

**REPORTS OF INTERNATIONAL
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES
ARBITRALES**

**Decision under Article IV of the Treaty of Ghent of 1814 between the United
Kingdom and the United States, relating to the Islands in the Bay of Fundy,
decision of 24 November 1817**

24 November 1817

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PART II

**Decision under Article IV of the Treaty of Ghent
of 1814, between the United Kingdom and the United States
relating to the Islands in the Bay of Fundy**

Decision of 24 November 1817

**Décision en vertu de l'article IV du Traité de Gand
de 1814, entre le Royaume-Uni et les États-Unis
concernant les îles de la Baie de Fundy**

Décision du 24 novembre 1817

DECISION UNDER ARTICLE IV OF THE TREATY OF GHENT,
BETWEEN THE UNITED KINGDOM AND THE UNITED STATES
RELATING TO THE ISLANDS IN THE BAY OF FUNDY, DECISION
OF 24 NOVEMBER 1817*

DÉCISION EN VERTU DE L'ARTICLE IV DU TRAITÉ DE GAND,
ENTRE LE ROYAUME-UNI ET LES ÉTATS-UNIS CONCERNANT
LES ÎLES DE LA BAIE DE FUNDY, DÉCISION DU 24 NOVEMBRE
1817**

Territorial determination – control over the islands in the Bay of Fundy – interpretation of the Treaty of Peace 1783 – true intent of provision.

Délimitation territoriale – contrôle des îles de la Baie de Fundy – interprétation du Traité de paix de 1783 – objectif réel d'une disposition.

* * * * *

NEW YORK, *November 24, 1817.*

Sir: The undersigned Commissioners, appointed by virtue of the fourth article of the treaty of Ghent, have attended to the duties assigned them; and have decided that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do each of them belong to the United States of America; and that all the other islands 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 conformity with the true intent of the second article of the treaty of peace of one thousand seven hundred and eighty-three. The Commissioners have the honor to enclose herewith their decision.

In making this decision, it became necessary that each of the Commissioners should yield a part of his individual opinion. Several reasons induced them to adopt this measure; one of which was the impression and

* Reprinted from John Basset Moore (ed.), *International adjudications, ancient and modern. Modern Series*, vol. VI, New York, Oxford University Press, 1933, p. 35.

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belief that the navigable waters of the Bay of Passamaquoddy, which, by the treaty of Ghent, is said to be part of the Bay of Fundy, are common to both parties for the purpose of all lawful and direct communication with their own territories and foreign ports.

The undersigned have the honor to be [etc.]

J. HOLMES

THO. BARCLAY

The HON. JOHN QUINCY ADAMS,
Secretary of State.

**Decision of the Commissioners under the fourth article
of the Treaty of Ghent, 24 November 1817.**

By Thomas Barclay and John Holmes, Esquires, Commissioners, appointed by virtue of the fourth article of the treaty of peace and amity between His Britannic Majesty and the United States of America, concluded at Ghent on the twenty-fourth day of December, one thousand eight hundred and fourteen to decide to which of the two contracting parties to the said treaty the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the second article of the treaty of peace of one thousand seven hundred and eighty-three, between his said Britannic Majesty and the aforesaid United States of America.

We, the said Thomas Barclay and John Holmes, Commissioners as aforesaid, having been duly sworn impartially to examine and decide upon the said claims according to such evidence as should be laid before us on the part of his Britannic Majesty and the United States, respectively, have decided, and do decide, that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do, and each of them does, belong to the United States of America; and we have also decided, and do decide, that all the other islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to his said Britannic Majesty, in conformity with the true intent of the said second article of said treaty of one thousand seven hundred and eighty-three.

In faith and testimony whereof we have set our hands and affixed our seals, at the city of New York, in the State of New York, in the United States of America, this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

[SEAL]

JOHN. HOLMES

[SEAL]

THO. BARCLAY

Witness:

JAMES T. AUSTIN, *Agt. U. S. A.*

ANTH: BARCLAY, *Sec'y*