

waters adjacent to its coasts within the limits of its maritime jurisdiction."¹

So that Twiss' remarks have no application to an exclusive claim to fisheries beyond the ordinary jurisdictional limit; and will not support the argument in question.

If, on the other hand, Vattel in spite of his limiting words "on its coast" intended such extra marginal fisheries, his reasoning had weight only so long as the inexhaustible nature of the sea was urged as an argument for its freedom. This, as we have already shown, is no longer done by the best jurists,² and I will add one more illustration in the words of Calvo:

"Au point de vue pratique, celui de la pêche, par exemple, l'argument tiré de la prétendue immensité des mers n'a qu'une valeur relative, et conduirait, contrairement à la pensée de ceux qui le mettent en avant, à soutenir que l'océan est susceptible d'appropriation dans certains cas et qu'il ne l'est pas dans d'autres, qu'il peut à la fois, constituer un domaine collectif ou national et une propriété individuelle."³

But the law failing, the *fact* of exclusive possession by England of the Ceylon pearl fisheries has been offered in evidence.⁴ The British Government does regulate and control these fisheries to a distance in the open sea of twenty miles from the northern end of Ceylon. But it has never excluded other nations; nor have these ever acknowledged any monopoly to England.⁵ If they have never exercised their right of fishing, it is to be presumed that they could not at a distance compete with native divers. We are here, therefore, in the face not of a right but of a bare fact.

¹ *Id.* and Wheaton, El., Part II, C. 4, § 5; Azuni, T. I, C. II, Art. 8.

² Wheaton, p. 269.

³ I, § 205.

⁴ *N. Y. Tribune*, March 19, 1890.

⁵ *Forum*, Nov. 1889. Pres. J. B. Angell.