

The territorial jurisdiction of an independent State over waters of the open sea extends, by the comity of nations, to the distance of three marine miles seaward from the territory itself; and as all creeks, bays, and harbours of His Majesty's dominions are portions of Her Majesty's territory, citizens of the United States are, by the same comity of nations, excluded from fishing within three marine miles seaward from the mouth or entrance of all such bays, creeks, or harbours, as the open sea commences at such mouth or entrance. This absolute rule of the law of nations rests on a basis independent of the renunciation contained in the Convention. It never can be contended, with any show of reason, that the effect of that renunciation has been to limit the absolute rights of the British Crown growing out of the general Law of Nations on the subject of fisheries, more especially as by the subsequent words of the Treaty American citizens are expressly prohibited from *entering* any of such bays, creeks, or harbours for any such purpose as that of fishing.

In the case where a province of the United States approaches a province of the British Crown nearer than six marine miles, a different principle under the same general law of nations prevails, which annexes to the territory of either nation the waters as far as the middle of the passage between the two provinces.

The renunciation in the Convention of 1818 has accordingly left untouched the rights of citizens of the United States to fish within their own waters, when the channel between the two provinces is less than six marine miles; but in cases where the channel exceeds that width, it has established, by express words beyond a doubt, that they are not to take or cure fish within three marine miles of the entirety of any of the bays, creeks, or harbours of His Britannic Majesty's dominions in America, except those specifically mentioned in the Convention.

Upon the above considerations, I beg to report to your Lordship my decided opinion, that the Government of the United States is not justified in contending that the United States fishermen