The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.
During the war between the United States and State X, a war vessel of the United States meets a war vessel of State X off the harbor of neutral State Y. When about to attack the war vessel of State X, a war vessel of State Y, near point (0), signals that it would be a violation of neutrality to engage in battle at that point. The point (0) is found to be 5½ miles from the nearest land of State Y, as shown in the accompanying plan (I) below.

(a) What is the limit of territorial jurisdiction?
(b) What should the commander do in regard to the protest?

**(SOLUTION.)**

(a) The limit of territorial jurisdiction in the Situation under consideration would be generally admitted to be 3 nautical miles outside the "straight line athwart the bay as close as possible to the entrance at the first point at which the entrance to the bay exceeds 10 miles of 60° latitude," as the Netherlands proclamation states.

(b) The commander of the United States war vessel should heed the protest of neutral State Y and should not attack the vessel of State X until it passes outside of neutral jurisdiction, and must use reasonable care that no act of hostility takes place which will endanger neutral safety.
Maritime jurisdiction.—The limit of maritime territorial jurisdiction has been the subject of much difference of opinion. The rule of Bynkershoek has formed the basis of the opinion since it was set forth in “De Dominio Maris” in 1702. He maintained “potestatem terræ finiri ubi finitur armorum vis,” or that the territorial jurisdiction was bounded by the range of arms. In those days this range seems to have been about a marine league. Hence the three-mile limit became common. It was acknowledged in many treaties. It was legalized in some states, as by the Territorial Waters Jurisdiction Act of Great Britain in 1878, and the convention of 1888 in regard to the Suez Canal, and Article III, 5, of the Hay-Pauncefote treaty of 1901 also adopts the three-mile limit of maritime jurisdiction for the Panama Canal. The marine league was also adopted in fisheries treaty between the United States and Great Britain of October 20, 1818, Article I.

Three marine miles from the low-water mark may be considered as in practice the conventional extent of maritime jurisdiction. There are, however, many exceptions claimed and granted.

One of the most common claims, though not generally admitted, is that the rule enunciated by Bynkershoek should be followed, viz, that the maritime jurisdiction should be bounded by the range of arms and should accordingly be increased as the range of arms increases. For certain purposes, such as for attack and defense of the coast, it is maintained that this is in fact the real limit of effective jurisdiction at the present time.

For revenue purposes, for the protection of special industries, such as fishing, and for other reasons, various limits beyond the three-mile line have been claimed and acknowledged from time to time.

Kent’s extreme claim.—Kent makes extreme claims for the United States. On page 112 of Abdy’s edition of his Commentary on International Law, he says:

All that can reasonably be asserted is that the dominion of the sovereign of the shore over the contiguous sea extends as far as is requisite for his
safety and for some lawful end. A more extended dominion must rest entirely upon force and maritime supremacy. According to the current of modern authority the general territorial jurisdiction extends into the sea as far as a cannon shot will reach and no farther, and this is usually calculated to be a marine league (or three miles, the maxim in which this doctrine is embodied being “tertia finitur dominium ubi finitur armorum vis”), and the Congress of the United States have recognized this limitation by authorizing the district courts to take cognizance of all captures made within a marine league of the American shores. The Executive authority of that country, in 1793, considered the whole of Delaware Bay to be within its territorial jurisdiction, resting its claims upon those authorities which admit that gulfs, channels, and arms of the sea belong to the people with whose lands they are encompassed, and it was intimated that the law of nations would justify the United States in attaching to their coasts an extent into the sea beyond the reach of cannon shot.

Considering the great extent of the line of the American coasts, their writers contend that they have a right to claim, for fiscal and defensive regulations, a liberal extension of maritime jurisdiction; nor would it be unreasonable, as they say, to assume, for domestic purposes connected with their safety and welfare, the control of the waters on their coasts, though included within lines stretching from quite distant headlands, as, for instance, from Cape Ann to Cape Cod, and from Nantucket to Montauk Point, and from that point to the capes of the Delaware, and from the south cape of Florida to the Mississippi. It is certain that their Government would be disposed to view with some uneasiness and sensibility, in the case of war between other maritime powers, the use of the waters of their coast, far beyond the reach of cannon shot, as cruising ground for belligerent purposes. In 1793 the Government of the United States thought they were entitled, in reason, to as broad a margin of protected navigation as any nation whatever, though at that time they did not positively insist upon more than the distance of a marine league from the seashores; and in 1806 they thought it would not be unreasonable, considering the extent of the United States, the shoalness of their coast, and the natural indication furnished by the well-defined path of the Gulf Stream, to expect an immunity from belligerent warfare for the space between that limit and the American shore.

It ought, at least, to be insisted, they urged, that the extent of the neutral immunity should correspond with the claims maintained by Great Britain around her own territory, and that no belligerent right should be exercised within “the chambers formed by headlands, or anywhere at sea within the distance of four leagues, or from a right line from one headland to another.” In the case of the Little Belt, which was cruising many miles from shore between Cape Henry and Cape Hatteras, the Government of the United States laid stress on the circumstance that she was “hovering on our coasts,” and it was contended on their part that they had a right to know the national character of armed ships in such a situation, and that it was a right immediately connected with their tranquillity and peace. It was further observed that all nations exercise the right, and none with
more rigor or at a greater distance from the coast, than Great Britain, and none on more justifiable grounds than the United States. There can be but little doubt that the more the United States advance in commerce and naval strength the more will their Government be disposed to feel and acknowledge the justice and policy of the British claim to supremacy over the narrow seas adjacent to the British isles, because they will stand in need of similar accommodation and means of security.

This position assumed by Kent presents the case of claims for jurisdiction beyond the three-mile limit more broadly than the Government itself was inclined to presume to make claims. No such extreme position would now be taken even in the claims for fishing rights.

Russian provision.—Article 21 of the Russian Prize Law provides: "The right of making prizes is recognized only in the open seas. As for the open sea, it consists of waters which are not under fire of neutral batteries, or three sea miles from the neutral shores." (U. S. For. Rel., 1886, p. 957.)

French position in 1864.—In 1864, at the time of the prospective battle between the Kearsarge and the Alabama, the following dispatches were sent, showing something of the opinion of the time:

Mr. Dayton to Mr. Seward.

PARIS, June 17, 1864.

Sir: You will, doubtless, have received, before this, notice of the arrival of the Alabama in the port of Cherbourg and my protest to this Government against the extension of any accommodations to this vessel. M. Drouyn de l’Huys yesterday informed me that they had made up their minds to this course, and he gave me a copy of the written directions given by the minister of marine to the vice-admiral, maritime prefect at Cherbourg, a translation of which accompanies this dispatch. But he, at the same time, informed me that the United States ship of war, the Kearsarge, had appeared off the port of Cherbourg and there was danger of an immediate fight between those vessels; that the Alabama professes its entire readiness to meet the Kearsarge, and he believed that each would attack the other as soon as they were three miles off the coast; that a sea fight would thus be got up in the face of France, and at a distance from their coast within reach of the guns used on shipboard in these days; that the distance to which the neutral right of an adjoining government extended itself from the coast was unsettled, and that the reason of the old rules, which assumed that three miles was the outermost reach of a cannon shot, no longer existed, and that, in a word, a fight on or about such a distance from their coast would be offensive to the dignity of France and they would not
permit it. I told him that no other rule than the three-mile rule was known or recognized as a principle of international law, but if a fight were to take place, and we would lose nothing and risk nothing by its being farther off, I had, of course, no objection. I had no wish to wound the susceptibilities of France by getting up a fight within a distance which made the cannon shot liable to fall on her coast. I asked him if he would put his views and wishes on this question in writing, and he promised me to do so. I wrote to Captain Winslow this morning, and herewith inclose you a copy of my letter. I have carefully avoided in this communication anything which would tend to make the Kearsarge risk anything by yielding what seemed to me an admitted right.

To deliver this letter, and understand some matters in respect to the alleged sale of the clipper ships at Bordeaux, I have sent my son to Cherbourg.

I am, sir, your obedient servant,

Wm. L. Dayton.

Hon. William H. Seward, etc.

Mr. Dayton to Captain Winslow.

Sir: This will be delivered to you by my son and assistant secretary of legation. I have had a conversation this afternoon with M. Drouyn de l’Huys, minister of foreign affairs. He says they have given the Alabama notice that she must leave Cherbourg, but in the meantime you have come in and are watching the Alabama, and that this vessel is anxious to meet you, and he supposes you will attack her as soon as she gets three miles off the coast; that this will produce a fight which will be at best a fight in waters which may or may not be French waters, as accident may determine; that it would be offensive to the dignity of France to have a fight under such circumstances and France will not permit it; that the Alabama shall not attack you, nor you her, within the three miles or on or about that distance off. Under such circumstances I do not suppose that they would have, on principles of international law, the least right to interfere with you if three miles off the coast, but if you lose nothing by fighting six or seven miles off the coast instead of three, you had best do so. You know better than I (who have little or no knowledge of the strength of the two vessels) whether the pretense of the Alabama of a readiness to meet you is more than a pretense, and I do not wish you to sacrifice any advantage if you have it. I suggest only that you avoid all unnecessary trouble with France, but if the Alabama can be taken without violating any rules of international law, and may be lost if such a principle is yielded, you know what the Government would expect of you. You will, of course, yield no real advantage to which you are entitled, while you are careful to so act as to make uselessly no unnecessary complications with the Government. I ought to add that Mr. Seward’s dispatch, dated May 20, 1864, was in the following words: “The Niagara will proceed with as much dispatch as possible to cruise in European waters, and that the Dictator, so soon as she shall be ready for sea (which is expected to be quite soon), will follow
EXTENSION OF MARITIME JURISDICTION.

her, unless in the meantime advices from yourself and Mr. Adams shall be deemed to furnish reasons for a change of purpose in that respect." That you may understand exactly the condition of things in regard to the Alabama, I send you herewith a copy of a communication from the minister of marine of the naval prefect at Cherbourg, furnished me by the minister of foreign affairs.

Respectfully, your obedient servant,

WM. L. DAYTON.

Captain Winslow,
United States Ship Kearsarge.

(Diplomatic Correspondence, 1864, Pt. 3, p. 104.)

A subsequent report affirms that "the Alabama sunk five miles from shore." Captain Semmes says that the Kearsarge was about nine miles off shore as he left the harbor, and that the Kearsarge was within about 400 yards when the Alabama was on the point of sinking. This testimony seems to show that the protest of France was heeded, and that the fighting took place at a safe distance from shore. The testimony of eyewitnesses from the shore is also to the same effect. A French man-of-war accompanied the Alabama "to the distance of at least three miles to see, doubtless, that the three-mile rule was respected."

Questions raised by United States.—Later in 1864 a discussion of the question of belligerent action in the neighborhood of neutral territory was carried on between the United States and Great Britain, but no agreement was reached among the maritime powers.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, September 16, 1864.

SIR: On the 30th day of May last Commander Trenchard, of the United States steamer Rhode Island, while chasing the insurgent vessel the Margaret and Jessie in the open sea off the coast of Eluthera, in the Bahamas, fired at her at least one cannon shot, which is alleged to have reached the neutral coast. Her Britannic Majesty's Government thereupon complained to this Government that the Rhode Island had come and was within the distance of a marine league, or three miles from the shore, when the cannon ball was fired. On investigating the complaint it did not satisfactorily appear that a cannon ball was fired by the chaser within the distance of three miles from the land, but, on the other hand, it was established that a Parrott gun, which was discharged, had a range of five miles, and that a ball from it might have reached the neutral shore, although fired outside of the line of maritime jurisdiction.
Upon this state of facts Her Majesty’s Government have, through you, expressed a hope that the United States will concur with the British Government in opinion that vessels should not fire toward a neutral shore at a less distance than that which would insure shot not falling into neutral waters, or in a neutral territory. To this suggestion I at once replied, by order of the President, that the subject would be brought to the attention of other maritime powers, in order that if any change of the existing construction of the maritime law should be made it should first receive the assent of all the great maritime states.

There is reason to apprehend that the subject, although now abstractly presented, may soon become a practical question. Spain claims a maritime jurisdiction of six miles around the island of Cuba. In pressing this claim upon the consideration of the United States Spain has used the argument that the modern improvement in gunnery renders the ancient limit of a marine league inadequate to the security of neutral states.

When it is understood at Paris that an engagement was likely to come off before Cherbourg between the United States ship of war Kearsarge and the pirate Alabama, the French Government remonstrated with both parties against firing within the actual reach of the shore by cannon balls fired from their vessels, on the ground that the effect of a collision near the coast would be painful to France.

For these reasons I think that the subject may now be profitably discussed; but there are some preliminary considerations which it is deemed important to submit to Her Majesty’s Government: First, that the United States, being a belligerent now when the other maritime states are at peace, are entitled to all the advantages of the existing construction of maritime law, and can not, without serious inconvenience, forego them; secondly, that the United States, adhering in war no less than when they were in the enjoyment of peace to their traditional liberality toward neutral rights, are not unwilling to come to an understanding upon the novel question which has thus been raised “in consequence of the improvement in gunnery;” but, thirdly, it is manifestly proper and important that any such new construction of the maritime law as Great Britain suggests should be reduced to the form of a precise proposition, and then that it should receive in some manner, by treaty or otherwise, reciprocal and obligatory acknowledgments from the principal maritime powers.

Upon a careful examination of the note you have addressed to me the suggestions of Her Majesty’s Government seem to me to be expressed in too general terms to be made the basis of a discussion. Suppose, by way of illustration, that the utmost range of cannon now is five miles; are Her Majesty’s Government understood to propose that the marine boundary of neutral jurisdiction, which is now three miles from the coast, should be extended two miles beyond the present limit? Again, if cannon shot are to be fired so as to fall not only not upon neutral land, but also not upon neutral waters, then supposing the range of the cannon shot to be five miles, are Her Majesty’s Government to be understood as proposing that cannon shot shall not be fired within a distance of eight miles from the neutral territory? Finally, shall measure-distances be excluded altogether from the statement,
and the proposition to be agreed upon be left to extend with the increased
range of gunnery; or shall there be a pronounced limit of jurisdiction,
whether five miles, eight miles, or any other measured limit?

I have to request that you will submit these suggestions to your Govern­
ment, to the end that they may define, with necessary precision, the
amendment of maritime law which they think important, and upon which
they are willing to agree with the other maritime powers.

I have the honor to be, with high consideration, sir, your most obedient
servant,

J. Hume Burnley, Esq., etc., etc.
(Diplomatic Correspondence of 1864, p. 704.)

Questions raised by Professor Moore.—In a communi­
cation from Professor Moore, considered by the Institute
of International Law in 1894, he says:

The second clause of the article proposes to forbid belligerent acts
within the range of cannon shot from the coast. Should you in this matter
measure from the limits of territorial waters, or from the shore at low water
mark? If the measurement should be made from the latter, it might not
be sufficient for the purposes of the rule. As I understand the subject, a
nation is bound to prevent unneutral acts within its jurisdiction, which
covers territorial waters. If, therefore, belligerent acts which operate
within the jurisdiction, though the parties committing them may be
outside, are to be considered as a violation of the state’s neutrality, should
not the belligerent acts be required to take place at the designated distance
from jurisdictional limits? (Annuaire d l’Institut de Droit International,
XIII, p. 149.)

Position of Secretary Bayard.—In discussing the
British fisheries question Mr. Bayard, then Secretary
of State, writes to Mr. Manning, Secretary of the Treas­
ury, on May 28, 1886, expressing the determination to
maintain the three-mile limit as a restriction. He, how­
ever, says:

We do not, in asserting this claim, deny the free right of vessels of other
nations to pass on peaceful errands through this zone, provided they do
not, by loitering, produce uneasiness on the shore or raise a suspicion of
smuggling. Nor do we hereby waive the right of the sovereign of the shore
to require that armed vessels, whose projectiles, if used for practice or
warfare, might strike the shore, should move beyond cannon range of the
shore when engaged in artillery practice or in battle, as was insist­ed on
by the French Government at the time of the fight between the Kearsarge
and the Alabama, in 1864, off the harbor of Cherbourg. (Wharton, Inter­
nat. Law Digest, vol. 1, p. 108.)

This position of Secretary Bayard, taken at a time
when the matter of limitation of the field of belligerent
activity was not under consideration, upholds the position
taken by France more than twenty years earlier. It
may further be maintained that a neutral state may as
a police measure require that the action of belligerents
shall not endanger her safety.

Other opinions.—Mr. Wharton summarizes some of the
discussion between the United States and Great Britain
and the decisions under their treaties as follows:

A construction of the terms "coasts, bays, creeks, or harbors" in the
treaty of 1818 was given by the mixed commission under the convention
of 1853 in the case of the United States fishing schooner Washington, which
was seized while fishing in the Bay of Fundy, ten miles from shore, taken to
Yarmouth, Nova Scotia, and adjudged forfeited, on the charge of violating
the treaty of 1818 by fishing in waters in which the United States had, by
that convention, renounced the right of its citizens to take fish. A claim
of the owners of the Washington for compensation came before the com-
mission above mentioned, and, the commissioners differing, the case was re-
ferred to Mr. Joshua Bates, the umpire, who, referring to the theory that
"bays and coasts" were to be defined by "an imaginary line drawn along
the coast from headland to headland, and that the jurisdiction of Her
Majesty extends three marine miles outside of this line, thus closing all the
bays on the coast or shore and that great body of water called the Bay of
Fundy," pronounced it a "new doctrine," and, repudiating the decision of
the provincial court based thereon, awarded the owners of the vessel com-
pensation for illegal condemnation.

The umpire also decided that as the Bay of Fundy is from 65 to 75 miles
wide and from 130 to 140 miles long, with several "bays" on its coasts, and
has one of its headlands in the United States, and must be traversed for a
long distance by vessels bound to Passamaquoddy Bay, and contains one
United States island, Little Menan, on the line between headlands, the Bay
of Fundy could not be considered as an exclusively British bay. (See
President's message communicating proceedings of commission to Senate;
also Dana's Wheaton, 274, note 142.) The "headland" theory was again
rejected by the umpire in the case of the schooner Argus, which was seized
while fishing on Saint Ann's Bank, 28 miles from Cape Smoke, the nearest
land, taken to Sidney, and sold, for violation of the treaty of 1818 by
fishing within headlands. The owners were awarded full compensation.
(Wharton, International Law Digest, vol. 3, p. 59.)

Davis states that:

The question of jurisdiction over many such partly included bodies of
water, sometimes called closed seas, has already been decided. The Ches-
apeake and Delaware bays are recognized as parts of the territory of the
United States; Hudson Bay and the Irish Sea as British territory; the Cas-
pian Sea belongs to Russia; Lake Michigan to the United States. The
Black Sea, before Russia obtained a foothold upon it, formed part of the
tories of the Ottoman Porte; it is now subject to the joint jurisdiction of Turkey and Russia. The Baltic is acknowledged to have the character of a closed sea (and to be subject to the control of the powers surrounding it) certainly to the extent of guaranteeing it against acts of belligerency when the powers within whose territory it lies are at peace. (Davis, Elements of International Law, p. 58.)

Headland doctrine.—By a treaty between Great Britain and France of August 2, 1839, the limit of jurisdiction was for bays to be measured from a line drawn directly athwart the bay at a point where the opening of the bay did not exceed ten miles. Belgium had earlier adopted this rule by a law of June 7, 1832. In a “Notice to the British fishermen fishing off the coasts of North Germany,” issued in 1868, the following provision occurred:

NOTICE.

1. The exclusive fishery limits of North Germany are designated by the North German government as follows: that tract of the sea which extends to a distance of 3 sea miles from the extremest limit which the ebb leaves dry of the German North Sea coast of the German Islands or Flats lying before it, as well as those bays and incurvations of the coast which are 10 sea miles or less in breadth, reckoned from the extremest points of the land and the Flats, must be considered as under the territorial sovereignty of the North German Confederation. (Perels, Manuel de Droit Maritime International, 1884, p. 43.)

Institute of International Law, 1894.—The Institute of International Law in 1894 adopted twelve miles as the width of the mouth of inclosed bays and the line of marine jurisdiction would run parallel at a distance of three miles from the twelve-mile line.

Art. 3. Pour les baies, la mer territoriale, suit les sinuosités de la côte, sauf qu'elle est mesurée à partir d'une ligne droite tirée en travers de la baie dans la partie, la plus rapprochée de l'ouverture ver la mer, où l'écart entre les deux côtes de la baie, est de douze milles marins de laguer, à moins qu'un usage, continu et s'ulaire n'ait consacré une largeur plus grande. (Annuaire XIII, p. 329.)

Other opinions.—Rivier considers the limits of effective control and inclines to regard the ten-mile line as a reasonable one for the mouths of rivers and bays.

Conformément à ce qui vient d'être dit, les portions de mer, ou les mers qu'en raison de leur configuration on appelle golffes, ou baies, sont territoriales lorsqu'elles sont environnées des terres d'un seul État et que leur entrée est suffisamment étroite pour être commandée par les canons de la
côte. Mais du moment qu’il y a plusieurs États côtiers, le golfe est mer libre, quelle que soit la largeur de son entrée. Le golfe, même entouré par un seul État, est mer libre, si l’entrée est trop large pour être dominée de la côte. On admet assez généralement qu’il en est ainsi lorsque l’écartement des deux rives est de plus de dix milles marins.

A convention at The Hague of May 6, 1882, in its second article, made the following provision:

Pour les baies, le rayon de trois milles sera mesuré à partir d’une ligne droite, tirée en travers de la baie, dans la partie la plus rapprochée de l’entrée, au premier point où l’ouverture n’excédera pas dix milles. (Rivier, Principes de Droit des Gens, 1896, I, pp. 154, 155.)

The general drift of opinion has been toward the admission of a claim to jurisdiction over bays when the mouth is not more than ten miles in width and also to three miles beyond the line drawn from headland to headland. Hall says:

It seems to be generally thought that straits are subject to the same rule as the open sea; so that when they are more than six miles wide the space in the center which lies outside the limit of a marine league is free, and that when they are less than six miles wide they are wholly within the territory of the state or states to which their shores belong. This doctrine, however, is scarcely consistent with the view, which is also generally taken, that gulfs, of a greater or less size in the opinion of different writers, when running into the territory of a single state can be included within its territorial waters. Perhaps, also, it is not in harmony with the actual practice with respect to waters of the latter kind. France, perhaps, claims “baies fermées” and other inlets or recesses the entrance of which is not more than ten miles wide. Germany regards as territorial the waters within bays or incurvations of the coast which are less than ten sea miles in breadth, reckoned from the extremest points of the land, and doubtless includes all the water within three miles outward from the line joining such headlands. England would, no doubt, not attempt any longer to assert a right of property over the Queen’s Chambers, which include the waters within lines drawn from headland to headland, as from Orfordness to the Foreland and from Beachy Head to Dunnose Point; but some writers seem to admit that they belong to her, and a recent decision of the Privy Council has affirmed her jurisdiction over the Bay of Conception in Newfoundland, which penetrates forty miles into the land and is fifteen miles in mean breadth. Authors also so little favorable to maritime property as Ortolan and De Cussy class the Zuyder Zee amongst appropriated waters. The United States probably regards as territorial the Chesapeake and Delaware bays, and other inlets of the same kind. Many claims to gulfs and bays still find their place in the books, but there is nothing to show what proportion of these are more than nominally alive. (Hall, International Law, 5th ed., p. 155.)
The Institute of International Law in 1894 adopted the rule that in case of war a coast state could, by declaration, extend the zone of maritime neutrality.

**Article 4.** En cas de guerre, l'État riverain neutre a le droit de fixer, par la déclaration de neutralité ou par notification spéciale, sa zone neutre au delà de six milles, jusqu'à portée du canon des côtes. (Annuaire XIII, p. 329.)

In view of the increasing range of guns, the necessity of the protection of harbors, the liability of injury to commerce and to shore interests, it is not unreasonable to claim a wider jurisdiction, where bays are somewhat over six miles wide, than would be claimed under the strict three-mile limit. Precedents seem to favor such claims in time of peace. There is even more justification for the claims in time of war.

Bonfils says, "Il est généralement admis que les golves appartiennent à l'État dont les terres environnent, lorsque leur largeur ne dépasse pas dix milles marins. (Droit International Public, 516.)

*Netherlands proclamation, 1904.*—A recent proclamation of neutrality in Russo-Japanese war of 1904 met no opposition.

**Article 8.** Under the territory of the kingdom is also included the seacoast to within a distance of three nautical miles of 60° latitude at low water mark. In regard to bays, that distance of three nautical miles shall be measured from a straight line athwart the bay as close as possible to the entrance at the first point at which the entrance to the bay exceeds ten miles of 60° latitude. (Netherlands Proclamation of Neutrality, Russo-Japanese war, 1904.)

As the United States has claimed jurisdiction over the mouths of bays and gulfs much beyond that claimed in the Netherlands proclamation, it is probable that it would admit the claim of State Y as presented in this situation.

Conclusions.—(a) The limit of territorial jurisdiction in the situation under consideration would be generally admitted to be three nautical miles outside the "straight line athwart the bay as close as possible to the entrance at the first point, at which the entrance to the bay exceeds ten miles of 60° latitude," as the Netherlands proclamation states.
(b) The commander of the United States war vessel should heed the protest of neutral State Y, and should not attack the vessel of State X until it passes outside of neutral jurisdiction, and must further use reasonable care that no act of hostility takes place which will endanger neutral safety.