

THE BUCTOUCHE.

I, the undersigned Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington, on the 5th day of June, A. D. 1854, have proceeded to and examined the mouth of the River Buctouche, in the Province of New Brunswick, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner, and the Commissioner of the United States as disclosed in Record No. 1 of their proceedings. With reference to the Buctouche it will be seen by Record No. 1 "Her Majesty's Commissioner claims that a line from Glover's Point to the southern extremity of the Sand Bar, marked in red in the plan No. 1 designates the mouth of the said River Buctouche. The United States Commissioner claims that a line from Chapel Point, bearing South 4° West (magnetic) marked in blue on said plan No. 1, designates mouth of said River."

On the subject of this River the United States Commissioner addresses me as follows: "The red line extending from 'Glover's Point,' to the Point of the 'Sand Bar' is the line marked by H. M. Commissioner as designating the mouth of the River; in that line I could not concur, because it excludes from the common right of fishing the whole of Buctouche Harbour in contravention of the express words of the Treaty." "If it had been the duty and care of the Commissioners to indicate the point which constituted the mouth of the Harbour, I should have been disposed to acquiesce in the point and line thus denoted, but from the proposition that it marks the entrance of these Rivers or any one of them into the Sea or Bay or Harbour, and constitutes their mouth I entirely dissent."

With the views I have already expressed that the mouth of a River does not lose its treaty character because it constitutes a Harbour, it becomes important to determine which is the principal Agent in forming this Harbour, the River or the Sea? If it is a mere indentation on the Coast, formed by the Sea, a Creek, a Bay, or Harbour unformed by, and unconnected with any River, those indentations in a Coast, indebted to the Sea mainly for its waters, then plainly it is not intended or entitled to be reserved; but if on the contrary it is formed by the escape of waters from the interior, by a River seeking its outlet to the deep, shewing by the width and depth of its channel at low water, that it is not to the sea it owes its formation, then plainly it is the mouth of a River, and intended to be reserved.

Captain Bayfield describes the Buctouche as follows p. 53 and 54:

"BUCTOUCHE ROADSTEAD, off the entrance of Buctouche River, and in the widest part of the channel within the outer bar, is perfectly safe for a vessel with good anchors and cables; the ground being a stiff tenacious clay, and the outer bar preventing any very heavy sea from coming into the anchorage. It is here that vessels, of too great draft of water to enter the river, lie moored to take in cargoes of lumber.

"BUCTOUCHE RIVER enters the sea to the S. E., through the shallow bay within the Buctouche sand-bar, as will be seen in the chart. The two white beacons which I have mentioned, as pointing out the best anchorage in the roadstead, are intended to lead in over the bar of sand and flat sandstone, in the best water, namely, 8 feet at low water, and 12 feet at high water in ordinary spring tides. But the channel is so narrow, intricate, and encumbered with oyster beds, that written directions are as useless as the assistance of a pilot is absolutely necessary to take a vessel safely into the river. Within the bar is a wide part of the channel in which vessels may ride safely in 2½ and 3 fathoms over mud bottom; but off Giddis Point the channel becomes as difficult, narrow, and shallow as at the bar. It is in its course through the bay that the Buctouche is so shallow and intricate; higher up its channel being free from obstruction, and in some places 5 fathoms deep. Having crossed the bar, a vessel may ascend about 10 miles further, and boats 13 or 14 miles, to where the tide-water ends."