

24 S.C.R. 367, 368; *Howard v. Ingersoll* (1851), 13 How. (U.S.) 417; *Alabama v. Georgia* (1859), 23 How. (U.S.) 505; *Iowa v. Illinois* (1892), 147 U.S. 1; *Benjamin v. Manistee* (1880), 42 Mich. 628; *Cessill v. The State* (1883), 40 Ark. 501; *Farnham on Waters*, vol. 2, pp. 1462, 1463; *Tyler's Law of Boundaries*, pp. 338 et seq.; and proceeded:—

I am unable to see that the description in the patent presents any difficulty which cannot be readily solved by looking at the plan, the words of the grant, and any evidence to identify the subject-matter which can be properly considered. I refer to the evidence identifying the mainland points, the measurements of the firm and marsh land, the location of the piers and fishery establishments, and the documents and facts indicating the nature and extent of its prior title, use and occupation, and its being part of an Indian reservation: *Booth v. Ratté* (1889), 15 App. Cas. 188; *Van Diemen's Land Co. v. Table Cape Marine Board*, [1906] A.C. 92.

The construction which I would place upon the grant would give the grantee the firm and marsh land shewn upon the Bartley plan. That supplies both a visible outline . . . and visible and proper beginning and ending points, and treats the word "channel" in its ordinary significance as stretching from margin to margin; and the expressions "side of the channel" and "following the windings thereof" as indicating a course bounded partly by firm land and partly by marshy land, as shewn on the plan. In the view I take, it would not militate against this view even if the line between the marsh and the channel were in the water at places.

The principle may well be applied which was followed in the case already cited, *Alabama v. Georgia*, where the expression "along the western bank" was treated as allowing, where the bank was not defined, a continuance of the boundary along the line of the bed as that is made by the average and mean stage of the water. I disregard, if necessary, the bearings in relation to the mainland as being too indefinite to interfere with the clearer expression of the plan and the other words of the patent. The area thus covered is 1,339 acres, which approximates more nearly to the original 1,200 acres than to the 2,602 acres now given.

There are two points in the judgment which should be dealt with. It is therein said that the southerly end of the marsh does not end in a point, but in a line bearing east and west, and that the description, if intended to follow what is outlined in