

**REPORTS OF INTERNATIONAL  
ARBITRAL AWARDS**

**RECUEIL DES SENTENCES  
ARBITRALES**

**Disagreements between the United States and the United Kingdom, relating  
to the Treaty extending the right of fishing, signed at Washington on June 5  
1854**

**No.1 – Vernon**

8 April 1858

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the Admiralty acceptance of the term, regard must be had to the ebbing and flowing of the tide. In the celebrated case of the River Bann, in Ireland, the Sea is spoken of as *ebbing and flowing in the River*. These principles are recognized in the Courts of the United States, and the authorities collated, and most ably commented upon by Angel.

Indeed, it would seem that the Commissioners themselves have not attached to this term "sea creek" as used by Admiral Bayfield, the force or character which it is now alleged it should bear, as they have by their Record N° 10, under date of 27<sup>th</sup> of September 1856, transmitted to me, with the other official documents in this matter, pronounced the "Montague" to be a River and determined upon its mouth, though Captain Bayfield, in his Sailing Directions, before referred to, page 123, speaks of it as a "sea creek". It has been urged, that if these places are declared to be Rivers, and not creeks or harbours, then where are the creeks and harbours, contemplated by the Treaty. To this it may be answered, that this treaty does not contemplate Prince Edward Island alone – and even though none such might be found within its narrow circle – yet they may be found in numbers along the five thousand miles of coast, exclusive of Newfoundland, which this Treaty covers, extending from 36<sup>th</sup> parallel of north latitude in the United States, to the furthest limits of Labrador.

With these preliminary observations, I shall take up the disputed places in Prince Edward Islands, and proceed to decide upon them, in the order in which they have been submitted.\*

#### NO. 1. – VERNON

Determining what constitutes a river – sufficient water for navigation at low tide – salinity of water – proximity of ship building facilities - sufficient breadth to require a bridge crossing – surrounding land of the same general formation as other rivers – prior description as a river in Henry Molesley Bayfield's Sailing Directions and in various Acts of Assembly.

Détermination de ce qui constitue un fleuve – niveau d'eau suffisant pour la navigation à marée basse – salinité de l'eau – proximité des chantiers navals – largeur suffisante pour nécessiter un pont de traversée – terrain environnant de même facture générale que celui des rives des autres fleuves – désignation antérieure en tant que fleuve dans l'ouvrage de Henry Mosley Bayfield Sailing Directions et dans divers actes du Parlement.

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\* Secretariat note: The following awards were omitted from the instant publication because of their technical or duplicative nature; they are: No. 8 – Fortune; No. 9 – Souris; No. 11 – Tryon; No. 12 – Crapaud; No. 14 – Hunter; No. 18 – Pierre Jacques; No. 19 – Brae; No. 22 – Ox and No. 24 – Sable. They are reproduced in John Bassett Moore, *International Arbitrations to which the United States has been a party*, Vol. I, Washington 1898, Government Printing Office, pp. 461-467.

I, the undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington on the 5<sup>th</sup> day of June, A. D. 1854, having proceeded to and examined the Vernon, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Majesty's Commissioner and the Commissioner of the United States, as disclosed in Record No. 11 of their proceedings, am of opinion that the Vernon is entitled to be considered a River.

It has, at low tide, water for boat and shallop navigation. It has good breadth, requiring long and strong bridge to cross it. Vessels are built two miles from its mouth. As you drive along its banks, there would be no hesitation in speaking of it, were no question raised, as a River. It would appear as if the salt water were an intrusion into a channel, formed and supplied by a running stream, enlarging and deepening the channel, but finding it there, the banks and surrounding lands all bearing towards the Vernon the same relative formation as the banks towards admitted Rivers. It is spoken of in Bayfield's Sailing Directions as a River, and as such in various Acts of Assembly.

As such Arbitrator or Umpire, I decide that the Vernon is a River.

Dated at Saint John, in the Province of New-Brunswick, this 8<sup>th</sup> day of April, A.D. 1858.

JOHN HAMILTON GRAY.

## NO. 2. – ORWELL.

Determining what constitutes a river – prior description as a river by Bayfield, in Public Acts and in ancient land grants.

Détermination de ce qui constitue un fleuve – désignation antérieure en tant que fleuve dans l'ouvrage de Henry Mosley Bayfield, dans des actes officiels et dans d'anciens actes de concessions territoriales.

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I, the undersigned, Arbitrator or Umpire under the Reciprocity Treaty, concluded and signed at Washington on the 5<sup>th</sup> day of June, A. D. 1854, having proceeded to and examined the Orwell, in Prince Edward Island, concerning which a difference of opinion had arisen between Her Britannic Majesty's Commissioner and the Commissioner of the United States, as is disclosed in Record No. 11 of their proceedings, am of opinion that the Orwell is entitled to be considered River.

It is spoken of by Bayfield, in conjunction with the Vernon, as a River; has been recognized as such in the Public Acts of the Island; and described under that designation, as boundary in the ancient grants, as far back as 1769.