

*THE FISHERIES TREATY.*

By Article I. of the Convention of 1818, there was accorded to the inhabitants of the United States forever the liberty to take fish of every kind in common with British subjects, upon certain portions of the coasts of Newfoundland and Labrador, and on the shores of the Magdalen Islands, and there was further accorded to them the liberty to dry and cure fish in any of the unsettled bays, harbours and creeks of the said coasts; then followed that portion of the said Convention which has given rise to all of the contentions and disputes which have passed into history under the name of the Fisheries Question; this clause was in the following words: "And the United States hereby *renounce forever* any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or *within three marine miles of any of the coasts, bays, creeks or harbours* of His Britannic Majesty's dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such *bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water,* AND FOR NO OTHER PURPOSE WHATEVER. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

Quite apart from the provisions of this Convention, the inhabitants of the United States always had, and now have, in common with all other people of the world, the right to take fish upon the high sea, but this right is one which is of little practical importance unless it is accompanied by the privilege of using the adjoining coasts and territorial waters, for purposes of shelter and as a base of operations and supplies. It is the undoubted right of every nation, accorded to it by international law, to deny the use of its shores and territorial waters to all foreigners, although such a denial is, in this age, looked upon as an unfriendly act, and one which is sure to provoke retaliation upon the part of foreign nations. It follows, therefore, that whenever foreigners are privileged to use our shores or territorial waters, that privilege is accorded to them either under the provisions of some treaty, or by virtue of international comity and commercial usage, based as well upon such comity as upon the reciprocal advantages which flow from free commercial intercourse.

In view of the recent fisheries negotiations, had at Washington, and the resulting inchoate Treaty, it may be worth our while to indicate some of the chief contentions made with respect to the construction and operation of the Convention of 1818, and to point out how they are affected by the proposed Treaty.

Every nation has territorial jurisdiction over the waters washing its shores to the extent of three miles from those shores. It has long been a controverted question whether this three mile limit should follow the sinuosities of the coast and run parallel thereto, or whether a straight line should be extended from headland to headland and the three miles measured seaward at right angles thereto. The framers of the Convention of 1818 put this question beyond the reach of honest controversy, in so far as the three mile limit mentioned therein was con-