

REVIEWS.

in doing so they do not interfere with the rights of private property or with British fishermen."

"Article V. provides that the treaty is to remain in force ten years after it goes into operation, and further until twelve months after either party gives a notice terminating the same. It was terminated in March, 1866, by the United States Government."

After stating his views of the rights of American fishermen upon the basis of the treaty of 1818, the writer goes on to argue that the effect of Article III. of that treaty, which he calls a renunciatory clause on the part of the United States, was removed by the reciprocity treaty of 1854, although the latter was abrogated by the American government itself, as already stated. The argument used is ingenious, but the same reasoning would seem to prove not only that the treaty of 1818 was at an end, but also that of 1783, which would of course be proving rather too much. In fact, considering all the circumstances and the motives leading to the repeal of the Reciprocity Treaty, the position taken on behalf of the Americans, is not altogether unlike that of an individual taking advantage of his own wrong—a course of procedure which has become chronic with the government of the United States, and which they seem to think has become legalized for their benefit, by custom and prescriptive right.

The conclusion at which the writer arrives is doubtless sufficiently satisfactory to his readers in the United States:—

"Article III. of the treaty of 1783, is therefore in the nature of an executed grant. It created and conferred at one blow rights of property perfect in their nature and as permanent as the dominion over the national soil. These rights are held by the inhabitants of the United States and are to be exercised in British territorial waters. Unaffected by the war of 1812, they still exist in full force and vigor. Under the provisions of this treaty American citizens are now entitled to take fish on such parts of the coasts of Newfoundland as British fisherman use, and also on all the coasts, bays, and creeks of all other of his Britannic Majesty's dominions in America, and to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, the Magdalen Islands and Labrador."

We trust that the labours of the Joint High Commission at Washington may make the dispute between the countries matter of historical interest rather than a source of irritation.

In this number is concluded an instructive article on Expert Testimony, which we recommend to our readers.

The next article on the Bar Association of New York commences with the following observations on democracy, as it affects and is controlled by the legal profession:

"'If men,' says De Tocqueville, 'are to remain civilized, or to become so, the art of associating together must grow and improve in the same ratio in which the equality of conditions is increased,'—a truth which lawyers in America have strangely overlooked. It may be a question indeed whether the legal profession and the community both have not lost more than they have gained by the application of modern theories of equality, which strip that calling of the character of a guild. It might be better for itself, and consequently for society, that the bar should retain something of the corporation form it preserves under older governments, with clearly defined obligations, and with enough of privilege for its due protection against attacks from without and decay within. No order that has ever existed has made a less aggressive use of such privileges. When Coke of England asserted the lawful authority of the courts against the pretensions of the prince, and when the robe demanded and enforced justice against the member of the proud French nobility who had wronged one of their rank, they were defending popular liberty in their own cause. In other countries the lawyer still feels himself surrounded by a powerful body which guards his rights, and holds him responsible for his conduct. In America, the legal profession is less protected by statutes and customs than by the traditional respect which yet lingers about it; and its separate members are but little more controlled for good or ill by the force of its authority as a body, than laymen in general are.

"Lawyers are rightly called the most conservative class in a democracy, and their influence in the government pronounced to be the most powerful existing security against its excesses. It follows that the class of politicians who profit by those excesses must be hostile to the legal profession, and the antagonism is none the less real for being unavowed. The people are never jealous of lawyers; they trust the legal profession, because its interest is really the same with their own, and because its intelligence guides them best in pursuing that interest. In so doing it thwarts the demagogue, whose interest it is to flatter passion or vanity. The French publicist held the opinion that lawyers would always maintain the lead in a democracy. He could not forecast the influences which in the last quarter