

renounced the "liberty," not the "right," to fish or to cure and dry fish. "The United States renounce, forever, any *liberty* heretofore enjoyed or claimed, to take, cure or dry fish on, or within three marine miles of any of the coasts, bays, creeks or harbours of His Britannic Majesty's dominions in America." It is well known that the negotiators of the treaty of 1783 gave a very different meaning to the terms *liberty* and *right*, as distinguished from each other. In this connection, Mr. Adams' journal may be recited. To this journal the British Counter-Case refers in the following terms:—"From an entry in Mr. Adams' journal it appears that he drafted an article by which he distinguished the *right* to take fish (both on the high seas and on the shores) and the *liberty* to take and cure fish on the land. But on the following day he presented to the British negotiators a draft in which he distinguishes between the '*right*' to take fish on the high seas, and the '*liberty*' to take fish on the '*coasts*,' and to dry and cure fish on the land. . . . The British Commissioner called attention to the distinction thus suggested by Mr. Adams, and proposed that the word *liberty* should be applied to the privileges both on the water and on the land. Mr. Adams thereupon rose up and made a vehement protest, as is recorded in his diary, against the suggestion that the United States enjoyed the fishing on the banks of Newfoundland by any other title than that of *right*. . . . The application of the word *liberty* to the coast fishery was left as Mr. Adams proposed." "The incident," proceeds the British Case, "is of importance, since it shows that the difference between the two phrases was intentional" (British Counter-Case, p. 17). And the British Argument emphasizes again the difference. "More cogent still is the distinction between the words *right* and *liberty*. The word *right* is applied to the sea fisheries, and the word *liberty* to the shore fisheries. The history of the negotiations shows that this distinction was advisedly adopted." If, then, a *liberty* is a grant and not the recognition of a *right*, if, as the British Case, Counter-Case, and Argument recognise, the United States had the right to fish in the open sea in contradistinction with the *liberty* to fish near the shores or portions of the shores, and if what has been renounced in the words of the treaty is the *liberty* to fish on or within three miles of the bays, creeks and harbours of His Britannic Majesty's dominions, it clearly follows that such *liberty* and the correspond-