

sages between the various islands lying near the junction of the river St. Clair, with the lake of that name, shall be equally free and open to the ships, vessels and boats of both parties."

To the rivers in "passing through" which all American vessels are thus declared to be immune from Admiralty process of arrest, must be added the St. Lawrence, Yukon, Porcupine and Stikine, under article XXVI. of the Treaty of Washington, 1871, which provides that the navigation of these rivers, ascending and descending "from, to, and into, the sea, shall forever remain free and open for the purposes of commerce" to the subjects of the Britannic Majesty and to the citizens of the United States, "subject to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation."

This latter clause in the article conceding free and open navigation for the purposes of commerce to both nations, subject to the conditions prescribed, is an acknowledged doctrine of international law, and though not expressed in the article of the Treaty of 1842, applies equally to that treaty as it does to the Treaty of 1871. For no treaty can be construed to carry with it, by presumption or implication, a surrender, in so far as the privileged territorial concession is concerned, of one of the highest rights of sovereignty, viz., that of legislation (Hall's International Law, 5th ed., p. 340); or to relieve the treaty-privileged alien citizens of the foreign nation, while within the territory of the conceding nation, of their subordination to the general public laws and police regulations affecting such privileged territorial concession within such territory. And one of the doctrines of international law is that all such treaties are to be construed most favourably to the conceding nation: *United States v. Arredondo*, 7 Peters U.S. 691.

The Roman law declared that all navigable rivers were so far public property, that a free passage over them was open to everybody; and the use of their banks (*jus litoris*), for anchoring vessels, lading and unlading cargo, and acts of the like kind, and to be incapable of restriction by any right of public domain.