

TERRITORIAL SEA

satisfactory alternative arrangements can be made by agreement between the states concerned. In any event, we have imposed a 12-mile fishing limit on our own trawlers since 1911 for the protection of our shore fisheries. Thus within a 12-mile contiguous zone our own fishing trawlers have been denied by law the right to fish for 47 years. It is only natural that we should seek an international law which will impose the same restriction upon trawlers from other countries fishing in the waters off our coasts.

"It is significant that many other countries have already adopted the same contiguous zone for other purposes. It is not merely a question of the area which may be required for conservation. That varies according to local conditions. It may be debatable whether a 12-mile zone is required for most conservation plans. However, it does seem reasonable that a country should have some prior claim upon the stocks of fish heavily concentrated in an area where the local population is dependent on them for their livelihood. Twelve miles may not be scientifically exact. However, it has been sufficiently well established that the International Law Commission recognized it to the extent of declaring that neither contiguous zones nor territorial waters should be extended in any case beyond that distance. Perhaps it may be regarded as a figure of convenience as are many other figures which reasonably interpret a particular requirement just as the 3-mile limit has over so many years.

"We understand the natural desire of less-developed countries which so greatly depend upon the food resources of the sea to exercise the widest possible control over the waters which supply their food, particularly when they have not the financial resources to equip and maintain long range fishing fleets. Fishermen are the same all over the world. It is the small fisherman in Canada, as elsewhere who faces all the dangers to harvest the food from the sea. Community after community depend upon their efforts and their success. It is for them that we seek 12-miles of exclusive fishing rights with the contiguous zone. We are naturally sympathetic to the claims of some of the Latin American countries and others, whose distinguished representatives have explained their own particular fishing problems and the reasons why they have sought control over such wide contiguous zones. But we are inclined to think that in view of the recommendations of the International Law Commission it is most unlikely that there could be agreement upon the approval of anything more than a 12-mile contiguous zone. We do therefore respectfully urge those who seek more to accept the 12-mile zone as the widest area of national control over fishing upon which there is likely to be agreement, except for arrangements in regard to conservation or other special considerations of that kind.

"Now I come to the question of the territorial sea. This would seem to be the most contentious question which will properly come before this conference for debate. At first glance, it might seem that if it is desirable to extend the area of control over fishing, the simplest way would be to extend the territorial sea to whatever distance is required. I submit, however, that the two are not bound together in any way and that very unhappy results could follow the adoption of this apparently simple rule of thumb. As a representative of the Canadian Government said in the General Assembly on December 7, 1956, 'the general extension of the breadth of the territorial sea could have important consequences for the freedom of sea and air navigation'. The same point was raised in the Canadian memorandum to the Secretary-General of the United Nations on September 10, 1957.

"It is important for us to remember that those consequences could impose very serious limitations on the freedom of the sea as well as the flight of commercial aircraft which is becoming an increasingly vital means of communication and trade between all countries of the world. I do hope that in the discussions which take place when Article 3 is before the committee there will be no uncertainty about the fact that exclusive fishing rights can be exercised up to the 12-mile limit whatever the measure of the territorial sea may be below that figure.

"Let us then examine the question of the territorial sea strictly on its own merits. Whatever arguments may be used to support the retention of the 3-mile limit, I would like to say that there are some arguments that I have heard which in our opinion definitely do not apply. First is the suggestion already mentioned that the territorial sea needs to be extended to the same width as the contiguous zone established for the control of fishing. Second is the argument that this is a sign of progress. With every respect for the opinion of those who have expressed this view I do most strongly contend that it would be the very opposite. The extension inwards of the high sea to within 3 miles of the coast has been the most striking evidence of the progressive expansion of the freedom of the seas. If we started to move the area of free navigation farther out from the coasts we would, in fact, be setting the clock back 300 years.

"Canada is a young country, in time of actual development, probably one of the youngest here. We want progress. I think without undue immodesty we may claim to have achieved some substantial measure of progress. Our eyes are on the future. We want the widest possible freedom of the sea for the movement of our ships and the movement of our aircraft which are now flying millions of miles every year in the peaceful carriage of passengers and goods.