

Fifteenth Day.
14 May 1907.

NEWFOUNDLAND
FISHERY.
(Sir R. Bond.)

sovereignty, such as Customs and Municipal laws, and that subjects of a foreign Power that have Treaty rights in the territorial waters subject to sovereignty are liable to be governed by our fishing laws, when they are applied to British subjects and are admittedly made for the preservation of the fisheries.

I would also refer to the opinion of an American jurist, Hall, which occurs in a passage on International Law. He says, in commenting on the Newfoundland fisheries question :—

“ It was argued by the United States that the fishery rights conceded by the Treaty were absolute, and were to be exercised wholly free from the regulations or statutes of Newfoundland and from any other regulations of fishing now in force or that may be enacted by that Government; in other words, it was contended that the simple grant to foreign subjects of the right to enjoy certain national property in common with the subjects of the State carried with it by implication an entire surrender, in so far as such national property was concerned, of one of the highest rights of sovereignty, namely, the right of legislation. That the American Government should have put forward such a claim is scarcely intelligible.”

As to the duty of the subjects of one nation to conform to the laws of another, the doctrine is laid down as follows in Phillimore's International Law :—

“ With respect to merchant and private vessels, the rule of law is that except under the provisions of express stipulation such vessels have no exemption from the territorial jurisdiction of the harbour or port, or, so to speak, territorial waters in which they lie.”

And this is supported by the late Chief Justice Marshall of the United States as follows :—

“ When private individuals of one nation spread themselves through another, as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, and when merchant vessels enter for the purpose of trade, it would be obviously inconvenient and dangerous to society and would subject the laws to continued infraction and the Government to degradation if such individuals or merchant ships did not all temporarily submit to local regulations and were not amenable to the jurisdiction of the country, nor can a foreign sovereign have any motive in wishing such exemption. His subjects thus passing into foreign countries are not employed by him, nor are they engaged in national pursuits. Consequently there are powerful motives for not exempting persons of this description from the jurisdiction of the country in which they are found, and not one motive for acquiring it. The implied license therefore, under which they enter can never be construed to grant such an exemption. One sovereign, being in no respect amenable to another, is bound by obligations of the highest character not to degrade the dignity of his nation by placing himself or its sovereign within the jurisdiction of another. A foreign sovereign is not understood as intending to subject himself to a jurisdiction incompatible with his dignity and the dignity of the nation.”

English law is the same, as in the celebrated case of the “ *Franconia*,” the judges concurring with Mr. Justice Lindley when he said :—

“ It is conceded that even in time of peace the territoriality of a foreign merchant ship within 3 miles of the coast of any State does