of 1794; although such subjection was clearly contemplated by the Parties.

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

7. That, as the liberty to dry and cure on the treaty coasts and to enter bays and harbours on the non-treaty coasts are both subjected to conditions and the latter to specific restrictions, it should therefore be held that the liberty to fish should be subjected to no restrictions, as none are provided for in the treaty.

The Tribunal is unable to apply the principle of "*expressio unius exclusio alterius*" to this case:—

(a.) Because the conditions and restrictions as to the liberty to dry and cure on the shore and to enter the harbours are limitations of the rights themselves, and not restrictions of their exercise. Thus the right to dry and cure is limited in duration, and the right to enter bays and harbours is limited to particular purposes;

(b.) Because these restrictions of the right to enter bays and harbours applying solely to American fishermen must have been expressed in the treaty, whereas regulations of the fishery, applying equally to American and British, are made by right of territorial sovereignty.

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