

Britain and France, in 1839, the 9th Article ran: "It being understood that the distance of three miles, limiting the exclusive right of fishing upon the coast of the two countries, should be measured in respect to bays of which the opening should not exceed ten miles by a straight line drawn from one cape to the other." Reference may also be made to the Convention between the same nations of 1868, quoted in the Appendix.

The meaning of the terms "coasts, bays, harbours, and creeks," in the Convention of 1818, between Great Britain and the United States, was definitely fixed as regards the Bay of Fundy by a mixed Commission in 1853. The Commission differing, the cause was left to the decision of the umpire, Mr. Joshua Bates. He decided that as the Bay of Fundy is from sixty to seventy-five miles wide and from one hundred and thirty to one hundred and forty miles long, with several bays on its coasts known and named as bays, and has one of its headlands in the United States, which all vessels must pass bound to Passamaquoddy Bay, and one large island belonging to the United States, Little Menan, lying on the line between the headlands, the Bay of Fundy cannot be considered as an exclusively British bay within the meaning of the treaties regulating the fisheries, nor could the "Coast of Great Britain" under the treaties be measured from its headlands, and he intimated an opinion that no indentation could be considered a "bay," the opening of which exceeded ten miles from headland to headland. The case adjudicated upon arose out of the seizure of the American fishing schooner "Washington," while fishing in the Bay of Fundy, ten miles from the shore. Mr. Bates' judgment is very special in its character, but it serves to exhibit and illustrate the rational principles of International Law on which the interpretation of such words as bays, &c., would proceed. Vattel, writing on this same subject says, "I speak of bays and straits of *small* extent, and not of those great tracts of sea to which these names are sometimes given, as Hudson's Bay and the Straits of Magellan, over which the empire cannot extend and still less a right of property."

Case of Bay of Fundy.

It was at one time argued that a limit of six miles opening between the headlands should be imposed, but against such a limitation Mr. Seward is stated by the English Commissioner in