

extension of the limits of territorial waters and the draft proposal specifically negated such an intention.

It is noted that Lord Curzon points out that the theory of the international validity of the three mile limit would be strengthened by the conclusion of a Treaty making an exception for a special purpose but that he is of the opinion that such a Treaty would weaken the principle because it would form a precedent the following of which would ultimately deprive the principle of force. It is not perceived that this would be the result as no Power would be under obligation to make any other agreements unless it saw fit to do so or to treat the special agreement as a precedent except in a precisely analagous case and there could be inserted in the special agreement any statement or qualification that might be deemed to be desirable to show that it was definitely limited to the particular situation in view.

In relation to Lord Curzon's further suggestion it may be stated that, while the proposed Treaty could not be ratified until the Senate convenes, and while the Secretary of State is not in a position to give an assurance either with respect to the action of the Senate or with regard to the prospect of securing from it an amendment to the Volstead Act in relation to ship liquor and cargo liquor destined to foreign ports, it is believed that the solution of the present difficulty through the making of a fair and reasonable agreement such as is proposed would be the most promising method of securing early action. Therefore Mr. Hughes trusts that the suggestion will not be put aside upon the supposition that another course is equally feasible.

With respect to Lord Curzon's suggestion that, even if the twelve mile limit were accepted, cases would inevitably occur liable to cause serious friction between the two countries owing to the difficulty of deciding with any certainty the position of a vessel usually out of sight of land, at any rate on the Atlantic Coast, it is believed by this Government that the proposed special agreement would do much to reduce, if indeed it would not wholly eliminate, the causes of friction due to the present efforts to evade the laws of the United States. In this connection it must be emphasized that the proposed agreement would not interfere with British vessels engaged in legitimate commerce and bound for American ports. Such vessels will necessarily come not only within twelve miles but within three miles of the American Coast and will hence in any event be subject to examination by American authorities and will of course comply with the applicable laws of the United States. The proposed special agreement would bear only upon those vessels which come within twelve miles but hover off the three mile limit for the purpose of aiding in the smuggling of intoxicating liquor or other prohibited articles into the territory of the United States.

It is impossible for this Government not to take all proper and lawful measures to prevent this illicit traffic from being carried on. An illustration is afforded by the case of the schooner *Henry L. Marshall*, the conduct of which recently came under the scrutiny of the United States Circuit Court of Appeals for the Second Circuit, as stated in the memorandum of the Secretary of State