

112/ Thus by an act of the highest authority in the British Nation, to whom the whole Country at that time belonged, and which had an undoubted right to ascertain establish & declare the boundaries between the different Provinces of the Empire, this River emptying itself into Caspamaguddy Bay on the Western side, commonly called & known by the name of Saint Croix River, otherwise called the Scoudiac, is declared to be the boundary between these Provinces. — This Act was in the knowledge of all the Commissioners who made the treaty of Peace; by this Act both the American & British Commissioners knew that his Britannic Majesty must be bound; and the obligation was of course reciprocal upon the United States; — For if the American Commissioners did not conceive the United States to be equally bound by this Act; or contemplated the River Magaguadavic as the true ancient St. Croix, forming the Eastern boundary of Massachusetts Bay, they should have explained themselves at the time.

[a] If he who can & ought to have explained himself clearly & plainly has not done

[a] Vatt: b. 2. c. 17. §. 264.

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it, it is the worse for him; he cannot be allowed to introduce subsequent restrictions which he has not expressed. — This is a maxim of the Roman Law: practionem obscuram is nocere in quorum fuit potestate legem ascriptis conscribere. The Equity of this rule is extremely visible, and its necessity is not less evident, there can be no secure conventions no firm and solid concession, if these may be rendered vain by subsequent limitations that ought to have been mentioned in the piece, if they were included in the intentions of the contracting powers.

[119/]  
[a] If he who has expressed himself in an obscure or equivocal manner has spoken elsewhere more clearly on the same subject, he is the best interpreter of himself, we ought to interpret his obscure or vague expressions, in such a manner that they may agree with those terms which are clear and without ambiguity, which he has used elsewhere, either in the same treaty or some other of the like kind. — Here seems to be the true rational principle of interpretation, that it must conform to former national and diplomatic acts, and public documents and transactions, where the terms about which the doubt arises have been made use of, which were within the knowledge of both parties at

[a] Vatt: b. 2. c. 17. §. 284