

etc., irrespective of the width at the mouth. The United States, on the other hand, contended that the 'line of exclusion' followed the sinuosities of the coast, except that in bays, it was to be drawn from headland to headland when the distance apart did not exceed six miles. For many years, the English interpretation had been accepted by the Americans. Thus, in 1852, Mr. Webster admitted that "by a strict and rigid construction of this Article [Art. I, Treaty of 1818], fishing vessels of the United States are precluded from entering into bays and harbours of the British Provinces, except for the purpose of obtaining shelter, repairing damages and obtaining wood and water. A bay, as is usually understood, is an arm or recess of the sea entering from the ocean between capes and headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson's Bay or the Bay of Biscay, although they are very large tracts of water."

The headland doctrine was formally challenged by the United States in 1843, and followed by much diplomatic correspondence. In 1845, Lord Aberdeen informed Mr. Everett that the headland rule would be relaxed so far as the main body of the bay of Fundy was concerned. This concession, once made, it was never possible to regain and, but for the strong remonstrances of the Governments of Nova Scotia and New Brunswick, the Home Government would have made the same concessions with reference to all other "bays of which the mouths were more than six miles wide."

In the case of the *Washington*, which was referred to the Claims Commission appointed under the Convention of Feb. 8, 1853, the umpire gave the casting vote in favour of the United States contention "that the bay of Fundy is not a British bay nor a 'bay' within the meaning of the word used in the Treaties of 1783 and 1818." The umpire, Mr. Bates, was a junior member in an American branch of an English banking house and was chosen by lot. "It would have been absurd that either country should have been willing to accept the decision of Mr. Bates on a question of international law, as to the rights of either, or as to any interpretation of a treaty."

Reciprocity From 1839 to 1854, numerous seizures were made. To **Treaty of 1854** adjust the points of difference between the two nations, the British Government, in 1854, sent Lord Elgin to the United States and, in the same year, he concluded a treaty in relation to the fisheries and to commerce and navigation. The first article of this treaty, commonly known as the Reciprocity Treaty of 1854, conceded to United States fishermen "the liberty to take fish of every kind, except shell-fish, on the seacoasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the