

the bay itself might readily be obtained on the eastern side of it, in the basin of Annapolis, described by Sir John Hervey as a noble estuary, and on the Western side in the Harbour of St. John's. But there are other purposes specified in the Convention, for which it might be convenient for an American fishing-vessel to enter the Bay of Fundy.

This objection may be dismissed as unimportant.

The second objection, indeed, that the Bay of Fundy is not a bay of Her Majesty's dominions, goes to the root of the controversy, and demands more attentive consideration. For the purpose, however, of appreciating the weight of this objection, it will be indispensable to bear in mind that the Convention of London, concluded on the 20th October, 1818, arose out of difficulties relative to the claims of the United States to take and dry fish on certain coasts, bays, harbours, and creeks within His Britannic Majesty's dominions in America, and that those claims had been based on the Treaty of Paris of 3rd September, 1783, which Treaty in respect of the boundary line between the United States and the Province of Nova Scotia had been a subject of subsequent controversy, which has been finally arranged by various Conventions pursuant to the provisions of the Treaty of Ghent (24th December, 1814).

The Convention of London being thus supplemental to the Treaty of Paris, both Treaties must be looked at together, in order to arrive at a correct solution of the question of territorial dominion.

By Article II of the Treaty of 1783, the easterly boundary of the United States was defined to be "a line drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to certain highlands (in the north-west angle of Nova Scotia) which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the point where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean: excepting such islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia."

From the provisions of this Article we gather that the mouth of the St. Croix River was considered to be in the Bay of Fundy, and that certain islands which formed part of the Province of Nova Scotia were to the south of a line drawn due east from the point where the boundaries between Nova Scotia on the one hand, and East Florida on the other, respectively touched the Bay of Fundy and the Atlantic Ocean.

What the limits of the province of Nova Scotia were, before the province of New Brunswick was carved out of it in 1784, may be ascertained from the description of its boundaries in the Royal Commission issued to Sir Montague Wilmot, as Captain-General and Governor-in-chief of the province of Nova Scotia, bearing date November 21, 1763, when it became necessary to define the respective limits of the British provinces of Quebec and Nova Scotia upon the cession of Canada, and the renunciation of Acadia and Nova Scotia by Louis XV under the Treaty of Paris (February 10, 1763).

"To the northward our said province shall be bounded by the southern boundary of our province of Quebec," (which had been previously settled by a royal proclamation of the date of October 7, 1763), "as far as the western extremity of the Baie des Chaleurs; to the eastward by the said bay and the Gulf of St. Lawrence; and to the westward, although our said province hath anciently extended, and does of right extend, so far as the River Pentagot or Penobscot, it shall be bounded by a line drawn from Cape Sable, *across the entrance of the Bay of Fundy* to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec."

It further appears, from Article IV of the Treaty of Ghent, that the United States claimed the several islands in the Bay of Passamaquoddy, which they alleged to be part of the Bay of Fundy, and the Island of Grand Menan, in the Bay of Fundy, as comprehended within their boundaries, under the Treaty of 1783,—which islands, on the other hand, were claimed as belonging to His Britannic Majesty, as having been at the time of, and previous to, the aforesaid Treaty of 1783, within the Province of Nova Scotia; and it was agreed that the question between the two countries should be determined by two Commissioners respectively appointed by the two countries, whose award, if they should agree, was to be conclusive.

Accordingly, two Commissioners were appointed, who decided, on November 24, 1817 ("Hertslet's Treaties," vol. iii, p. 487), that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, and the Island of Grand Menan, in the Bay of Fundy, do each of them belong to His Britannic Majesty,—in other words, were, in the language of the Treaty of 1783, within the limits of the Province of Nova Scotia.

On referring to the map, it will be seen that the effect of this decision is to recognize the Island of Campo Bello as British territory, and as part of the old Province of Nova Scotia, which decision is in perfect harmony with the language of the Royal Commission of 1763; and if they be construed together it will be found:—1. That the territory of the Province of Nova Scotia, 1783, was bounded by a line drawn from Campo Bello to Cape Sable; 2. That the mouth of the St. Croix River, which is the point from which, on the one hand, under the Treaty of 1783, the boundary line between the United States and the Province of Nova Scotia was to be drawn westwardly; and to which, on the other hand, under the Royal Commission of 1763, a line was to be drawn from Cape Sable across the entrance of the Bay of Fundy, as constituting the water boundary of the Province of Nova Scotia, is identified with the mouth of the channel which separates the Island of Campo Bello from the American mainland.

Such is the necessary conclusion from the award of the Commissioners in 1817, inasmuch as the expressions "boundaries between Nova Scotia, on the one hand, and East Florida, on the other," in the Treaty of 1783, mean the boundaries between Nova Scotia and the United States, on the one hand, and East Florida and the United States, on the other; the former of which boundaries expressly