

ANNUAL SYMPOSIUM ANNOUNCEMENT

HISTORIC BAYS OF THE MEDITERRANEAN: A CONFERENCE SPONSORED BY SYRACUSE UNIVERSITY AND THE UNIVERSITY OF PISA

I.

On every continent, and since time practically immemorial, nation states have invoked the phrase "historic title" to assert sovereignty over bays and other adjacent waters which would otherwise be part of the high seas. The principle of the "historic bay" is universally accepted. States which have traditionally exercised unchallenged sovereignty over partially enclosed coastal waters are generally recognized in international law as being entitled to consider those waters as internal to their territories. The Chesapeake and Delaware Bays, for example, are considered as being within the territory of the United States, and a suggestion to the contrary would be vigorously opposed by any American administration. Shark's Bay off the coast of Western Australia, Hudson's Bay, the Gulf of Riga, and the Bay of Setubal on the coast of Portugal, offer examples of waters whose special status has in one form or another received international recognition.

But though the principle is established, the definition of an historic bay has proved intractable and elusive. The Office of Legal Affairs of the United Nations Secretariat has twice sought to define and authoritatively to describe historic bays (in U.N. Doc. A/Conf. 13/1, 1957, and U.N. Doc. A/CN. 4/126, 1960) with little influence over either political or academic opinion, nor with regard to diplomatic practice. The United Nations 1982 Convention on the Law of the Sea (article 10, para. 6) refers to historic bays without offering a definition, stating only that "so-called historic bays" are an exception to the rule that a bay in general should have straight baselines of no more than twenty-four sea miles. In addition, article 298, para. 1(a)(i), refers to historic bays as being excludable by a signatory state from the Convention's provisions relating to the interpretation or application of articles 15, 74 and 83. However, other provisions relating to the peaceful settlement of disputes are not so excludable.

II.

The decision as to whether a bay is "historic" and what special rights a contiguous state should be able to exercise carries obvious strategic, political and economic implications. Libya's authority over the Gulf of Sirte, for example, has been a source of dispute and actual armed conflict with U.S. naval forces in the area. Norway's fishing rights in its wider fjords have been the subject of diplomatic protests and finally a decision favorable to Norway by the International Court of Justice. And jurisdiction over the Gulf of Fonseca, between Honduras, Nicaragua and El Salvador, could be of enormous significance to United States involvement in that area. This, too, was found to be a bay subject to the territorial sovereignty of the three coastal states.

The bays of the Mediterranean present problems of particular interest to the international legal community. The Gulf of Taranto, the Gulfs of Tunis and Gabes, the Bay of El Arab and the Gulf of Sirte, have been claimed as historic bays with varying degrees of success and on the basis of different—even contradictory—legal arguments. Some bays off the North African littoral were for centuries controlled by local princes, who carried out their sovereign obligations as Islamic rulers to keep order among gatherers of sponges and coral no less than they did on dry land among merchants, herdsmen and agriculturalists. Titles derived from these origins have a different provenance from those over tracts of historic Islamic waters in North Africa. But should ideological or religious differences be grounds for distinction where other conditions are similar? Should Roman Law, Islamic Law, the laws of a colonial power, or the laws of a newly formed state be used as evidence for defining an "historic bay" in an area which has known them all?

What bearing should the exigencies of states' so-called vital interests have on the denomination of a bay as exclusive on historic grounds? And is there not a contradiction explicitly in this argument? What rights are conferred by the declaration that a bay is "historic?" Are its waters governed by the regime of the territorial sea, allowing innocent passage for alien ships, or is more extensive authority implied? Or should different regimes apply to different waterways?

III.

The diversity of the legal origins of claims to maritime areas around the rim of the Mediterranean may be concealed by the uniformity associated with the common label "historic bay." A discussion of these particularly complex problems is called for, and may prove of use to scholars and international jurists working towards more general definitions. That is the object of the Conference to be jointly sponsored by the Universities of Pisa (Italy) and Syracuse (New York) and to be held on October 12-13, 1984 at Lubin House in New York City.

OBJECTIVES AND FORMAT

The Conference, organized by Professor L.F.E. Goldie, Director on the International Legal Studies Program of Syracuse University, Professor Ronzitti, Director of the Institute for International Law of the University of Pisa, and Ambassador Goodwin Cooke (ret.), Vice President in Charge of International Relations, Syracuse University, will seek to explore the general issues involved in the definition of historic bays, and to examine in detail the status of several Mediterranean bays of particular interest and importance. It is planned to include presentations and discussion in the following areas:

1) *A general discussion of historic bays, their acquisition and the rights they convey to littoral states.* Professor L.F.E. Goldie of Syracuse University is an internationally recognized authority in this area and will make this presentation.

2) *Delimitation of Territorial Waters in the Mediterranean.* Professor Andreas De Guttry of the University of Pisa, now a visiting scholar at Rutgers University, will contribute a paper on this topic. He has written extensively in this field.

3) *National Security Issues and Historic Bays.* Admiral Horace Robertson and Captain Harvey Dalton have agreed to discuss, in outline, this topic.

4) *The Gulf of Taranto.* Professor Natalino Ronzitti who, with Professor Goldie, has been an initiator of this project, will be the presenter.

5) *The Gulf of Sirte.* Professor Francesco Francioni of the University of Siena, currently on leave at Cornell University, has agreed to examine the significance of this bay.

6) *The Tunisian Bays and Historic Rights in Maritime Areas.*

Dr. Andrea Gioia, who is an assistant to Professor Ronzitti at Pisa, will discuss this important topic.

IV.

The papers presented at the Conference will be published in the SYRACUSE JOURNAL OF INTERNATIONAL LAW AND COMMERCE, together with an edited transcript of the responses and other relevant material developed during discussions. Conference reprints may be purchased for the amount of \$10.00 per copy by either writing or telephoning, the Business Editor, SYRACUSE JOURNAL OF INTERNATIONAL LAW AND COMMERCE, Syracuse University College of Law, Syracuse, New York 13210 U.S.A., (315) 423-2056. Checks should be made payable to the JOURNAL. Inquiries as to annual subscriptions of the JOURNAL are also welcome.

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CONFERENCE REPRINT OF ASIL SYMPOSIUM ON HISTORIC BAYS OF THE MEDITERRANEAN

Presented by the Universities of Syracuse and Pisa (Italy), this reprint contains both the papers presented at the Conference, as well as a transcript of the proceedings. Lead articles include papers submitted by international legal scholars L.F.E. Goldie, Director, International Legal Studies, Syracuse University College of Law, and Natalino Ronzitti, Director, Institute of International Law, University of Pisa.

ISSUES ADDRESSED INCLUDE:

(1) The failure of the Hague Codification Conference of the 1930's, the Geneva Law of the Sea Conference of 1958, and the 3rd United Nations Law of the Sea Conference to reach any consensus on the definition of HISTORIC BAYS.

(2) Whether the United States has reclassified its HISTORIC BAYS as juridical bays?

(3) Is there a hybrid concept of Straight Base Lines and HISTORIC BAYS available to justify State sovereignty over areas that do not comply with the conditions of either construct?

(4) Given recent developments extending Law of the Sea jurisdiction of Coastal States, are HISTORIC BAYS necessary as a legal concept?

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