

United States took the position that fishermen arrested for what, in effect, would be considered trespassing, must be handed over to their own country for trial. The United States could not permit its own fishermen to be tried by the court of another country. Mr. Robertson of the Canadian delegation questioned whether this would be considered practicable by some countries as there would be no guarantee that the United States, or any other country, would, in fact, prosecute. Mr. Herrington (US) replied that the arrest and handing over would cause sufficient delay in fishing operations to discourage further violations, whether or not prosecution followed. Mr. Robertson suggested that perhaps regulations could be written in the report concerning the penalties for first and second and third violations. Mr. Yingling (US) countered by saying that this would mean formulating international penal law, an act in which the United States Government would not wish to become involved. Mr. Robertson thought that the position of the United States might have merit, although he could see that there would be some difficulty in persuading certain Latin American and European states to agree to the United States procedure. The Canadian delegation proposed to recommend the United States procedure on arrest and trial to the Cabinet.

5. On the International Law Commission's Articles concerning arbitration (Articles 57, 58 and 59), there was also considerable discussion. The United States considered that an additional article on arbitration was necessary. Such an article should specify what criteria are necessary for the Arbitral Commission to reach a decision. Without such criteria the arbitral provisions are capable of such broad interpretation that they might easily lead to discussions within the Arbitral Commission not contemplated by the International Law Commission. In the main the Canadian delegation considered the criteria so outlined might be modified to some extent, but it was agreed that there was no great difference in views between the two governments.

6. On the matter of the limits of the Territorial Sea and the contiguous zones for fisheries, the United States chairman asked if the Canadian delegation would present the Canadian Government's views. Mr. Ozere pointed out that the Canadian Government had proposed a contiguous zone for fisheries, not as a conservation measure, but as a protection for small fishing operations. In these days there is always the fear of refrigerator ships from outside coming into coastal waters and by large scale modern methods putting the small operators out of business. Mr. Robertson added that the three-mile limit was not adequate for fisheries and that the 12-mile limit would, to some extent, meet Canadian requirements. The United States delegation countered with the argument that such industries as Japanese pearl fisheries would run into considerable difficulty under the 12-mile contiguous zone. Mr. Robertson replied that such special interests as Japanese pearl fisheries was a matter which would have to be given further consideration. Mr. Herrington (US) raised a point of whether Canada would be willing to have a 12-mile limit only where its economic importance to the country could be proved. He believed that there were a great many areas in the world where the fishing possibilities have not been exploited and therefore fencing off the ocean into 12-mile limits would not seem desirable. He thought the 12-mile contiguous zone might therefore be adopted in certain areas only. Mr. Robertson said that he did not consider this solution satisfactory because it was not possible to compare the economic importance of a particular area to a whole country. Fishing in Eastern Canada, for example, would probably be insignificant in terms of the national gross product, but was a most vital matter to the Maritimes. Mr. Herrington (US) said that the argument has been used by the proponents of the scheme that it should be of critical importance to the economy and cited Iceland as an example of a country which might benefit. The United Kingdom, on the other hand, he thought, would find it difficult to support the 12-mile contiguous zone.