

OPENING SESSION

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Why We Need a 12-Mile Limit

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A LITTLE OVER FOUR MONTHS AGO, I introduced a bill in the Senate which sought to extend our fishing limits from the present and traditional 3 nautical miles from our coasts to 12 miles, and at the same time avoid some of the conflicting views and interests among our diverse American fishing groups.

The reason for this precaution was that we—and when I say “we” I mean our fishermen and those concerned with our fishermen—are not entirely united on the desirability of extending these limits an additional 9 miles, although I am convinced that a substantial majority of us are.

So, the bill provided that whenever the Governor of any state or territory alleged, by petition to the President, that the fishing by nationals of other nations in some or all of the coastal waters lying within 12 miles of the shores of such state or territory was of such intensity or magnitude, or of a character to endanger the fishery resource within that area, the President should appoint a fact-finding board which would investigate the allegations of the Governor and report within ninety days; that if the report sustained the contention of the Governor, as it probably would, the President could prohibit by decree the fishing of these nationals in the waters of that state up to 12 miles or he could provide other regulations which would limit the extent of their fishing, the type of their gear, and establish other restrictions that seemed necessary.

One purpose of introducing this legislation was to call attention to the need for action regarding the obsolete 3-mile limit. In my remarks to the Senate I referred to that 3-mile limit as an “albatross hung around every fisherman’s neck.” For I am saying to you very frankly that I am in favor of the 12-mile limit for the entire United States. I think it is overdue. The 3-mile limit is an outmoded conception dating from the days of the cannon that shot round iron balls whose effective range was estimated to be approximately 3 miles. In other words, the 3-mile limit was a development of a national defense measure which had nothing whatever to do with fishing. For a long time, the 3-mile limit was common to all nations with sea-coasts.

While there has been a lot of discussion concerning these limits for years and the pros and cons of changing them, there has been no concerted action. International conferences to change these limits have never developed a sufficient agreement to make possible multilateral action or universal action.

So what actually has happened recently is that individual nations have taken it upon themselves to extend these limits to whatever seemed to them to be best for their nationals, and varyingly to hope and assume that each could make its prescription prevail on others. But, Uncle Sam, being generally good-natured and perhaps in his maturity a little timid, has hesitated to take such action partly because of concern for international relations, but also because there were differences of opinion in our own fishing family.

These differences of opinion have become less and less valid because they were largely based on the desire of some of our fishermen to fish as close to the 3-mile limits of other nations as possible and did not wish to stimulate those nations into retaliatory measures if the United States proclaimed a 12-mile limit for itself. That situation has been rapidly disappearing as other nations have acted or claimed extension of their fishing areas, and I suspect that before long we shall move closer to unanimity among American fishermen in supporting a 12-mile limit for our fisheries.

Let it be understood that this is for fisheries only and that is what our discussion is about, because there are some military or naval aspects, and extension of the limit to 12 miles for purposes other than fishing clash with some conceptions of our defense establishment.

Actually, the United States has in the past been a retarding agent in promoting change.

When the Hague codification conference met in 1930 under the auspices of the League of Nations, the United States favored continuation of the 3-mile limit which was then supported by the United Kingdom and by its former colonies or associates in the British Empire: Canada, India, Ireland, and South Africa, as well as by the Netherlands, Greece, Denmark, and China. Favoring 4 miles were Norway, Sweden, Finland, and Iceland. Six miles was sought by Italy, Yugoslavia, Rumania, Brazil, and Colombia. Portugal reached for 12 miles. No agreement was reached at this conference.

Another conference, after long preparation in which 86 nations were represented, met in 1958, known as the Geneva Conference of the Law of the Sea. At that gathering 21 countries, including the United States and the United Kingdom, claimed 3 miles. In that category were also Australia, Belgium, Brazil, Canada, China, Cuba, Denmark, the Dominican Republic, France, Japan, Jordan, Liberia, Malaya, The Netherlands, New Zealand, Pakistan, Poland, South Africa, and Tunisia. Again Norway, Sweden, Finland, and Iceland favored 4 miles. Cambodia claimed 5 miles. Twelve countries claimed 6 miles: Ceylon, Colombia, Greece, India, Iran, Israel, Portugal, Spain, Thailand, Uruguay, and Yugoslavia. Mexico claimed 9 miles and Albania 10. By this time, 11 countries were claiming 12 miles: Bulgaria, Ecuador, Ethiopia, Guatemala, Indonesia, Libya, Rumania, Saudi Arabia, the Soviet Union, the United Arab Republic, and Venezuela. Chile, Costa Rica, El Salvador, and Peru put in a claim for 200 miles, while Argentina, Korea, Nicaragua, and Panama sought to claim their continental shelves. At this conference, Soviet Russia and the Arab bloc insisted on 12 miles, while the United States and the United Kingdom led the fight for the status quo—namely, 3 miles. Late in the conference the United States delegation offered a compromise. It proposed a 6-mile limit with an additional 6-mile contiguous zone in which the coastal nation would have exclusive fishing rights, subject only to "historic rights" for countries whose nationals had fished in the area for the

five previous years. This compromise failed to receive the two-thirds vote required for adoption as a conference recommendation.

Two years later, in 1960, there was another conference—the Second Geneva Conference on the Law of the Sea. This time the conference began with the proposal that failed in the closing hours of the 1958 conference, with the added qualification that after an initial ten years the right of the states to fish within 12 miles would end unless bilateral treaties could meanwhile be negotiated. In this conference the proposal fell short of one vote of the necessary two-thirds. With 82 nations voting and five abstentions, the proposal received 54 votes to 28 against. A shift of one vote would have made it 55 for to 27 against, the needed two-thirds majority. But let us remember that even after such a favorable vote there would be no compulsion for nations to carry out the findings of the conference. A subsequent treaty with each nation, or a multilateral treaty of ratification, would have been needed and there was no guarantee or certainty that this would follow and that such treaties could be successfully negotiated.

This brief summary of recent history on the extent of territorial waters will give an idea of the difficulty of arriving at international agreement. The United States has been making efforts to secure such agreement. This is a praiseworthy objective—if attainable.

The United States has, in recent years, been suffering from what might be termed a power-inferiority complex. Because we are powerful, we hesitate to assert that power. We demur at asserting it because of a well-intentioned and idealistic desire to show the world that we believe in negotiation, arbitration, and decisions arrived at by mutual consent, if possible, of vexatious international problems. That is a fine ideal and a high purpose, which I applaud and which some day may prevail in the world. There is an old saying to the effect it is well to have a giant's strength but it is tyrannous to avail oneself of it. Well, neither is it desirable to have Lilliputians truss up and hamstring the giant through unwillingness on his part to use his giant's strength to protect his nationals' interest. For indeed events are outrunning the worthy high purposes but languid action of some aspects of our national policy. While the United States is striving for international agreement, other nations are going it alone.

On June 4, 1963, Canadian Prime Minister Lester Pearson, addressing the Canadian Parliament, declared that the time had come to "take firm and national action to protect Canada's fishing industry." Commenting on the growing number of foreign fishing operations which threatened to deplete his nation's offshore fishery resources, Canada's chief executive declared:

"The Canadian Government has decided to establish a 12-mile exclusive fisheries zone along the whole of Canada's coastline as of mid-May, 1964, and to implement the straight baseline system at the same time as the basis from which Canada's territorial sea and exclusive fisheries zone shall be measured."

I can only applaud Canada's action as a vigorous move to protect its nationals' fishing interests.

Other nations, too, are moving—and moving unilaterally. Ecuador—little Ecuador—a country with no great political stability and seeking our financial aid under Uncle Sam's generous foreign assistance program, and receiving it—to date to the extent of \$152 million—seized two American fishing vessels and arrested their crews, although they were fishing more than 12 miles from shore, since Ecuador claimed exclusive fishing jurisdiction up to 200 miles.

The crews were brought into the harbor and kept imprisoned on their vessels for three weeks, a plain, unmitigated outrage. Then the two ships were fined \$12,086 and \$14,186 respectively.

We may well contrast the absence of vigorous action by our State Department in this case with its action in Alaska, where it insisted that the crews of the Japanese vessels arrested by Governor Egan, when they were caught fishing within 3 miles of Alaska's coast, be released without trial, although in their case they could only have been fined for failure to have fishing licenses and for violation of the conservation practices prevailing in our waters.

There have been other cases in Ecuador and, similar to these, of harassment of American fishing boats off the shores of other Latin American countries; and it is high time that we had a clear-cut understanding as to what they may and may not do, and not be subject to the arbitrary, brutal, and ruthless maltreatment to which these American fishermen have been subjected. Submission to such maltreatment does not instill respect either for the country guilty thereof or for the United States which accepts it passively.

I expect that this issue will come up in the current debate on foreign aid and that legislation will be proposed to obviate such occurrences in the future.

But there is more than that to prompt the United States to act. Foreign fishing vessels in increasing numbers are also appearing off our shores, in waters traditionally fished by American vessels. They have been off the Atlantic Coast from Maine to Florida and off our Gulf Coasts.

Soviet Russia is going after the fisheries all over the world with effectiveness, determination, and ruthlessness that threatens our fisheries and the livelihood of our fishermen. The Japanese likewise have become more and more aggressive. In 1956 the United States ranked second only to Japan as a fishing nation. By 1961, five years later, the United States had dropped to fifth place among nations in the size of its catch. We are now behind not only Japan, but behind Soviet Russia, Red China, and Peru. That is not a position of which we should be proud. Nor is it a trend that we can or should continue to tolerate.

While the world's annual fish catch has doubled in the last 15 years, the United States' share of that increase has been negligible. But what has increased is our fisheries importation, which has, since 1940, grown approximately 400 per cent. A determined national policy, geared to the national interest, could rectify that condition.

To be sure our dilemma is a complex one and I shall shortly touch on some of its problems and proposed remedies. But among the remedies which will be decidedly beneficial is the extension of our fishing preserves at least to the 12-mile limit with appropriate baselines between headlands.

The bill, S. 1816, of which I spoke earlier, co-sponsored by Senator Ed Muskie, of Maine—thus evidencing support from our easternmost and westernmost states—has not been acted upon. The reason for the delay is, in part, the desire of the State Department to complete negotiations with some of the nations which are already asserting, or preparing to assert, exclusive control of coastal waters beyond the 3-mile limit. Among these is Canada, whose announced purpose to extend its limits to 12 miles next May would—unless we reach an agreement—deprive some of our American fishermen of long-frequented fishing grounds.

Central and South American nations have made similar departures, and while our government has "reserved all its rights," as the diplomatic phrase

goes, it remains to be seen just what those reservations of our rights mean. In any event, I am convinced that we cannot wait much longer before taking action ourselves.

The urgency for action is brought home to us particularly in Alaska by not merely the invasion of our waters by Japanese and Russian fishing fleets, but their actual penetration inside the 3-mile limit and the taking of fish from inside it. One may suspect that the Russians are there also for purposes of observation.

In the summer of 1962, Governor William Egan, of Alaska, apprised of Japanese fishing vessels moving into the waters of Shelikof Strait, a body of water lying between Kodiak Island and the mainland, long fished exclusively by Americans, wrote a vigorous protest to the State Department requesting effective action to prevent the Japanese incursion. Hearing nothing, he followed this up with a telegram. Still getting no response, he telephoned and got the Acting Secretary of State on the line. This was, the Acting Secretary said, the first he had heard of the difficulty. The best Governor Egan could exact from him was the promise to send an observer. Governor Egan was caustic over the phone. But, more important, defying precedent, he decided to act. He sent the Alaska National Guard to board two Japanese vessels clearly within these waters, arrested the captains and crews, and ordered them brought to court.

This forthright action was displeasing to the State Department, and produced an editorial in the Washington Post, the capital's only morning daily, highly critical of Governor Egan. It pointed out that he had improperly taken upon himself a federal function and chided him for not knowing the limits of a state governor's authority. However, his action received the virtually unanimous and enthusiastic support of the people of Alaska. In fact, there are many who believe this brought about his re-election in 1962. The pioneer spirit, still characteristic of "the last frontier" takes many forms. Governor Egan's pioneering received the hearty approval of Alaska's Congressional delegation.

At the request of the State Department, the offending Japanese fishermen were released. Actually, there was at the time no penalty for the violation of our 3-mile limit. But the captain and crew could have been fined for not having an Alaska fishing license and for violation of conservation regulations related to the type of their ship's gear, for their nets were fine meshed, capable of taking everything, old and young, large and small.

Since that time, I am happy to report, legislation has been introduced in Congress to provide fines up to \$10,000 and imprisonment up to one year for the violation of our coastal waters; that is, penetration by foreign vessels within the 3-mile limit. It, S. 1988, has passed the Senate, and is awaiting action in the House, where I am confident it will also be approved. If the United States extends its fishing limits to 12 miles, these penalties will apply without need of any amendatory legislation.

The need for both the penalties and the extension is further demonstrated by actions of the Russian fishing fleet. Soviet vessels have repeatedly, under cover of morning fog, penetrated inside our 3-mile limit. Russian whaling vessels have taken whales well within it, and have been observed doing it. When detected by plane, they have often not moved, and only with the approach of our Coast Guard vessels have they moved out. Hitherto they have had nothing to fear. The Coast Guard vessel merely escorts them outside of

the 3-mile limit. Actually, if S. 1988 becomes law, we shall need faster vessels because now they are not fast enough to catch the Russian ships. I have repeatedly requested the Administration to station faster vessels—a destroyer or two—in Alaskan waters to overtake and apprehend such violators. Up to now, we are limited to escorting them outside our waters and then making a protest to the Russian Foreign Office.

So far, I have not secured compliance with these requests for destroyers or faster ships. I shall continue to make them. I have pointed out the uselessness of diplomatic protests made after such violations. Enactment of S. 1988, to impose fines up to \$10,000 or year's imprisonment, or both, will have a deterrent effect provided also we can catch the culprits. Otherwise, the Russian practice of fish-and-run will continue. I wonder, parenthetically, what would happen to American fishing vessels if they should similarly venture into Siberian waters. My guess is that our fishing vessels would never be heard from again.

Indeed, there is real danger that unless the Federal Government acts decisively, the State of Alaska may again feel impelled to act, as it did in the case of the Japanese fishing vessels in the summer of 1962.

Telegraphing the State Department on August 2, 1963, Governor Egan called attention to the presence of four Russian whalers within the 3-mile limit, giving their exact location. One whaler, he reported, had a freshly-killed whale on a harpoon line, another whaler was preparing to fire. They were spotted by an experienced aircraft pilot and his passengers. Although the noise of the plane caused the whales to sound, the whalers made no effort to leave the area. This was but the latest of a number of confirmed observations of Russians fishing actively.

After urging the strongest possible representations to Russia and greatly augmented patrols, Governor Egan added that the State of Alaska had no desire again to take unilateral action and was aware of the delicate international situation but "cannot stand idly by in face of repeated violations of its territorial waters."

But there are still other problems with the Russians which will not be solved by the 12-mile limit and baselines alone and the penalties for their violation.

In Alaska we have, in recent years, developed an entirely new and desirable fishery product—the king crab. This is a large animal—mature specimen measuring from 3 to 5 feet in diameter. The meat in each of its six claws is a meal. This new industry has been developed over the last decade largely through the enterprise and initiative of two Alaskans, brothers, Lowell and Howard Wakefield. Alaskan king crab has become a nationally known delicacy and is increasingly marketed. It is caught by traps or pots which are lowered to the sea bottom from the crab fishing vessels.

For two successive seasons Russian trawlers cruising outside the 3-mile limit have torn up these traps. Governor Egan met with the victims at Kodiak last month and their testimony was to the effect that the Russians were deliberately dragging through the crab-fishermen's gear, each of whose pots were clearly marked by a buoy. The Russians went back and forth through this area. One fisherman lost three pots on one day, five on the next, and two subsequently. As these cost about \$200 apiece, he felt he could no longer set out his crab pots. Others gave similar testimony. Our crab fishermen, in effect, have been driven off their fishing grounds and deprived of their livelihood.

Another fisherman, coming alongside a Russian trawler, observed large quantities of king crab on its decks. There were many female and immature crabs and none of these were thrown off, as our conservation practices require.

In a letter to the President last month, Governor Egan reported these facts. He had counselled the fishermen fully to document and report their gear losses and encounters with the Russians and to avoid any incidents which would prejudice their cause. He was evidently apprehensive that some of them, inflamed by the deliberate and insolent invasion of their grounds and destruction of their property, might be tempted to take the law into their own hands. (Violence against Japanese seal poachers flared over half a century ago, when Alaskans did take the law into their hands.)

"I believe the evidence conclusive," Governor Egan wrote the President, "that the Russians are driving American fishermen from their traditional fishing grounds and ignoring the fundamental requirements of king crab conservation."

So even the 12-mile limit and the establishment of baselines will not be enough. The United States should reserve its continental shelf—subject only to such bilateral treaties as serve the interests of both our fishermen and of the nation with which we treat. But even that will not be enough unless our government takes a firm stand in behalf of our fishermen's rights and is prepared to back it up.

We have the largest defense budget in our history. We claim, and have, the most powerful military machine in the world—Army, Navy, and Air Force. We justify it and Congress votes it cheerfully in order to stop the advance of Communist imperialism all over the world. A large part of our defense effort, in dollars, material, and manpower, is spent far from our shores, in distant parts of the world. Is it not inconsistent and inexplicable that we do not put out the same effort at home; that we do not stop the economic aggression on our very coasts?

It is high time we did so!

Such action, however imperative, will not solve all our fishery problems, for we must also meet the competition of other nation's subsidized fishing vessels and efficient floating factories. The Congress is moving in this direction with legislation to authorize the government to pay a subsidy of 55 per cent of the cost of new fishing vessels. This is proper and realistic, since our fishery interests are obligated to build in American shipyards. When we have modern ships and equipment, we will be able to compete on the high seas, though that will not solve the problem of foreign vessels disregarding conservation practices and taking immature fish.

Other legislation is giving us increased funds for research.

I sponsored a bill in the 87th Congress which would have turned over one-third of the proceeds from the Kennedy-Saltonstall Act to the states to be used by the state fishery authorities for whatever purpose they deem best. The funds were allocated to the states on the basis of fishery landings. The bill ran into some objections and did not pass. In a modified form, it has been introduced in this Congress and has already passed the Senate. It is S. 627, and I am confident it stands an excellent chance of passage in the House.

In addition to that, we now have an amendment to the Foreign Assistance Act which includes fish products and fish protein concentrate as part of the "Food for Peace Program." When we overcome the stubborn resistance of

the Administrator of the Food and Drug Administration, who objects to the domestic sale of fish protein concentrate on aesthetic grounds, we will also increase our domestic market substantially for fishery products.

Indeed, it is high time that we begin to give consideration to those who produce food from the sea comparable to that we give those who produce food from the land.

We are spending billions of dollars annually to help the farmer with price supports and storage of surpluses—but we have done next to nothing for the fisherman. We have never subsidized our fishermen for the fish they do not catch! We have no sea bank comparable to the soil bank. To quote President Kennedy's clarion call: "let us begin". Well, we are just barely beginning in ship construction and research. We must do much more to regain our lost position.

But we can, and I believe we must, protect our coastal waters and their fisheries. Although there are some differences between the views and interests of our own fishermen, I am convinced that the preponderant national interest will be served, as I have said, by extending our fishing waters to at least 12 miles and by including the continental shelf for crustacea and shellfish, and by being determined to enforce our rights within these areas. A vacillating, a weak-kneed, a soft policy will lead only to continuing and further encroachment. The United States has abundantly shown its generosity, its empathy, and its willingness to help other nations. Our foreign aid program has for years included projects to assist, to rehabilitate, to support the fisheries of a score of foreign nations.

It's high time we stood up for our own!
