Marginal Seas Around The States

Gordon Ireland
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GORDON IRELAND†

Florida

The state adjoins on the east (80°45'W Long.) the Atlantic Ocean for a distance of 425 miles by air-line from Georgia (30°40'N Lat.) on the north to Key West (24°35'N Lat.), with a tidal shore line of 714 miles on the mainland and 507 miles around islands, a total of 1,221 miles on the Atlantic; and adjoins on the west and south the Gulf of Mexico for a distance of 525 miles by air-line from Key West to Alabama (87°30'W Long.) on the west, with a tidal shore-line of 1,273 miles on the mainland and 1,257 miles around islands, or a total of 2,530 miles on the Gulf (longer than that of any other state on either Ocean or the Gulf) and a total of 3,751 miles for both coasts. Whatever the portion of West Florida which in law came to the United States from France by the Louisiana Purchase, Spain ceded all rights in the whole of Florida to the United States by the Treaty of February 22, 1819. The western boundary, at the Perdido River, has been described under Alabama. The northern boundary with Georgia, then the boundary between British and Spanish possessions, was stipulated in the provisional treaty of November 30, 1782 and in the

<table>
<thead>
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<th>Shores</th>
<th>Mainland</th>
<th>Islands</th>
<th>Total</th>
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<td>Atlantic</td>
<td>5,565</td>
<td>6,114</td>
<td>11,679</td>
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<tr>
<td>Gulf</td>
<td>3,841</td>
<td>2,777</td>
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<td>Pacific</td>
<td>2,730</td>
<td>1,035</td>
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<tr>
<td>Total</td>
<td>11,936</td>
<td>9,926</td>
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The area of a strip one league wide along the Atlantic coast is estimated at 5,000 square miles. Douglas, Boundaries, Areas, etc. of the United States and the Several States [Geological Survey Bulletin No. 817, U.S. Dept. of the Interior (1930); H. Doc. No. 113, 71st Cong., 1st Sess., V. 14, Serial 9139 (1929)]. Hereinafter referred to as States Boundaries. All water distances are approximate. Lengths of tidal shore line for the several states given in a subsequent section are on the same basis and from the same source.

2. Proclaimed Feb. 22, 1821. 8 Stat. 252. 2 Treaties (Malloy, 1913) 1651. 1 Moore, Int. L. Digest (1906) 440. Tratados de España (Cantillo, 1843) 819. The United States gave up all claims to Texas, Fernando VII of Spain to the Oregon country, and Spain sold Florida to the United States for $5,000,000, the boundary on the Gulf to be thereafter the Sabine River.


* This is the second and concluding installment of the present article, the first having appeared in (1940) 2 LOUISIANA LAW REVIEW 252.
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1 Tidal shore lines in miles, measured in steps of one mile, according to the U.S. Geological Survey:

2. Proclaimed Feb. 22, 1821. 8 Stat. 252. 2 Treaties (Malloy, 1913) 1651. 1 Moore, Int. L. Digest (1906) 440. Tratados de España (Cantillo, 1843) 819. The United States gave up all claims to Texas, Fernando VII of Spain to the Oregon country, and Spain sold Florida to the United States for $5,000,000, the boundary on the Gulf to be thereafter the Sabine River.


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definite Treaty of Peace of September 3, 1783 with Great Britain, and agreed in the boundary treaty of October 27, 1795 with Spain, to run "down the middle of St. Mary's River to the Atlantic Ocean," and the river was a common highway for the use of both nations. The first constitution (1838) declared:

"The jurisdiction of the State of Florida shall extend over the Territories of East and West Florida, which by the Treaty . . . [of February 22, 1819] were ceded to the United States."

The second constitution (1865) described the boundaries in more detail as

". . . commencing at the mouth of the river Perdido, from thence up the middle of said river . . . thence down the middle of . . . [St. Mary's] river to the Atlantic ocean; thence southwardly to the Gulf of Florida and Gulf of Mexico; thence northwardly and westwardly, including all islands within 5 leagues of the shore to the beginning."

Of the three complete constitutions drafted by the 1868 convention, the radical one kept this same language, but the moderate one, as at first drafted expanded it materially and defined the boundaries as

". . . commencing at the mouth of the river Perdido; from thence up the middle of said river . . . thence down the middle of the St. Mary's river to the Atlantic Ocean; thence south-

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6. St. Joseph's on Belle River, a branch entering St. Mary's River from the south, was Spanish territory. The Apollon, 22 U.S. 362, 6 L.Ed. 111 (1824) (French ship and cargo seized by U. S. restored).
7. Fla. Const. of 1838, Art. XII, Boundaries. The same description was copied in the act admitting Florida as a state on equal footing with the original states in all respects whatever. Act of March 3, 1845, c. 48, § 6; 5 Stat. 742. The amendments of 1861 did not change this article.
eastwardly along the coast to the edge of the Gulf Stream; thence southwestwardly along the edge of the Gulf Stream and Florida Reefs to and including the Tortugas Islands; thence northwardly to a point 5 leagues from the mainland; thence northwardly 5 leagues from the shore, including all islands, to a point 5 leagues due south from the middle of the mouth of the Perdido river, thence to the place of beginning."

Both these were discarded,¹¹ and still a third form finally was adopted by the convention and submitted to the federal authorities. This¹² defined the boundaries as:

"Commencing at the mouth of the river Perdido; from thence up the middle of said river . . . then down the middle of said [St. Mary's] River to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf Stream; thence southwestwardly along the edge of the Gulf Stream and Florida Reefs to and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwardly three leagues from the land, to a point west of the mouth of the Perdido River; thence to the place of beginning."

This was accepted as the third state constitution (1868) and the fourth¹⁸ (1885) retained the same language in the Boundaries article. After implied¹⁴ or expressed approval by Congress,¹⁵ and

¹⁵. The act admitting the states of Alabama, Florida, Georgia, Louisiana, North Carolina and South Carolina to representation again in Congress recites only, as regularly in the case of new states, that the Constitutions adopted are "republican in form." Act of June 25, 1868, c. 70; 15 Stat. 73. In the discussion in Congress on the act and the bills relating to Alabama alone
acquiescence for fifty years by the United States and foreign nations, the arbitrary extension by Florida of her Gulf boundary may be binding on her own citizens or residents.\textsuperscript{16}

Oceanographers have found in the Atlantic Ocean a counter current running southward past the coast of Florida twenty-five miles or more off shore until about opposite Palm Beach, where it begins to be squeezed shoreward, bearing southerly and south-westwardly, and at which point the inner (western) edge of the warm Gulf Stream (from forty to sixty miles wide, depending on the wind) comes within from four to twelve miles of the shore and so continues three hundred miles around to the Dry Tortugas, between which and Havana, Cuba, the Stream flows out of the Gulf of Mexico through Florida Strait, at four or five miles an hour. The distance from the mainland of Florida to the edge of the Gulf Stream therefore averages almost twice as far as even the line three leagues out which the 1868 description fixes as the boundary in the Gulf; and it may well be doubted whether the vagueness and established variations of this edge line, without any known effort at more accurate definition or exercise of jurisdiction, would now support any claim of Florida to this flat width. A suggestion by Thomas Jefferson, when President, that the neutrality of United States territory should extend to the Gulf Stream, which was a natural boundary, seems not to have been followed up elsewhere.\textsuperscript{17} Thirty-four of Florida's sixty-seven counties have a sea boundary;\textsuperscript{8} but three on the Gulf do not mention it, and in the remaining thirty-one counties the boundary is variously referred to.\textsuperscript{19} It is described as "along," "by,"


17. 1 Moore, Int. Law Digest (1906) 703 (off Charleston, S. C., the nearer edge of the Gulf Stream would be at least 60 miles from land).

18. Atlantic, north to south; Nassau, Duval, St. John's, Flagler, Volusia, Brevard Indian River, St. Lucie, Martin, Palm Beach, Broward and Dade (12); Gulf, south to northwest; Monroe, Collier, Charlotte, Sarasota, Manatee, Pinellas, Pasco, Hernando, Citrus, Levy, Dixie, Taylor, Jefferson, Wakulla, Franklin, Gulf, Bay, Walton, Okaloosa, Santa Rosa and Escambia (22).

“with” or “to” the shore of the Atlantic (or the Gulf) in sixteen instances. Two counties run “to the eastern boundary of the State,” and in four others the line follows “the meanderings of the Gulf.” Eight counties include “the waters of the Atlantic Ocean (or the Gulf) within the jurisdiction of the State of Florida” and Dade County runs “to the eastern boundary of the State, including the waters of the Atlantic.” The commerce department has established no less than eight inland water lines around the coast of Florida:

“St. Johns River. A line drawn from the east end of the north jetty to the east end of the south jetty (across the entrance to the port of Jacksonville).

“Reefs and Keys from Miami to Marquesas Keys. A line drawn from the east end of the north jetty at the entrance to Miami (east) to Miami Lighted Whistle Buoy; thence (south) to Fowey Rocks Lighthouse; thence (southwest) to Pacific Reef Lighthouse; thence (southwest) to Carysfort Reef Lighthouse; thence (southwest) to Molasses Reef Lighthouse; thence (southwest) to Alligator Reef Lighthouse; thence (southwest) to Tennessee Reef Lighthouse; thence (southwest) to Sombrero Key Lighthouse; thence (southwest) to American Shoal Lighthouse; thence (southwest) to Key West Entrance Lighted Whistle Buoy; thence (southwest) to Sand Key Lighthouse; thence (west) to Cosgrove Shoal Lighthouse (a total of 170 miles); thence (north) to westernmost extremity of Marquesas Keys.

“Keys from Marquesas to Cape Sable. A line drawn from the northwesternmost extremity of Marquesas Keys (northeastward) to Northwest Channel Entrance Lighted Bell Buoy 1; thence (northeastward) to the southernmost extremity of East Cape, Cape Sable (a total of 75 miles).

“San Carlos Bay. A line drawn from Estero Pass Light (on Bowditch Point southeastward 3¼ miles) to Caloosa Lighted Bell Buoy 2; thence (northwestward at an angle of 48° with the preceding 4½ miles) to Sanibel Island Lighthouse (enclosing the principal entrance to the Caloosahatchee River, on which is Fort Myers).


“Tampa Bay. A line drawn from the southernmost ex-
tremity of Long Key (southwestward 10 1/4 miles) to Tampa Bay Lighted Whistle Buoy; thence (southeastward at an angle of 65° with the preceding 6.6 miles) to Southwest Channel Lighted Bell Buoy; thence (southeastward 4.9 miles) to a spire on the northeast side of Anna Maria Key, bearing approximately 109° (enclosing Tampa Bay, 3 miles wide at the entrance, widening inside to 30 miles and 30 miles in depth).

"Apalachee Bay. A line drawn 58° true from Lighthouse Point on St. James Island (northeastward 35 miles) to Gamble Point on the east side of the entrance to the Aucilla River (enclosing the open Bay 8 miles in depth).

"Carrabelle River and Apalachicola River. In Carrabelle River inside Carrabelle River Entrance Light 2; and in Apalachicola River northward of Outer Light at the east side of entrance to the dredged channel leading into the river (enclosing Apalachicola Bay north of Cape St. George on St. George Island)."²⁰

These cover all the principal and some of the smaller shallow harbors around Florida. There are many nearby bars, keys and barrier islands but none at any considerable distance from the coast, except the chain of mangrove built Florida Keys (connected by the sea-going highway, formerly railroad), which are practically continuous, with shoals and marshes and occasional deeper channels, for 107 miles from Barnes Sound southwestward to Key West (sixty miles from Cape Sable, the nearest mainland); Marquesas Keys, twenty miles west of Key West; and the Dry Tortugas, fifty miles west of the Marquesas. The last group should carry a one league belt of marginal sea around the islets and the enclosed waters, but leaves nearly thirteen leagues of open sea between them and the Marquesas Keys, the next nearest land.

Georgia

This original state adjoins on the east (81°15'W Long.) the Atlantic Ocean for a distance of one hundred miles by air-line from South Carolina (32°05'N Lat.) on the north to Florida (30° 41'N Lat.) on the south, with a tidal shore-line of 166 miles on the mainland and 727 miles around islands, a total of 893 miles.²¹

²⁰ Pilot Rules for Certain Inland Waters, Bureau of Marine Inspection and Navigation, Department of Commerce (1938) 12, 13, 16. General summaries have been made successively effective March 1, 1913, Jan. 1, 1931 and June 1, 1935. Referred to hereinafter as Inland Lines.

²¹ States Boundaries, supra note 1, at 8, 25, 152, 157, 252.
The southern boundary, at the middle of St. Mary's River, has been described under Florida. The Charter of 1732 from George II to General James Oglethorpe granted lands

"... from the most northern part of the Savannah river all along the sea coast to the southward to the most southern stream of the Altamaha River ... with the islands of the sea lying opposite to the eastern coast of the said lands, within 20 leagues of the same." 22

In 1763 by royal proclamation there was added to the then Crown Colony of Georgia the territory between the Altamaha and St. Mary's Rivers, forty-two miles to the southward along the coast. The Constitution of 1798 described the boundaries:

"... from the sea or mouth of the river Savannah, along the northern branch or stream thereof ... along the middle of St. Mary's River to the Atlantic Ocean; and from thence to the mouth or inlet of Savannah River ... including ... all the islands within 20 leagues of the seacoast. ..." 23

By a convention with South Carolina signed at Beaufort April 28, 1787, 24 the boundary was fixed as

"... the most northern branch or stream of the river Savannah from the sea or mouth of such stream to the fork or confluence of the rivers now called Tugaloo and Keowee." 25

The Political Code amplified this a little, declaring the boundaries to be

"... along the middle of St. Mary's River to the Atlantic Ocean, and from thence to the mouth or inlet of the Savannah River ... including all the lands, waters, islands and jurisdictional rights within said limits and also all the islands within 20 marine leagues of the seacoast." 26

The next attempt to be more inclusive underreached itself a little in defining the boundaries as

"... along the middle of said [St. Mary's] River to the Atlant-
tic Ocean, and extending therein three English miles from low-water mark; thence running in a northeasterly direction and following the direction of the Atlantic coast to a point opposite the mouth, or inlet, of said Savannah River; and from thence to the mouth or inlet of said Savannah River . . . including all the lands, waters, islands, and jurisdictional rights within said limits, and also all the islands within twenty marine leagues of the seacoast.

As in the case of California, by specifying English miles this leaves a ribbon of sea 0.453 mile in width three miles offshore, which the state might and perhaps some day will want expressly to take in.

As to tidal waters, the rules of the common law seem to be in force, as in South Carolina, so that the riparian owner has title to high-water mark only, but the state may authorize riparian owners on navigable streams to utilize the bed to low-water mark or even beyond until Congress acts to regulate commerce. The boundaries of the six counties adjoining the sea appear to be matter only of local record. Two commerce department inland waters lines are:

"Savannah Harbor. A line drawn from the southwestern-most extremity of Braddock Point (southeastward 9½ miles) to Tybee Lighted Whistle Buoy T; thence (northwestward at an angle of 40° with the preceding 6 miles) to a tank on Tybee Island beach, bearing approximately 281°.

"St. Simon, St. Andrew and Cumberland Sounds. Starting from the hotel located approximately ¾ mile, 63½° true, from St. Simon (rear) Lighthouse, a line drawn (southeastward) to St. Simon Lighted Whistle Buoy St. S; thence (southwestward) to St. Andrew Sound Bar Buoy; thence (southerly) to Fernandina Lighted Whistle Buoy 1 F; thence (westerly) to Amelia Island Lighthouse (Florida) (a total of 30 miles to the state line)."

These enclose Tybee Roads 3.4 miles across (narrowing inside of jetties 2.2 miles long to the Savannah River, about 3 miles in)

29. Mayor and Aldermen of Savannah v. Georgia, 4 Ga. 26 (1848) (Hutchinson's Island, Savannah River).
30. From northeast to southwest: Chatham, Bryan, Liberty, McIntosh, Glynn, and Camden.
31. Inland Lines, supra note 20, at 12, 15.
from Turtle Island (South Carolina) to Tybee Island and the entrance to Brunswick Harbor, leaving under the "general rule" Wassaw, Ossabaw, St. Catherine's, Sapelo, Doboy and Altamaha Sounds, the other chief openings among the many barrier islands 33 close along the coast. There are no islands more remote, on the west side of the Atlantic, between Georgia's parallels of latitude, so the Charter limit of twenty leagues has never been invoked.

**Louisiana**

The state adjoins on the south (29°30' N Lat.) the Gulf of Mexico for a distance of 260 miles, by air-line from Mississippi (89°02' W Long.) on the east to Texas (93°55' W Long.) on the west, with a tidal shore line of 1,122 miles on the mainland and 591 miles around islands, a total of 1,713 miles. 34 The state was first settled by the French in 1699. Louis XIV in 1712 made a private grant to Antoine Crozat 35 of exclusive trading privileges in "Louisiana," and "especially the port and harbor of Dauphin Island, formerly called Massacre Island, the Mississippi River from the seashore to the Illinois." This grant was surrendered in 1717, and after being held for a time by John Law's "Western Company," the colony was transferred by France to Spain by a preliminary treaty of November 3, 1762; 36 and by the Treaty of Paris, Feb. 10, 1763, 37 France ceded to Great Britain all land east of the middle of the Mississippi River, of the Iberville River, of Lake Maurepas and of Lake Pontchartrain to the sea. The Province of Louisiana, secretly ceded back by Spain to France in 1800, 38 was sold by Napoleon to the United States for fifteen million dollars in 1803. 39 By the terms of the sale the territory granted was the same in extent as it had been in the hands of Spain in 1800 and when previously possessed by France. The southern part was organized as the Territory of Orleans to include the area "south of the

Mississippi territory and, of an east and west line to commence on the Mississippi River, at the thirty-third degree of north latitude, and to extend west to the western boundary of the said cession [of Louisiana from France]. . ."40 The act preparing for state government bounded the Territory of Orleans "along the middle of . . . Lake Pontchartrain, to the Gulf of Mexico; thence bounded by the said Gulf [to the mouth of the River Sabine] including all islands within three leagues of the coast . . ."41 and the act admitting Louisiana as a state42 used the same words. Also in 1812 that part of West Florida lying west of the Pearl River was annexed to Louisiana. The first constitution (1812) in its Preamble described Louisiana

". . . within the following limits: . . . beginning at the mouth of the river Sabine; thence . . . along the middle of said river . . . along the middle of the said river [Iberville (now Bayou Manchac)] and lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence, bounded by the said gulf, to the place of beginning, including all islands within three leagues of the coast. . . ."

The eastern Gulf line with Mississippi43 involved a long dispute which culminated in a Supreme Court suit44 and decision that the boundary was

"the deep water channel sailing line emerging from the most eastern mouth of Pearl river into Lake Borgne and extending through the northeast corner of Lake Borgne, north of Half Moon or Grand Island, thence east and south through Mississippi Sound, through South Pass between Cat Island and Isle à Pitre, to the Gulf of Mexico. . . ."45

The opinion pointed out that the claim of Louisiana to all islands within three leagues of her coast and the rival claim of Mississippi to all islands within six leagues of her coast offered no real problem, although there were some islands which met both descriptions. It declared that the channel was the true line, by law, use and acquiescence, where the two states came together, and

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40. Act of March 26, 1804, c. 38; 2 Stat. 283.
42. Act of April 8, 1812, c. 50; 2 Stat. 701.
44. La. Act 111 of 1904 (associate counsel); La. Act 137 of 1908 (buoying and marking of the water boundaries with Mississippi fixed by United States Supreme Court decree).
the island claims took no effect until that superior boundary call had been applied. The boundary with Texas has apparently always been considered by Louisiana to be along the middle of the Sabine River; but the possibly inconsistent language in treaties with Spain and Mexico will be discussed under Texas. The recent legislative attempt to push the southern boundary out twenty-seven miles in the Gulf has already been discussed. Eleven parishes of the state adjoin the Gulf, having low delta marshes and swamp land twenty miles or more in width all along the coast, with several important bird refuges and reservations; and oil, sulphur and salt mining possibilities not yet wholly explored.

The commerce department inland waters line runs from "Ship Island Lighthouse (off Biloxi, Miss.), thence (southeastward 10 miles) to Chandeleur Lighthouse, (around the crescent of the Chandeleur Islands 34 miles and) a line drawn from the southwesternmost extremity of Errol Island (southeastward 31 miles) to Pass à Loutre Lighted Whistle Buoy 2." This covers the entrance to Lake Pontchartrain (inland), Lake Borgne, Chandeleur Sound, Breton Sound and Main Pass, leaving under the "general rule" the other bays westward around the Mississippi River Delta, and Barataria, Timbalier, Terrebonne, Caillou, Atchafalaya, Cote Blanche and Vermilion Bays and Calcasieu and Sabine Lakes, the principal bodies of open water among the bayous and marshes. None of the many islets and semi-islands is more than a league offshore, so with all the ever-growing Delta always considered as part of the mainland, the limit of three leagues has not been invoked.

**Maine**

The state adjoins on the southeast (43°05' to 44°50'N Lat.) the Atlantic Ocean for a distance of 223 miles by air-line from New Brunswick, Canada (66°56'W Long.) on the northeast to New Hampshire (70°42'W Long.) on the southwest, with a tidal shore-line of 558 miles on the mainland and 761 miles around

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47. See Installment 1 (1940) LOUISIANA LAW REVIEW 281, and note 124.
50. Id. at 166.
51. Inland Lines, supra note 20, at 13, 16.
islands, a total of 1,319 miles. The Council for New England under Charles I in 1628 granted to the Pilgrims of the Plymouth Colony the Maine land between the Piscataqua and Kennebec Rivers. After division of the Plymouth Council's land, the province of Maine was purchased from the heirs of Sir Francis Gorges by the Massachusetts Bay Colony, and it remained a part of Massachusetts until, with the Alexander grant of Pemaquid, acquired in 1686, between the Kennebec and St. Croix Rivers, the entire District of Maine was separated from Massachusetts and in the Missouri Compromise admitted as a state. In the treaties of 1782 and 1783 with Great Britain it was agreed that the boundary should run "east by a line to be drawn along the middle of the River St. Croix from its mouth in the Bay of Fundy to its source," but settlement of the line was long disputed. A dispute as to which was the true river St. Croix persisted between Massachusetts and Nova Scotia (separated from New Brunswick in 1696) from 1764 until October 25, 1798, when commissioners decided that it was the river called Schoodic. The dispute then continued as to some of the larger of the 365 islands in Passamaquoddy Bay, an arm of the Bay of Fundy, until it was agreed in the Treaty of Ghent that a mixed commission should settle the matter, and the award of November 24, 1817 gave Moose, Dudley and Frederick Islands to the United States and Grand Manan (22 miles long, nine miles wide), Deer, Indian and Campo Bello Islands to Great Britain. As the result of slow negotiations and treaty agreements as to details, the international boundary has

52. States Boundaries, supra note 1, at 8, 22, 24, 252.
53. The Council for New England under Charles I in 1635 granted to Sir William Alexander, Earl of Sterling, the country between the St. Croix and Kennebec rivers, called Pemaquid, with Long Island (occupied by the Dutch), Nantucket and Martha's Vineyard.
55. See notes 3 and 4, supra.
finally been defined for the entire 25.2 miles from the mouth of the St. Croix River through Passamaquoddy Bay to the open sea. The boundary with New Hampshire, at the Piscataqua River, was never seriously disputed and was finally settled in 1741. 60 In continuation of the law of Massachusetts, Maine allows the adjoining owner to have the foreshore or tide flats as far as low-water mark, or out to one hundred rods (0.31 mile) from high-water mark if the tide goes out farther. 61 The counties along the coast were by very early Massachusetts statutes bounded "southeast by the sea or western ocean . . . including all the islands on the sea coast. . ." and Maine has provided generally that

". . . the lines of the several counties which terminate at or in tidewaters shall run by the principal channel in such directions as to include, within the counties to which they belong, the several islands in said waters, and after so including such islands shall run in the shortest and most direct line to the extreme limit of the waters under the jurisdiction of this state; and all waters between such lines off the shores of the respective counties shall be a part of and held to be within such counties." 63

The commerce department inland waters line is as follows:

"A line drawn from Sail Rock Whistle Buoy 1 (southwestward, all courses until the last) to the southeasternmost extremity of Long Point, to the southeasternmost extremity of Little River Head; thence to the other side of Old Man; thence to the southernmost extremity of Double Shot Islands; thence to Libby Islands Lighthouse; thence to Moose Peak Lighthouse; thence to the eastern extremity of Little Pond Head. A line drawn from the southern extremity of Pond Point, Great Wass Island, to the southernmost point of Crumple Is-

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Series No. 720 (last course in Grand Manan Channel, from terminal of 1910 lines S. 34°42'W. 2383 meters (1.48 miles) to the high sea at a point 3 nautical miles from both American and Canadian shores). Boggs, Problems of Water-Boundary Definition (1937). 27 Geog. Rev. 445 (Map) 453. States Boundaries, supra note 1, at 22, 24.


62. Now 5; from northwest to southwest, Washington, Hancock, Waldo, Knox and York.


land; thence to Petit Manan Lighthouse; thence to Mount Desert Rock Lighthouse; thence to Matinicus Rock Lighthouse; thence to Monhegan Island Lighthouse; thence to Seguin Lighthouse; thence to Portland Lightship; thence to Boon Island Lighthouse; thence (southeastward) to Cape Ann (Mass.) Lighted Whistle Buoy (a total of 220 miles to the New Hampshire line).”

This covers all the harbors on the coast of Maine; takes within inland waters the islands of Matinicus, fifteen miles offshore, and Monhegan, eleven miles offshore, and encloses Frenchman’s Bay, 4.7 miles across (widening inside to nine miles and ten miles in depth), Penobscot Bay, five miles across (widening inside to eighteen miles and twenty-five miles in depth) and Casco Bay, twenty miles across (widening inside to twenty-two miles and thirteen miles in depth).

Maryland

This original state adjoins on the east (75°09'W Long.) the Atlantic Ocean for a distance of thirty-two miles by air-line on the tri-state peninsula from Delaware (38°27’N Lat.) on the north to Virginia (38°02’N Lat.) on the south with a tidal shore-line (including Chesapeake Bay) of 770 miles on the mainland and 275 miles around islands, a total of 1,045 miles. The northern boundary at Cape James (formerly called Cape Henlopen) already has been described under Delaware. Lord Baltimore’s Charter from Charles I in 1632 covered

“... all that part of the peninsula between the Ocean on the east and the Bay of Chesapeake on the west, divided from the rest by a right line from Watkin’s Point on the said Bay near the River Wigloo on the west to the main ocean on the east... and from Cinquack near the mouth of the Potomac where it empties into the aforesaid Bay of Chesapeake by the shortest line to Watkin’s Point; so that the whole tract (is) divided by the line between the main ocean and Watkin’s Point unto Cape Charles.”

The location of the line across the peninsula caused a long dispute with Virginia, commissioners being appointed as early as

65. Inland Lines, supra note 20, at 11, 15.
1668 to fix the boundary. It was not settled until the acceptance by both states of an arbitrator's award of January 16, 1877 which ran the line down the Potomac River by low-water mark on the west side, across Chesapeake Bay from Smith's Island by courses to Watkin's Point at Lat. 37° 54' 44''; thence due east 7,780 yards (4.42 miles) to a line through the middle of Pocomoke Sound, thence by a line of irregular curves down the middle of Pocomoke Sound to a point in the middle of Pocomoke River at Lat. 37° 59' 37'', Long. 75° 37' 04''; thence by the Scarborough and Calvert Line of May 28, 1668, 5° 15' north of east to the Atlantic Ocean. Virginia was to have the right to the soil to low-water mark on the south shore of the Potomac by long occupation and the Compact of 1785. The state permits the owner of the land bounded by tide water to build wharves or other improvements upon the flats in front of his land and to acquire a right in the land so improved, perhaps even below low-water mark; but it was decided quite early that the state might protect an oyster fishery in Chesapeake Bay below low-water mark, in a case which hatched the interesting but cautiously ambiguous much quoted statement that

"... whatever soil below low-water mark is the subject of exclusive propriety [sic] and ownership, belongs to the State on whose maritime border and within whose territory it lies, subject to any lawful grants of that soil by the State, or the sovereign power which governed its territory before the Declaration of Independence."

There is but one county, Worcester, which adjoins the ocean, but the eastern shore and western shore are divided by Chesapeake Bay, which comes but eleven miles short of running entirely through the state, and by its size and importance forms an area of particular local concern. The state's criminal jurisdiction is peculiar in contemplating waters in the state but outside of any

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county. Crime committed or persons arrested on the waters of Chesapeake Bay within the limits of Maryland and without the body of any county may be tried in the county where any act was done, effect took place, accused was arrested, or to which he was first brought; though counties bounded by navigable waters which adjoin neighboring states continue to the ultimate limits of the state at the place in question. 73 There is no commerce department inland waters line in front of the short Maryland sea coast, which contains only one settlement, Ocean City, and no harbors. A low sand spit barrier runs the whole distance, in front of Assawoman, Sinepuxent and the northern part of Chincoteague Bays.

Massachusetts

This original state adjoins on the east and south (70°45'W Long.) the Atlantic Ocean for a distance of ninety-five miles by air-line from New Hampshire (42°52'N Lat.) on the north to Rhode Island (41°30'N Lat.) on the southwest, with a tidal shore-line of 421 miles on the mainland and 250 miles around islands, a total of 671 miles. 74 The royal Charter of 1628 75 from Charles I to the Massachusetts Bay Company set the north boundary at "three English miles to the northward of the Merrimac River, beginning at the Atlantic Ocean. . ."

and the new Charter of 1691 from William and Mary ran the boundaries

". . . from three miles northward of the Merrimac River on the north part to the Atlantic or Western Sea or Ocean on the south part; and all the lands and hereditaments whatsoever lying within the limits aforesaid and extending as far as the outermost points or promontories of land called Cape Cod and Cape Mallabar north and south . . . together with the Isles of Cappawock and Nantucket near Cape Cod aforesaid . . . and also all islands and islets lying within ten leagues directly opposite to the main land within the said bounds."

Massachusetts claimed all of New Hampshire under its 1629 Charter and naturally their commissioners could not agree, though they settled on the sea end of the boundary at Bound Rock on Seabrook Beach in 1657. The conflict was referred to George II, who decided in 1737 that the line between the two

74. States Boundaries, supra note 1, at 90, 252.
75. Cancelled in 1684 by decree of the English High Court of Chancery.
76. Rhode Island v. Massachusetts, 45 U.S. 591, 11 L.Ed. 1116 (1846).
colonies should run three miles north of the Merrimac. The line was surveyed in 1741⁷⁷ and runs "N 86° 07' 30" E. 876 feet to the center of a granite monument on Salisbury beach, and thence in the same course three miles from low water mark to the limit of state jurisdiction."⁷⁸

The line with Rhode Island was for more than 250 years a subject of bitter dispute, punctuated with threats to call out the militia, and long expensive litigation until the difficulty was finally settled in 1899. A partial report of commissioners of December 2, 1746 was accepted by Rhode Island.⁷⁹ However, an equity suit was commenced in 1832⁸⁰ over the east-west line (to run "three miles south of the southernmost point of Charles River"). The difficulty was only partly removed in 1861⁸¹ by an exchange of urban territory near the spreading cities of Fall River, Massachusetts and Providence, Rhode Island (for the last course, a line southerly by the western line of the town of Westport and easterly of Quicksand Pond to the Ocean).⁸² Finally the southern end of the boundary, which intersects the line of high water of the ocean at 41°29'50.87"N Lat., 71°07'15.62"W Long., was fixed as

"... running southerly in a course across and at right angles with the shore line (which is a line drawn from the headland at Gooseberry Neck, Mass., to the headland at Warren's Point, R. I.) to a point in Lat. 41°25'05", Long. 71°05'28", and distant 1 marine league southerly from the said shore line."⁸³

A colonial Ordinance of 1647, the effect of which is still operative, gives the owner of land bounded by tide water right to the adjoining foreshore or flats as far as low-water mark or out to

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one hundred rods (0.31 mile) from high-water mark if the tide goes out farther.\textsuperscript{84} An early case held that a point outside a harbor bar but within three miles of the shore was on the high seas,\textsuperscript{85} but it was soon provided by statute that

\begin{quote}
"... the territorial limits of this commonwealth extend one marine league from its sea shore at extreme low water mark. If an inlet or arm of the sea does not exceed two marine leagues in width between its headlands, a straight line from one headland to the other is equivalent to the shore line."\textsuperscript{86}
\end{quote}

This differs from the correct rule, it will be observed, in that the starting point is \textit{extreme} instead of \textit{mean} low-water mark. Eight counties\textsuperscript{87} border on the sea and they "extend to the marine boundary of the commonwealth, as above defined."\textsuperscript{88} Similarly the statutes provide that the boundary line of towns bordering upon the sea "shall coincide with the marine boundary of the commonwealth as above defined."\textsuperscript{89} A crime committed upon the sea within one league of the shore may be prosecuted and punished in an adjacent county.\textsuperscript{90} The commerce department inland waters lines\textsuperscript{91} run:

\begin{quote}
"... (a line drawn southeastward from Boon Island (Maine) Lighthouse across the New Hampshire state lines) to Cape Ann Lighted Whistle Buoy; thence (southwestward) to Boston Lightship, thence (southeastward) to Cape Cod Light-house (70 miles in all).

"A line drawn from Chatham Lighthouse (southeastward) to Pollock Rip Lightship; thence (southeastward) to

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\textsuperscript{84} Commonwealth v. City of Roxbury, 75 Mass. 451 (1857); Sewall & Day Cordage Co. v. Boston Water-Power Co., 147 Mass. 61, 16 N.E. 782 (1888); Shively v. Bowly, 152 U.S. 1, 18, 14 S.Ct. 548, 38 L.Ed. 331 (1894) (historical summary).


\textsuperscript{87} North to south and west: Essex, Suffolk, Norfolk, Plymouth, Barnstable, Nantucket, Dukes and Bristol.


\textsuperscript{91} Inland Lines, supra note 20, at 11, 15.
Great Round Shoal Entrance Lighted Whistle Buoy GRS; thence (southwestward) to Sankaty Head Lighthouse (35 miles in all). “A line drawn from the westernmost extremity of Smith Point, Nantucket Island, (southwestward) to No Mans Land Lighted Whistle Buoy 2; thence (northwestward) to Gay Head Lighthouse; thence (southwestward) to Block Island (R. I.) Southeast Lighthouse (55 miles to the Rhode Island state line, projected).”

These, together with the short intervening land stretches on the east shore of Cape Cod and the south side of Nantucket Island cover the entire Massachusetts coast and enclose Newburyport, Ipswich, Gloucester, Salem, Marblehead, Lynn, Boston, Plymouth and New Bedford Harbors; Nahant, Cape Cod and Buzzard’s Bays and Nantucket and Vineyard Sounds. However they do not include the whole thirty mile depth and forty mile width of Massachusetts Bay, as would the straight line from Cape Ann to Cape Cod suggested by Chancellor Kent. They also include Nantucket, Tuckernuck, Muskeget, Martha’s (formerly Martin’s) Vineyard, No Mans Land, Cuttyhunk, Penikese, the Elizabeth and all the smaller neighboring islands included in the Duke of York’s grants of 1664 and 1674, known as Duke’s County, New York, and transferred to Massachusetts under the Charter of 1691.

Mississippi

The state adjoins on the south (30°15’N Lat.) the Gulf of Mexico for a distance of seventy-three miles by air-line from Alabama (88°25’W Long.) on the east to Louisana (89°02’W

92. Gloucester Harbor; ½ mile across and 2½ miles deep.
93. Salem Harbor; 1 mile across and 3 miles deep.
94. Boston Harbor; 3½ miles across from Deer Island to Windmill Point, Hull, widening inside to 8 miles, and 5 miles deep.
95. Plymouth Harbor; 4 miles across from Gurnet Point to Rocky Point, widening inside to 8 miles, and 7 miles deep.
96. New Bedford Harbor; 2½ miles across and 5 miles deep.
97. Cape Cod Bay; 18 miles across from Race Point to Manomet Point, widening inside to 28 miles and 22 miles deep.
98. Buzzards Bay; 6 miles across from Cuttyhunk to Westport, widening inside to 9 miles and 25 miles deep. Manchester v. Massachusetts, 139 U.S. 240, 11 S.Ct. 559, 35 L.Ed. 159 (1890) (within headlands, ½ miles from shore).
1 Moore, Int. L. Digest (1906) 742.
99. Nantucket Sound; 11 miles across from Monomoy Point to Great Point, Nantucket, widening inside to 34 miles, and 38 miles long.
100. Vineyard Sound; 4 miles wide and 16 miles long.
101. 1 Moore, Int. L. Digest (1906) 699.
Long.) on the west, with a tidal shore line of 99 miles on the mainland and 103 miles around islands, a total of 202 miles. The eastern boundary, ending ten miles east of the river Pascagoula, has been described under Alabama; and the western boundary, at Pearl River, and Lake Borgne (as fixed by the Supreme Court decision) under Louisiana. Since the state is part of the Territory of Mississippi, its history is the same as that of Alabama, except that Mississippi was admitted to statehood two years earlier, and the Act provided that the boundaries should run from the northwest corner of Washington County (Alabama) due south to the Gulf of Mexico, thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne, thence up said river . . . the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of Mexico shall be common highways, and for ever free: [to the citizens] of the United States."

The state boundaries have since been defined as

". . . [from what was formerly] the northwest corner of the county of Washington, (Ala.), thence in a direct line to a point ten miles east of the Pascagoula River on the Gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne; thence up said Pearl River . . . "

The additional phrase "comprising . . . 6 leagues from the shore of the Gulf boundaries" was put on at the end of this description for a brief period and was then dropped. It's effectiveness may well be doubted at any rate in view of the established federal doctrine. The accepted inclusion of all islands within six leagues of the shore requires only a one league belt of marginal sea around those wholly more than two leagues from the nearest land, if there were any (which there are not) and open sea for the strip of water between the edges of that belt and the one along the mainland coast. The three counties bordering on the

103. States Boundaries, supra note 1, at 35, 164, 168, 252.
Gulf of Mexico, Jackson, Harrison and Hancock (from east to west) extend

"... to the southern boundary of the State, within the space embraced by extending their boundary lines which strike the Gulf of Mexico, or the inlets thereto, on a continuous direct course to the southern boundary of the State, including all islands that may lie within the limits thus defined."107

The commerce department inland waters line108 runs from "Mobile Entrance Lighted Whistle Buoy; thence (westward 35 miles from the Alabama state line) to Ship Island Lighthouse; thence (south-eastward 10 miles) to Chandeleur Lighthouse (Louisiana)" thus crossing the state's entire Gulf coast, and enclosing Mississippi Sound and all the adjacent islands: west end of Petit Bois, Round, Horn, Dog, Ship and Cat.

New Hampshire

This original state adjoins on the southeast (43°05' to 42°52' N Lat.) the Atlantic Ocean for a distance of fourteen miles by air-line from Maine (70°42'W Long.) on the northeast, to Massachusetts (70°49'W Long.) on the southwest, with a tidal shore line of fifteen miles on the mainland and five miles around islands, a total of twenty miles.109 The council for New England under Charles I in 1629 granted to Captain John Mason the mainland "between the mouth of the Merrimac River, Cape Ann and the mouth of the Piscataqua River." The northeastern boundary, at the Piscataqua River, has been described under Maine, and the final southwestern boundary, three miles north of the Merrimac River, under Massachusetts. The state recognizes the right of the owner of upland to the adjoining foreshore to low-water mark.110 Rockingham, the only county which adjoins the ocean, is bounded "by the state line (with Massachusetts) to the sea; thence by the sea to the mouth of Piscataqua River; including all that part of the Isle of Shoals which belongs to this state."111

108. Inland Lines, supra note 20, at 13, 16.
109. States Boundaries, supra note 1, at 83, 252.
The commerce department inland waters line runs from "Boon Island (Maine) Lighthouse (43 miles southeastward) to Cape Ann (Mass.) Lighted Whistle Buoy" across the state's entire Atlantic coast, and enclosing Portsmouth Harbor, which is three-fourths mile across and seven and one-half miles in depth. It also includes all the Isles of Shoals, nine miles offshore.

**New Jersey**

This original state adjoins on the east (74°15'W Long.) the Atlantic Ocean for a distance of 107 miles by air-line from New York (40°28'N Lat.) on the north, to Delaware (38°55'N Lat.) on the south, with a tidal shore-line of 392 miles on the mainland and 368 miles around islands, a total of 760 miles. On March 12, 1664 Charles II granted to his brother James, Duke of York, all the lands between the Connecticut River and the eastern side of Delaware Bay. The Duke of York almost immediately sold to Lord John Berkeley and Sir George Carteret all that part "extending eastward from the Delaware bay and river to the main ocean and Hudson's river, and northward from Cape May to a line drawn from the northernmost branch of the Delaware, which is 41°40'N Lat. to the Hudson river in 41°N Lat."

This territory was to be called Nova Caesarea or New Jersey. The province was divided by a quintipartite deed of July 1, 1676 into East and West Jersey by a line (surveyed in 1687) starting at Little Egg Harbor (39°35'N Lat.), and so remained until reunited under the Crown government of William III in 1702. The line in the Hudson River and New York Bay proved a source of long and bitter conflict, with many unavailing efforts at adjustment, until commissioners on September 16, 1833 came to an agreement which was ratified by both states. This agreement established the boundary line in the middle of the Hudson River

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112. Inland Lines, supra note 20, at 11, 15.

113. States Boundaries, supra note 1, at 112, 115, 252.


and of the Bay of New York, but gave to New York jurisdiction for certain commercial, sanitary and police purposes over islands and waters to low-water mark on the New Jersey shore within New Jersey's territorial limits. This division of rights and powers subsequently gave rise to numerous law suits.\footnote{People v. Central R.R. Co. of N.J., 42 N.Y. 283 (1870); The L. W. Eaton, 15 Fed. Cas. No. 8612 (D.C. S.D. N.Y. 1878); Central R.R. Co. of New Jersey v. Mayor, etc., of Jersey City, 70 N.J. Law 81, 56 Atl. 239 (1903), affirmed 72 N.J. Law 311, 61 Atl. 1118 (1905); Cook v. Weigley, 72 N.J. Eq. 221 (1906); Ross v. Mayor and Council of Borough of Edgewater, 115 N.J. Law 477, 180 Atl. 866 (1935), affirmed 116 N.J. Law 447, 184 Atl. 810 (1938); cert. dened, 299 U.S. 543, 57 S.Ct. 37, 81 L.Ed. 400 (1936).} Another joint commission with New York on October 12, 1887 agreed on the boundary through Raritan Bay, to run from 

"...Great Beds Lighthouse northwest to a point in the middle of the waters of Arthur Kill or Staten Island Sound; and from Great Beds Lighthouse southeast to near Romer stone beacon on Dry Romer Shoal, thence N 79°09' E towards Sandy Hook, and thence to the open sea."\footnote{N.J. Res. No. 6, April 10, 1886; Laws (1886) 418. Act of Feb. 21, 1888; Laws (1888) c. 55, p. 85. Act of April 9, 1892; Laws (1892) c. 285, p. 441. N.J. Laws (1887) c. 69. Laws (1888) c. 159, p. 213. Laws (1889) c. 212, p. 260.}

The southern boundary, in the thalweg or main channel of navigation in Delaware River and Delaware Bay, as finally settled by judgment of the United States Supreme Court, has been described under Delaware. The state is expressly committed to the doctrine that the jurisdiction of nations extends into the ocean to one league from low-water mark on the shore;\footnote{Stevens v. Paterson & Newark R.R. Co., 34 N.J. Law 542 (1870); City of Hoboken v. Pennsylvania R.R. Co., 124 U.S. 656, 8 S.Ct. 643, 31 L.Ed. 543 (1887); Shively v. Bowlby, 152 U.S. 1, 21, 14 S.Ct. 548, 38 L.Ed. 331 (1894) (historical summary).} and holds that title to the soil below high-water mark under navigable waters is in the state.\footnote{Act of May 17, 1906; Laws (1906) c. 260, p. 542.} There are five counties\footnote{From north to south: Middlesex, Monmouth, Ocean, Atlantic and Cape May.} adjoining the ocean, and by statute

"The territorial limits of each county of this State fronting upon the sea-coast (is) ... extended to a line parallel with the ocean shoreline of said counties, and distant easterly, three nautical miles therefrom. ..."\footnote{Cert. denied, 299 U.S. 543, 57 S.Ct. 37, 81 L.Ed. 400 (1936).} There is no commerce department inland waters line between Navesink Lighthouse and Cape May, so that the marginal sea begins directly at mean low-tide mark off the coast line sand

\footnote{From north to south: Middlesex, Monmouth, Ocean, Atlantic and Cape May.}
spits, bars and barrier islands for the whole length of the coast. Newark, Raritan and Sandy Hook\(^{122}\) Bays are included in the New York Harbor area; and Barnegat Bay, Little Egg Harbor, Great Bay, and Great Egg Bay are shallow fishing boat shelters, with numerous narrow and shifting entrances direct from the open sea. At Atlantic City several large piers are built from the boardwalk on the sandy beach straight out into the ocean; the longest, Steel Pier, runs out eighteen hundred feet from the boardwalk, and the water is ten feet deep at its outer end at low tide.

**New York**

This original state adjoins on the south (40°45'N Lat.) the Atlantic Ocean for a distance of 136 miles\(^{123}\) by air-line from Rhode Island (71°54'W Long.) on the east, to New Jersey (74°15'W Long.) on the west, with a tidal shore line of thirty-one miles on the mainland and 798 miles around islands, a total of 829 miles.\(^{124}\) Under the grant of March 12, 1664 from Charles II of all the lands between the Connecticut River and the eastern side of Delaware Bay, James, Duke of York, claimed "all that island commonly called Matowacks or Long Island . . . also all those several islands known as Martin's Vineyard and Nantucket." The last two, with others adjacent forming Duke's County, were given to the Massachusetts Bay Company by its Charter of 1691, but Long Island and others to the eastward as far as Fisher's Island, remained with New York. The boundary north of Long Island, for ninety-five miles along Long Island Sound, has been described under *Connecticut*. The easternmost course of that boundary "intersects the westerly boundary of Rhode Island at a point (No. 174) in Lat. 41°18'16"249 and Long. 71°54'28"477." At that point, in Fisher's Island Sound southwest of Stonington, Connecticut, and approximately one and one-half miles from Stonington Point, Napatree Beach, Rhode Island, to the east and East Point of Fisher's Island to the southwest, the states of Connecticut, Rhode Island and New York meet; and the boundary line between Rhode Island and New York runs thence south to the open sea between Block Island, Rhode Island, and Montauk Point, Long Island. As these two states, while completely closing in Connecticut, touch

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123. From the Connecticut state line around Long Island to the New Jersey shore is 246 miles.
124. States Boundaries, supra note 1, at 107, 110, 252.
each other only in the water, there has been no dispute between
them as to the actual boundary. The boundary in and southward
of New York Harbor has been described under New Jersey. The
state holds that an owner of land bounded by tide water has no
private right or title in the land below high-water mark, but the
state may allow him compensation for being cut off from the
water.\textsuperscript{125} There are four counties which border on the open sea:
Suffolk, Nassau, Queens and Kings (from east to west) all on
Long Island; New York (Manhattan Island) and Richmond
(Staten Island) Counties are on the Upper and Lower Bay, New
York Harbor; and Westchester and Bronx Counties on the main-
land touch Long Island Sound.\textsuperscript{126} A New York Port Authority
was created in 1921\textsuperscript{127} to aid in unifying the control and develop-
ment of the Harbor and its environs, with jurisdiction over a
district embracing about 1540 square miles within New York and
New Jersey boundaries, from near Jamaica, Long Island, to a
point 40°24'N Lat., 73°47'W Long., near Atlantic Highlands, New
Jersey, and inland. The commerce department inland waters lines
run from

"... Block Island (R. I.) Southeast Lighthouse; thence
(southwestward 17 miles) to Montauk Point Lighthouse on
the easterly end of Long Island.

"New York Harbor. A line drawn from Rockaway Point
Coast Guard Station (southeastward) to Ambrose Channel
Lightship; thence (southwestward) to Navesink Lighthouse,
south tower (13 miles straight across)."\textsuperscript{128}

These cover the east end of Long Island Sound, and the entire
New York Harbor area to a distance eleven miles out from The
Narrows across the whole Lower Bay. In defining sea-going
steamers for certain safety requirements, a solicitor of the Treas-
ury over fifty years ago decided that:

"When the vessels in question leave the west end of Coney
Island and proceed on a voyage to Rockaway Beach, they are,
for most part of the distance, clearly on the high seas...."\textsuperscript{129}

\textsuperscript{125} Shively v. Bowlby, 152 U.S. 1, 21, 14 S.Ct. 548, 38 L.Ed. 331 (1894)
historical summary.
\textsuperscript{126} Encarnacion v. Jamison, 251 N.Y. 218, 167 N.E. 422 (1929); affirmed,
281 U.S. 635, 74 S.Ct. 440, 74 L.Ed. 1082 (1930) (East River); Sound Marine
& Machine Corp. v. Westchester County, 100 F. (2d) 360 (1938).
\textsuperscript{128} Inland Lines, supra note 20, at 12, 15. Application of Treasury De-
partment's first line: The Delaware, 161 U.S. 459, 16 S.Ct. 516, 40 L.Ed. 771
(1896).
\textsuperscript{129} Kenneth Rayner, Opinion of June 24, 1882; 98 Solicitor's Office 508.
but this opinion would undoubtedly be altered by later executive determinations. Islands belonging to New York since 1683 include Fisher's (Visscher's), Gull, Plum (Plumb), Gardiner's (formerly the Isle of Wight), Robin's, Ram and Shelter at the east end of Long Island Sound and Long Island; Captain's (near the mouth of Byram River), City, Ward's and Randall's in Long Island South and the East River; Fire, Oak, Jones Beach, Long Beach, Barren and Coney on the south shore of Long Island; Bedloe's (Liberty), David's, Ellis, Oyster and Governor's, all transferred to the United States in the Upper Bay; and Hoffman and Swinburne in the Lower Bay.

North Carolina

This original state adjoins on the east and southeast (75°27' to 78°30'W Long.) the Atlantic Ocean for a distance of 237 miles by air-line from Virginia (36°34'N Lat.) on the north, to South Carolina (33°52'N Lat.) on the southwest, with a tidal shore line of 1,040 miles on the mainland and 831 miles around islands, a total of 1,871 miles. In 1663 Charles II granted to the Earl of Clarendon, the Duke of Albemarle and six other favorites

"... all territory extending from the north end of Lucke Island in the southern Virginia seas, and within 36°N Lat. ... and so southerly as far as the river St. Matthias, which bord-ereth upon the coast of Florida and within 31°N Lat. ..."

and in 1665 a second Charter gave to the same grantees

"... north and eastward so far as the north end of Currituck river or inlet, upon a strait westerly line to Wyonoak Creek, which lies within or about 36°30'N Lat. ... south and westward as far as 29°N Lat."

This area was in 1670 divided by the owners into North and South Carolina; and in 1729 both were sold to the Crown. The first Constitution, of 1776, describes the boundaries as

"... beginning on the sea side at a cedar stake at or near the mouth of Little River, being the southern extremity of Brunswick County (North Carolina) and running from thence a northwest course through the boundary house which stands in 33°56'. ... All the territories, seas, waters and harbors

Text by courtesy of the present Treasury Department. Cf. The Delaware, 161 U.S. 459, 16 S.Ct. 516, 40 L.Ed. 771 (1896) (Gedney Channel, New York Harbor).

130. N.Y. Laws (1880) c. 106.
131. States Boundaries, supra note 1, at 145, 149, 252.
with their appurtenances lying between the line above described and the southern line of Virginia, which begins on the sea shore in 36°30′ N Lat. and from thence runs west . . . are the right and property of the people of this State.”

The north boundary was surveyed by Byrd in 1728 from the ocean at Currituck Inlet and by Walker in 1778. Walker’s line was confirmed by Virginia as the boundary but Byrd’s line was rerun by a joint commission in 1878, supposed to be the parallel of 36°30′, but accepted and settled at the present actual line at 36°34′ N Lat. Disputes over the southern boundary with South Carolina (commencing at the mouth of Little River on the sea-shore, and thence northwest) were intermittent from 1732 and a general survey of boundary lines including Georgia was undertaken from 1735 to 1746; but the matter was not settled until commissioners came to an agreement on July 11, 1808 which was ratified by both states to begin the line at Goat Island, which was found to be at 33°51′37″ N Lat. The state claims the land between high and low water marks on navigable waters, but private adjoining owners may apparently erect wharves out to deep water and obtain title within straight lines from their side boundaries. Eleven counties border on the ocean, and nearly all have low strips of sand or long barrier islands in front of them enclosing shallow sounds, in some places thirty miles wide, but running again close to the shore and with only narrow entrances or inlets. There is no commerce department inland waters line anywhere off the North Carolina coast, so that the marginal sea begins directly at mean low-tide mark off the sand bordering the ocean.
bars, which include Kitty Hawk, Rodanthe, Cape Hatteras, Cape Lookout and Cape Fear, and enclose Currituck, Albemarle, Croatan, Pamlico, Core, Back and Bogue Sounds. There are no important ports or harbers on this coast, and only Onslow Bay, a wide shallow crescent sheltered from the east by Cape Lookout. Beaufort Inlet is one mile wide and it is two miles from the entrance to Beaufort.

Oregon

The state adjoins on the west (124°05'W Long.) the Pacific Ocean for a distance of 293 miles by air-line from Washington (46°13'N Lat.) on the north, to California (42°N Lat.) on the south, with a tidal shore line of 429 miles on the mainland and sixty miles around islands, a total of 489 miles.139 The settlers from the United States in the Oregon country in 1843 set up a provisional government for themselves, and declared that Oregon should consist of the territory

"... commencing at that point on the Pacific Ocean where the parallel of 42 degrees of north latitude strikes the same, as agreed upon by the United States and New Mexico; thence north along the coast of said ocean, so as to include all the islands, bays, and harbors contiguous thereto, to a point on said ocean where the parallel of 54°40' of north latitude strikes the same; thence east along the last parallel, as agreed to between the United States and Russia, to the summit of the main dividing ridge of the Rocky Mountains ... to the said parallel of 42 degrees of north latitude and thence west to the place of beginning."140

In the area later yielded to the United States by Great Britain by the treaty of June 15, 1846, discussed under Washington below, a real territorial government was set up for

"... all that part of the Territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon. ..."141

The territory was divided in 1853,142 and the first Constitution,

139. States Boundaries, supra note 1, at 241, 252.
of 1857,\textsuperscript{143} and the act admitting Oregon as a state in 1859,\textsuperscript{144} described the boundaries as

"... Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly, to and up the middle channel of said river ... thence west along said parallel [of latitude 42° north, to the beginning]."

The line in the Columbia River\textsuperscript{145} although thus well defined left opportunity for a dispute between 1792 and 1851 with Washington over Sand Island and accretions, all south of the ship channel. This territory, together with Snag Island, was finally declared by the United States Supreme Court to belong to Oregon.\textsuperscript{146} The southern boundary, at 42°N Lat., has been described under California. Regardless of a donation, land claim under the Act of Congress while a territory, the state might grant land below high-water mark on the Columbia River.\textsuperscript{147} By statute, the shore of Clatsop County on the Pacific Ocean between ordinary high and extreme low tides, from the Columbia River on the north to the south boundary line of Clatsop County on the south, has been declared a public highway;\textsuperscript{148} and the state undertakes to control the land lying off the coast between low-tide line and three miles seaward therefrom.\textsuperscript{149} It is provided generally that "The boundaries of all counties bordering on the Pacific Ocean shall [be] and [are hereby] declared to extend to the western bound-

\begin{itemize}
  \item 143. Ore. Const. of 1857, Art. XVI, § 1.
  \item 147. Shively v. Bowby, 152 U.S. 1, 14 S.Ct. 548, 38 L.Ed. 331 (1894). (City of Astoria, Clatsop Co.) 1 Moore, Int. L. Digest (1906) 702.
\end{itemize}
ary of the state as defined in the constitution of the state. . . .”

which amplifies the seven specific western boundaries “to” or
“along” or “on” or “along the shore of” the Pacific Ocean. The
only commerce department inland waters line on the Oregon
cost is at the

“. . . Columbia River entrance. A line drawn from the west
end of the north jetty (2.2 miles from Cape Disappointment,
Washington) above water (southward 2 miles) to South Jetty
Bell Buoy 2S (west 8½ miles from Fort Stevens on Point
Adams, Oregon).”

This encloses the only harbor in the state, six miles wide at the
entrance (widening to seven miles inside, and twenty-five miles
to the end of the wide water). Nehalem, Tillamook, Nestucca,
Yaquina, Waldport, Florence, Winchester, Coos and Goldbeach
Bays are scarcely more than shallow indentations of the coast
where very small rivers empty. There are no islands off the Ore-
gon coast, which pitches abruptly into deep water.

**Pennsylvania**

This original state, like Connecticut, though often referred
to as coastal, doubtless because the large city of Philadelphia is
a port (by a thirty-five foot channel) for ocean-going vessels, is
in fact enclosed by the water boundaries of two other states
which meet at its southeast corner, and it therefore has no access
of its own to the open sea. The state adjoins on the southeast
(39°50’N Lat., 75°15’W Long.) the Delaware River for a distance
of thirteen miles tidal, seventeen to Philadelphia, with Delaware
to the southwest, and New Jersey, on the other bank, to the south-
est. William Penn, who had obtained in 1680 from Charles II a
grant of land west of the Delaware, wished to control an outlet to
the ocean, and on August 24, 1682 purchased of the Duke of York
all of his grant west of the Delaware. This remained the “three
lower counties” of Pennsylvania until 1776, as has been described
under Delaware, and after the separation the boundary of Penn-
sylvania on the southwest became again the circle of twelve

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II, p. 1422.
151. Counties, north to south: Clatsop, Tillamook, Lincoln, Lane, Douglas,
152. Inland lines, supra note 20, at 13, 17.
153. State v. Bay City, 65 Ore. 124, 131 Pac. 1038 (1913).
154. Montgomery v. Henry, 1 U.S. 47, 1 L.Ed. 32 (1780); The Ceres, 14
Phila. 523 (1870).
155. States Boundaries, supra note 1, at 117, 252.
miles radius about New Castle, as originally fixed when in the possession of the Duke of York. By an agreement with New Jersey through commissioners on April 26, 1783, it was settled that jurisdiction over the waters of the Delaware River should be concurrent, the river to be a common highway; and by a subsequent agreement of December 2, 1785, eighty-two islands in the river were named and apportioned between the two states. The state holds that the owner of lands bounded by navigable waters has the title also to the adjacent soil between high and low-water marks. The counties of Philadelphia and Delaware are the only ones bordering on the navigable part of the river. The nearest commerce department inland waters line is that eighty-nine miles from Philadelphia closing off the whole of Delaware Bay near its entrance between New Jersey and Delaware as already described.

Rhode Island

This original state adjoins on the south (41°25'N Lat.) the Atlantic Ocean for a distance of forty-two miles by air-line from Massachusetts (71°07'W Long.) on the east, to Connecticut on land and New York on the water (71°54'W Long.) on the west, with a tidal shore line of 118 miles on the mainland and one hundred miles around islands, a total of 218 miles. Rhode Island Colony founded in 1635 and Providence Plantation in 1636 were united under a charter obtained from Charles I in 1644; and under a new charter from Charles II of July 8, 1663 the grant was

"... on the west, or westerly, to the middle of [the Pawcatuck River] ... and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of ... Narragansett Bay, as the said bay lyeth or extendeth itself from the ocean on the south, or southwardly ... on the south by the ocean ... together with Rhode Island, Block Island, and all the rest of the islands and banks in the Narragansett Bay, and bordering upon the coast of the tracts aforesaid, (Fisher's Island only excepted,) ..."}

159. States Boundaries, supra note 1, at 95, 100, 252.
This pushed back from Narragansett Bay to the Pawcatuck River the eastern boundary of the 1662 grant to Connecticut. A dispute with Massachusetts as to ownership of the King Philip Indian country, east of Narragansett Bay, was in 1741 referred to commissioners, who gave the towns on the east shore of the bay to Rhode Island and the rest of the area to Massachusetts. The eastern boundary, between Gooseberry Neck, Massachusetts, and Warren's Point, Rhode Island, has been described under Massachusetts.

The western land boundary, at the Pawcatuck River, as settled in 1752, has been described under Connecticut and the western water boundary, southward from the point 174 in Fisher's Island Sound, has been described under New York. The boundary line of the state is a political question with which the courts will not intermeddle. The territorial limits of the state

"... extend 1 marine league from its seashore at high water mark. When an inlet or arm of the sea does not exceed 2 marine leagues in width between its headlands, a straight line from one headland to the other is equivalent to the shore-line. The boundary of counties bordering on the sea extends to the line of the State, as above defined."

Tide-flowed land or the soil under tidewater belongs to the state, and the owner of the adjoining upland has the right to fill out or build wharves below high-water mark only so long as undisturbed by the state. Only the counties of Newport (including Block Island) and Washington adjoin the sea; but Providence County includes

"All the waters of Narragansett Bay, and the lands and rocks therein, situated to the northward of a line drawn from the mouth of Pawtuxet River to Sabin's Point . . . and all the other waters of the said bay, shall not be deemed to make part, or be within the sole jurisdiction of any one particular county."

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163. Hall v. Lawrence, 2 R.I. 218 (1852); Brown v. Goddard, 13 R.I. 76 (1880) (Providence River); Gerhard v. Bridge Commissioners, 15 R.I. 334 (1886) (Seekonk River); Clark v. City of Providence, 16 R.I. 337 (1888) (water access cut off by fill); Shively v. Bowly, 152 U.S. 1, 20, 14 S.Ct. 548, 38 L.Ed. 331 (1894) (historical summary).
The commerce department inland waters line runs from "Gay Head (Mass.) Lighthouse; thence (southwestward 42 miles) to Block Island Southeast Lighthouse; thence (southwestward 17 miles) to Montauk Point (N. Y.) Lighthouse,"165 thus covering the entrance to Narragansett Bay, five miles across (widening inside to eight miles, and twenty-one miles in depth) from Graves Point, Newport on the east to Narragansett Pier on the west, and enclosing the whole of the state's sea coast, with Aquidneck, Goat, Conanicut, Hope, Prudence, Patience and other smaller islands in Narragansett Bay and Block Island, twelve miles off the coast.166

South Carolina

This original state adjoins on the southeast (78°30' to 80°53'W Long.) the Atlantic Ocean for a distance of 187 miles by air-line from North Carolina (33°52'N Lat.) on the northeast, to Georgia (32°05'N Lat.) on the southwest, with a tidal shore line of 281 miles on the mainland and 960 miles around islands, a total of 1,241 miles.167 Included with North Carolina in Charles II's grants of 1663 and 1665 and the resale to the Crown in 1729, the colony remained a royal province until the Revolution. The northeastern boundary, at the mouth of Little River, has been described under North Carolina; and the southwestern boundary, at the most northern branch or stream of the river Savannah by the Convention of Beaufort, 1787, has been described under Georgia. The boundaries are defined by statute168 to be:

"The northern line, beginning at a point on the seashore about a mile and a quarter east of the mouth of Little River, runs in a northwest direction . . . [from] Georgia, South Carolina is divided by the Savannah River, from its entrance into the ocean to the confluence of the Tugaloo and Seneca [formerly Keowee] Rivers. . . . On the east, the State is bounded by the Atlantic Ocean, from the mouth of the Savannah River

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165. Inland Lines, supra note 20, at 12, 15.
166. Area: 10.95 sq. mi., 8 miles long, 3 miles wide. Conquered by Massachusetts from the Indians in 1636, it was given to Clarke and Williams by Charles II in the Rhode Island Colony Charter of 1663.
167. States Boundaries, supra note 1, at 146, 152, 252.
to the northern boundary, near the mouth of Little River, including all the islands."

As to tidal waters, the rules of the common law appear to be in force, as in Georgia, so that the riparian owner has title to high-water mark only. The state purports to take concurrent jurisdiction on all rivers forming a common boundary with any other state, and to make such rivers, with all navigable waters within the limits of the state, common highways forever free to citizens of the United States. The five counties which adjoin the ocean are cut into by many small streams and inlets and bordered by numerous low islands close to the coast. The commerce department inland waters line runs

"... from Sullivans Island Coast Guard Station (southeastward 5.4 miles) to Charleston Lighted Whistle Buoy C; thence (westward at an angle of 50° with the preceding 6 1/4 miles) to Charleston Lighthouse."172

This covers the entrance to Charleston Harbor three miles across (five miles in depth) from Moultrieville southwest to Morris Island, and leaves to the "general rule" Long Bay (a very shallow crescent wide open to the southeast), Winyan Bay, Cape Romain, Bulls Bay, St. Helena Sound, Port Royal Sound and Tybee Roads (adjoining Georgia).

**Texas**

The state adjoins on the southeast (25°58' to 29°40'N Lat.) the Gulf of Mexico for a distance of 335 miles by air-line from Louisiana (93°55'W Long.) on the east, to Tamaulipas, Mexico (97°10'W Long.) on the south, with a tidal shore line of 973 miles on the mainland and 709 miles around islands, a total of 1,682 miles. The admission of Texas and the question as to whether public lands in that state are different in any respect from those in any other admitted state has already been discussed in the

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171. From northeast to southwest: Horry, Georgetown, Charleston, Colleton and Beaufort.
172. Inland Lines, supra note 20, at 12, 15.
173. Governor James V. Allred: "We have between 300 and 350 miles of coast line." 1 Hearing, supra note 49, at 80.
section on United States practice. By the treaty of February 22, 1819 the boundary between Spain and the United States west of the Mississippi was to begin "on the Gulf of Mexico at the mouth of the river Sabine, in the sea, continuing north along the western bank of that river . . . all the islands in the Sabine to belong to the United States." The boundaries of the Republic of Texas began "at the mouth of the Sabine River and running west along the Gulf of Mexico 3 leagues from land, to the mouth of the Rio Grande, thence up the principal stream of said river." Texas and the United States made an agreement for marking the boundary and it was surveyed in 1840, to run along the west bank of the Sabine River, beginning at the shore of the Gulf, at a mound of earth fifty feet in diameter and seven feet high, in Lat. 29°41'27.5", Long. 93°50'14.2". The Treaty of Guadalupe Hidalgo provided that the boundary line between Mexico and the United States should commence.

". . . in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river following the deepest channel,"

and the day after that Treaty was proclaimed, Congress authorized Texas to

". . . extend her eastern boundary so as to include within her limits one-half of Sabine Pass, one-half of Sabine Lake, also one-half of Sabine River, from its mouth as far north as 32°N Latitude."

A later case, perhaps inadvertently, confined Texas jurisdiction

175. See Installment I (1940) 2 LOUISIANA LAW REVIEW 273-274, notes 92-99.
176. See Installment I (1940) 2 LOUISIANA LAW REVIEW 283, at note 133.
181. Act of July 5, 1848, c. 94; 9 Stat. 245.
still to the western bank of the Sabine; but the boundaries were last defined by statute when it was asserted that

"... all that territory which lies east of the Rio Grande and a line running north from the source of the Rio Grande to the forty-second degree of north latitude, and south of the forty-second degree of north latitude, and west and south of the line designated in the treaty between the United States and the late Republic of Texas, of right belongs to the State of Texas...."

Thirteen counties adjoin the Gulf and nine bound "along," "around," "down" or "with" the shore of the Gulf; Arkansas (1871) runs "with the boundary of the state on the Gulf;" and Kleberg and Willacy (1917) and Kenedy (1921) follow "the west shore of the Gulf of Mexico at low tide." The commerce department inland waters lines run

"... northward of Sabine Pass Lighted Whistle Buoy, in Sabine Pass and all tributary waters.

"A line drawn from Galveston North Jetty Light (southeastward 1½ miles) to Galveston Bar Lighted Whistle Buoy; thence (northwestward at an angle of 73° with the preceding 1 mile) to Galveston (S.) Jetty Lighthouse.

"Inside of Brazos River Entrance Lighted Bell Buoy."

These cover Sabine Pass, the narrow entrance to Sabine Lake, next to Louisiana; Bolivar Channel, the main jettied entrance to Galveston Bay, two miles across from Port Bolivar to Fort Point on Galveston Island (widening inside to twenty-five miles and thirty-seven miles in depth, with entrance jetties two miles apart, five and three and one-half miles long) and the jettied mouth of the Brazos River; and leaves to the "general rule" West, Matagorda, San Antonio, Copano and Corpus Christi Bays and Laguna Madre, with the narrow Passes through the low strips of sand which separate them from the Gulf; and the mouth of the Rio Grande, next to Mexico.

Virginia

This original state adjoins on the east (75°45' W Long.) the Atlantic Ocean for a distance of 106 miles by air-line from Mary-

185. Inland Lines, supra note 20, at 13, 16.
land (38°02'N Lat.) on the north, to North Carolina (36°34'N Lat.) on the south, with a tidal shore line of 780 miles on the mainland and 500 miles around islands, a total of 1,280 miles.\footnote{186} James I by the Patent of April 10, 1606 granted to the London Company "all along the sea coasts between 34° N Lat. and 45° N Lat. and the islands thereunto adjacent or with 100 miles of the coast thereof,"\footnote{187} but after the settlement at Jamestown in 1607 this Charter proved unsatisfactory and a new one was obtained on May 23, 1609 by which James I gave the London Company 

"... from the point of land called Cape or Point Comfort all along the sea coast to the northward 200 miles and from the said point of Cape Comfort all along the sea coast to the southward 200 miles ... and also all the islands lying within 100 miles along the coast."\footnote{188}

By a third Charter, March 12, 1611/12 James I further gave to the London Company 

"... all those islands in any part of the ocean seas bordering upon the coast of our first Colony in Virginia and being within 300 leagues of any of the parts heretofore granted, and being within or between the 41° and 30° parallels of north latitude."\footnote{189}

All three of these charters were cancelled by judgment of the King's Bench in 1624, but Virginia still claimed the largest charter boundaries, even after the colony was surrendered to the Commonwealth of England, March 12, 1651. The northern boundary, through the middle of Pocomoke Sound and across the tri-state peninsula, has been described under Maryland; and the southern boundary, at 36°34'N Lat., has been described under North Carolina. The state owned the land under tide water, but by statute has given the adjoining owner title to ordinary low-water mark and the right to wharf out even farther.\footnote{190} Although the high seas beyond the three mile limit are not "navigable waters of the United States," a United States revenue cutter

\footnotesize{\begin{itemize}
\item \footnote{186} States Boundaries, supra note 1, at 137, 252.
\item \footnote{187} 1 Hening's (Va.) Stats. (1823) 57.
\item \footnote{188} 1 Hening's (Va.) Stats. (1823) 80, 88.
\item \footnote{189} 1 Hening's (Va.) Stats. (1823) 98, 100.
\item \footnote{190} Rev. Code (1819) Vol. I, c. 87, p. 341. French v. Bankhead, 52 Va. 136 (1854) (Old Point Comfort, 250 acres to U.S.); Hardy v. McCullough, 74 Va. 251 (1873) (Elizabeth River, Norfolk); Norfolk City v. Cooke, 68 Va. 430 (1876) (Elizabeth River, Norfolk); McCready v. Virginia, 94 U.S. 391, 24 L. Ed. 248 (1877) (oyster fishery); Garrison v. Hall, 75 Va. 150 (1881) (fishery and necessary land on shore); Shively v. Bowlby, 152 U.S. 1, 24, 14 S.Ct. 548, 38 L.Ed. 331 (1894) (historical summary).}
\end{itemize}
might lawfully destroy as a menace to navigation sturgeon nets whose tops were one and one-half inches below the surface of the water, six miles off shore, near Hog Island, because "the right of property in the high seas which all mankind has in common cannot be exercised by any single individual in such a manner as to injure the property or rights of others." An attempt by Virginia to establish with Maryland reciprocal rights to pursue offenders into the waters of the other state across the boundary line to a distance not exceeding ten miles was not accepted. There are two counties on the peninsula, Accomac and Northampton, which border both on the Ocean and on Chesapeake Bay, and eight counties on the mainland which border on the Bay. The commerce department inland waters line is "drawn from Cape Charles Lighthouse (southwestward 14 miles) to Cape Henry Lighthouse." This covers the entrance to Chesapeake Bay, thirteen miles across (widening inside to 28 miles and 192 miles in depth) from Cape Charles to Cape Henry, enclosing, besides Baltimore, Annapolis and all the interior of Maryland, the Potomac, Rappahannock, York and James Rivers, Pocomoke Sound and Hampton Roads (2.25 miles across at the entrance, widening inside to 8.3 miles and 9.8 miles deep). There are no settlements or harbors of importance on the ocean shore, though numerous inlets or small bays and several close-lying islands. The description "all islands within 300 leagues of the coast of Virginia between 41° and 30°N Lat." includes the Bermudas, lying in 32°15'N Lat., 64°50'W Long., about 700 miles from False Cape, Virginia.

Washington

The state adjoins on the west (124°20'W Long.) the Pacific Ocean for a distance of 155 miles by air-line from British Colum-
bia, Canada (48°22'N Lat.) on the north, to Oregon (46°13'N Lat.) on the south, with a tidal shore-line of 1,037 miles on the mainland and 684 miles around islands, a total of 1,721 miles.\textsuperscript{198} By the treaty of June 15, 1846 the boundary between Great Britain and the United States was fixed

"... westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: [navigation of the whole of said channel and Straits south of 49°N Lat. to be free and open to both parties]..."\textsuperscript{199}

The line from the summit of the Rocky Mountains along the 49°N Lat. 410 miles to the Gulf of Georgia was surveyed and marked before 1870. Oregon Territory was divided by Congress,\textsuperscript{200} and all south of 49°N Lat. and north of the middle of the main channel of the Columbia River from its mouth was made Washington Territory. The line in the waters from the Straits of Georgia southward across the end of Puget Sound and thence westward through the Strait of Juan de Fuca 142 miles to the Pacific Ocean was the subject of conflicting claims, and was referred to the Emperor of Germany for arbitration.\textsuperscript{201} His decision, on October 21, 1872,\textsuperscript{202} supported the United States contention, that the boundary should follow the Strait of Haro and not Rosario Strait, nor Douglas Channel (more easterly passages) thus giving the United States the whole San Juan Archipelago, north of Puget Sound between the mainland and Vancouver Island. Suggested boundaries began at

"... 1 marine league west from the mouth of the middle of the north ship-channel of the Columbia river; thence along the northern boundary of Oregon up said river... westerly along the line of the British Possessions to a point 1 marine league west from the mouth of the middle channel of the

\textsuperscript{198} States Boundaries, supra note 1, at 21, 239, 252.
\textsuperscript{199} Ratifications exchanged July 17, 1846; proclaimed Aug. 5, 1846. 9 Stat. 869. 1 Treaties (Malloy, 1910) 657. 1 Moore, Int. L. Digest (1906) 753. States Boundaries, supra note 1, at 21.
\textsuperscript{200} See note 142, supra.
\textsuperscript{202} Conference, March 10, 1873. 1 Treaties (Malloy, 1910) 723. 62 Brit. & For. St. Papers 188.
Straits of Juan de Fuca; thence southerly, a distance of 1 marine league west from the east shore of the Pacific Ocean to the place of beginning; including all islands and parts of islands within said boundaries within the jurisdiction of the United States..."\\(^\text{208}\)

but Washington was admitted as a state in 1889\\(^\text{204}\) with boundaries:

"...Beginning at a point in the Pacific ocean one marine league due west of and opposite the middle of the mouth of the north ship channel of the Columbia river; thence running easterly to and up the middle channel of said river...west along: [the] forty-ninth parallel of north latitude to the middle of the channel which separates Vancouver's island from the continent, that is to say to a point in longitude one hundred degree nineteen minutes fifteen seconds west; thence following the boundary line between the United States and British possessions through the channel which separates Vancouver's island from the continent to the termination of the boundary line between the United States and British possessions at a point in the Pacific ocean equidistant between Bonnilla Point, on Vancouver's island, and Tatoosh island lighthouse; thence running in a southerly course and parallel with the coast line, keeping one marine league off shore, to place of beginning."\\(^\text{208}\)

The southern boundary, in the middle of the north ship channel of the Columbia River, has been described under Oregon. Washington holds that tidelands belong to the state, with no right in the riparian owner to extend wharves below high-water mark.\\(^\text{206}\) State and county jurisdiction extends to the one league limit off shore,\\(^\text{207}\) although the four counties\\(^\text{208}\) adjoining the ocean are bounded up or along the sea-coast. The commerce department inland waters line runs from

"...Angeles Point International Boundary Reference Mark, Washington (northeastward) to Hein Bank Lighted Bell Buoy; thence (northwestward) to Lime Kiln Light; thence

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203. Proposed Const. of 1878, Art. I.
205. Const. of 1889, Art. 24, § 1.
206. Eisenbach v. Hatfield, 2 Wash. 236, 26 Pac. 539 (1891).
northwestward) to Kellett Bluff Light; thence (northwestward) to Turn Point Light on Stuart Island; thence (northeastward) to westernmost extremity of Skipjack Island; thence (northeastward) to Patos Island Light; thence (northwestward) to Point Roberts Light.\textsuperscript{209}

This keeps wholly to the eastward of the international boundary line in the Straits of Juan de Fuca (twelve miles across at the entrance) and Georgia and encloses the whole of Puget Sound, five miles across (widening inside to fifteen miles and fifty-five miles in depth) at its entrance near Port Townsend (110 miles from Cape Flattery) with Seattle and Tacoma to the southward, and also the San Juan and numerous other islands and long peninsulas. The Pacific shore on the west is left entirely to the "general rule" from Cape Flattery on the south side of Juan de Fuca Strait, on the north, to Cape Disappointment on the north side of the Columbia River mouth, adjoining Oregon, on the south. Grays Harbor, Willapa Bay, eleven miles across (widening inside to forty-two miles and twenty-two miles in depth) and Shoalwater Bay are shallow indentations of considerable size but comparatively narrow entrances. Peacock Spit,\textsuperscript{210} which appeared in 1880, and Sand Island in the Columbia River, belong to Washington. There are no islands off the Washington coast, which pitches abruptly into deep water.

\textbf{Conclusions}

From the material thus reviewed certain conclusions quite clearly present themselves:

1. The United States accepts as matter of law the existence of a marginal sea around all its coasts one marine league or three nautical miles in width. It maintains this as an established rule of international law, which it will support in its relations with all other nations, in general and in the absence of specific different agreements. The United States, exclusive of the states, may make treaties with other nations changing the width of the marginal sea as to those nations, in general or for any specific enumerated federal purposes.

2. The United States has, by virtue of powers delegated to it in the federal constitution, rights in the nature of easements in the waters, tidal and mainly navigable, in the marginal sea for

\textsuperscript{209} Inland Lines, supra note 20, at 13, 17.
\textsuperscript{210} United States v. Columbia River Packers Ass'n, 11 F. Supp. 675 (1935).
all purposes of controlling foreign and interstate commerce, of
which navigation is a part, police and national defense. This in-
cludes setting aids and prescribing rules for navigation, and ex-
clusive patrol for enforcement of public health (or quarantine),
immigration and customs (or anti-smuggling of aliens or goods,
including liquor) regulations.

3. The United States has (except around Alaska and the in-
sular territories where it is sole proprietary sovereign until they
become states on an equal footing with all the others) no owner-
ship rights in the bed or soil under the marginal sea, except such
incidents or easements as are necessary in support of the exercise
of the federal delegated powers. It must acquire by prescription,
grant from the adjoining state or from private owners, with com-
ensation, as on the foreshore and upland, any sites it requires
for permanent structures in or to remove anything from such
soil.

4. The marginal sea begins at mean low-water mark on the
seacoast and extends out toward the open sea one marine league
at right angles to the coast line, in such way that its outer mar-
gin is parallel to the general trend of the coast and smooth, dis-
regarding small indentations and crossing from headland to head-
land all bays or harbors two marine leagues or less in width or
those which have come to be considered domestic waters by local
custom and foreign acquiescence. It is probable that the United
States could claim notice to all other nations, and maintain the
inner edge of the marginal sea to be the lines, somewhat off the
coast but near to it, publicly established by an executive depart-
ment with the authority of Congress as inland water lines; except
possibly where such lines thrust a sharp point or angle sea-
ward, whose parallel it would be too difficult to define or for
ships to observe in the open sea.

5. The individual states, having constitutionally no right to
affect the relations of the United States with any foreign nation,
may not alter even for themselves the width of the marginal sea
as fixed by the federal government. Those who have taken less
may extend their express jurisdiction to one marine league from
their shores; and those who have purported to take more are re-
taining wholly void enactments as to waters or soil beyond the
one marine league limit.

211. As at: Tampa, Fla.; Savannah, Ga.; Charleston, S. C.; and Galves-
ton, Texas.
6. The individual states have, subject to the exercise of the delegated powers and their necessary accompaniments by the federal government, full ownership rights in the waters of the marginal sea and the bed or soil under it; and they may make such disposition of those rights as their local law permits; including specifically building wharves or other structures, taking swimming or sedentary fish and extracting minerals, such as oil, from on or beneath the surface of the bottom.

On March 28, 1940, H. J. Res. No. 181 was still in the hands of the House Judiciary Committee, without any vote having been taken on it; and no further action of any sort on the submerged oil bills had been taken in the Third Session of the 76th Congress. The Navy Department has not taken any action as to the legislation since the House Judiciary Committee hearings on March 22, 1939, but is studying the matter as one of the members of an inter-departmental committee, upon whose findings future action of the department will very largely depend.