

case as Judge BENSON supposes, and that there is a complete sea-board boundary established by the Treaty of Peace between the termination of what he calls the Southern and the commencement of the Eastern boundary of the United States.

Mr. LISBON's observation to this effect is very pertinent, namely—that with regard to Judge BENSON's question, "the British Government may be justified in maintaining, that the question is already finally decided; the boundary has been fixed by the Commissioners as far as *the mouth of the St. Croix*, and that River according to the sense of the Treaty of Peace, emptied itself immediately into the Bay of Fundy; for in MERRILL'S Map, which was before the Ministers at the time of the Negotiation, and which was therefore the authority to which it was natural to refer, no such Bay as the Bay of Passamaquoddy is laid down, the whole Arm of the Sea which waters that part of the Coast being comprehended under the general name of *the Bay of Fundy*."

In confirmation of Mr. LISBON's reasoning it may be observed, that the 2d article of the Treaty of Peace describing the boundaries of the United States, and the declaration of the Commissioners under the 5th article of the Treaty of Amity, Commerce and Navigation, explaining and deciding the only doubt that had arisen in the construction of the 2d article of the Treaty of Peace respecting the boundary, must be considered as forming but one act or instrument, and that the declaration of the Commissioners respecting the identity of the River, the local situation and position of its mouth, and of its source, must have the same operation, meaning and construction, as if the contents of that declaration had originally made a part of the description of the boundaries in the 2d article of the Treaty of Peace; otherwise, the declaration instead of explaining and deciding *the intention of the Treaty of Peace* with respect to the doubtful part of the boundary, would operate to the establishment of a new boundary not contemplated by the Treaty of Peace, which was beyond the power of the Commissioners who made that declaration. Accordingly, the fifth article of the Treaty of Amity, Commerce and Navigation, provides that the Commissioners shall by "a declaration under their hands and seals decide what River is the river Saint Croix intended by the Treaty of Peace; that the said declaration shall contain a description of the said River, and shall particularize the latitude and longitude of its mouth and of its source. And both parties agree to consider such decision as final" and conclusive, so as that the same shall never thereafter be called in question, or made "the subject of dispute or difference between them."

It never has been nor can be contended that the river St. Croix has two mouths; one mouth and one mouth only is spoken of in both Treaties, and in fact it ceases to be or to retain the form of a River at the place or point where its mouth is by the Commissioners declared to be, and it there empties its waters into a Bay which is the common receptacle of the waters of that, with those of the Magaguadavic and several other Rivers emptying into the same Bay.

CONSIDERING then the 2d article of the Treaty of Peace, and the declaration of the Commissioners under the 5th article of the Treaty of Amity, Commerce and Navigation, as forming but one instrument, and the geographical fact, that the river St. Croix has but one mouth, we may reason conclusively as follows.

THE mouth of the River is in the Treaty of Peace *expressed*, and must therefore *be intended* by it, to be, *in the Bay of Fundy*.—The Commissioners under the fifth article of the Treaty of Amity, Commerce and Navigation, are required by a declaration under their hands and seals to decide what River is the river St. Croix, *intended by the Treaty of Peace*, to describe the River, and to particularize the latitude and longitude of its mouth, which must therefore be its mouth, *expressed and intended* in the Treaty, namely, *its mouth in the Bay of Fundy*. The mouth of the River is in this declaration *described* to be at *Joe's Point*, and its latitude and longitude are accordingly particularized in the declaration; therefore the mouth of the River thus *described and particularized*, and the waters into which it empties itself at *Joe's Point*, must be *in the Bay of Fundy*, or a part or section thereof. Hence it follows that the Bay above mentioned, sometimes called *Passamaquoddy*, but now known by the name of *St. Andrews Bay*, into which the river St. Croix empties itself at *Joe's Point*, must have been contemplated by the framers of the Treaty of Peace, as being in or a part or section of the Bay of Fundy, and must have been so intended by the Treaty. The description of the boundary in the Treaty of Peace, is upon this supposition perfectly clear and complete, but on any other supposition it is palpably inconsistent with geographical facts that cannot be disputed.

THERE is then no such chasm in the boundary of the United States as Judge BENSON supposes; *The main land* of the United States on the sea-board is by the Treaty of Peace of necessity bounded by the shores of the United States from the mouth of Saint Mary's river to the mouth of the river Saint Croix, "comprehending all Islands within twenty leagues of any part of those shores, except the Islands that then were or theretofore had been within the limits of the Province of Nova-Scotia," all the Islands in this supposed chasm or space alluded to by Judge BENSON being within the limits of the Province of Nova-Scotia and consequently referred by the Treaty and still belonging to Great-

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