

the case of the "Washington," to have argued, in 1852, as follows: "This argument seems to me to prove too much. I think it would divest the United States of the harbour of Boston, all the land around which belongs to Massachusetts, or the United States, while the mouth of the bay is six miles wide. It would surrender our dominion over Long Island Sound—a dominion which, I think, the State of New York and the United States would not willingly give up. It would surrender Delaware Bay; it would surrender, I think, Albemarle Sound and the Chesapeake Bay; and I believe it would surrender the Bay of Monterey, and perhaps the Bay of San Francisco."

The doctrine of maritime jurisdiction over "bays" in regard to their own waters, has always been strongly insisted upon by the United States, and the British Commissioner in the case already mentioned says, that in 1830 that Government rejected the application made on behalf of the British fishermen of the Bahamas, to fish within certain bays of the Floridas, on the ground that the fisheries within those bays were exclusively the property of the citizens of Florida, and that the committee appointed to inquire into the matter, after giving several extracts from the treatises on the Law of Nations, by Vattel and Martens, conclude by saying that "some writers have formerly contended that the right could not appertain if the fisheries were inexhaustible, and that a necessity must exist of this exclusive appropriation. This doctrine, however is long since exploded, and the right recognized, as founded on the broad and arbitrary principle that every nation has a right to such exclusive appropriation for the extension of its commerce, and even for convenience merely."

From what has been said we may safely conclude that a bay, for the purpose of the question under consideration, may be taken to have been established by modern usage to mean an indentation of the shore of which both headlands are within the territory of the same State, and are at a distance from one another of not more than ten miles; and that in such case the whole bay within the headlands, and the waters within three miles of a line joining the headlands, form part of the territory of such State, and the fishing within such waters is by consequence in the exclusive possession of its subjects.

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