Topic II.

REGULATIONS RELATING TO FOREIGN VESSELS OF WAR IN WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

What should be the regulations relating to foreign vessels of war in time of peace and in time of war?

CONCLUSION.

From discussion of the needs in time of peace and in time of war and from the principles embodied in regulations issued by other States the following regulations may be proposed for the United States:

REGULATIONS RELATING TO FOREIGN VESSELS OF WAR IN WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

General.

1. The term "vessel of war" applies to all vessels under public control for hostile or military purposes.

I. In time of peace.

2. In general, foreign vessels of war need no special authorization to enter American waters, but previous notice of intended arrival should be given through diplomatic channels. Foreign vessels of war are, however, excluded from certain American waters.

3. Not more than three foreign vessels of war of the same flag shall at the same time sojourn in any naval district without specific authorization.

4. The sojourn of foreign vessels of war in American waters is limited to 15 days unless a longer period is specifically authorized.

5. Foreign vessels of war must leave American waters within six hours if requested by the authorities, even if the limit of time of their sojourn has not expired.

6. Foreign vessels of war are subject to regulation as to anchorage.
7. Foreign vessels of war must observe the regulations to which American war vessels are subject, except as to customs inspection.

8. The taking of soundings, except as required for immediate safe navigation, the making of surveys, the use of submarine or air craft, target or similar practice, in American jurisdiction are prohibited, though any of these may be specifically authorized.

9. Arms other than the dress arms of officers are not to be worn outside the foreign vessels of war except by special authorization.

10. Disregard of any of the above regulations will be reported to the senior officer present of the foreign war vessels, and the vessel or vessels may be requested or may be required to leave American jurisdiction immediately.

11. The above regulations do not apply when a foreign vessel of war is carrying the sovereign or is upon a special diplomatic mission. The arrangements for the treatment of such vessels should be made through diplomatic channels.

12. Vessels of war may be granted special privileges in case of vis major.

13. In general, the passage through canals is permitted only after notification by diplomatic channels and after permission is granted.

II. When United States is at war.

14. In time of war any foreign vessel, public or private, even with permission, enters American waters at its own risk.

15. Desire to enter American waters between sunrise and sunset shall be made known by flying the national flag with the signal for pilot, but the vessel must remain outside of American waters till permission to enter is granted.

16. Entrance to American waters during the night is prohibited. Desire to enter American waters between sunset and sunrise shall be made known by such signals as do not admit of mistake, but the vessel must remain outside American waters till permission to enter is granted. The same rule applies in fog or in storm.

17. If permission is granted, the foreign vessels must strictly observe its provisions.

18. Any vessel entering American waters without permission does so at its peril, and such force may be used against it as the American authorities deem necessary.
NOTES.

1. General.—The idea that the term "vessel of war" should apply to all vessels under public control for hostile or military purposes seems to meet with general approval. There are many regulations accepted in practice among States determining the treatment of armed public vessels. It is also now generally admitted that these regulations extend to the vessels which are auxiliary to the Navy and under commissioned officers, and to transports and other vessels which may be used for hostile purposes. There are, as has been shown, many other public vessels whose purpose is not to carry on war and whose treatment will not be the same as that accorded to vessels of war.

2. Entrance of vessels of war in time of peace.—In absence of any regulation to the contrary it has been generally admitted that a vessel of war may freely enter the ports of the United States. This doctrine has also the sanction of the decision of the Supreme Court of the United States in early cases. Wheaton says that—

If there be no express prohibition, the ports of a friendly State are considered as open to the public armed and commissioned ships belonging to another nation with whom that State is at peace. (Int. Law, sec. 95.)

Pradier-Fodéré, mentioning that Ortolan follows Wheaton, says:

Je ne comprends pas cette doctrine, car l’entrée des vaisseaux de guerre étrangers dans un port peut être inoffensive la veille et devenir dangereuse le lendemain; la prohibition est de nature politique, et tout ce qui tient de la politique est subordonné aux circonstances. (Droit International Public, vol. 5, sec. 2462.)

Pradier-Fodéré maintained on that account that a State should be free to determine whether a foreign vessel of war should be admitted and that a prior conventional agreement is not necessary to justify the exclusion of a foreign ship of war, but that a State may of its own volition close a port. The closure of a port which has long been open should not be without reason, though the State within whose jurisdiction the port is, may deter-
mine the adequacy of the motive. Notice of restrictions upon the entrance to a port should be given.

Later opinion seems to support the view that a State may close or regulate the entrance to its ports, but that a port which has been freely open should not in general be closed without notice—in other words, that the prohibition of entrance is properly within the competence of the State but is not presumed.

The development of vessels of war has seemed to change opinion somewhat. In earlier times when the presence of a few vessels of war would not unduly endanger any port reasonably defended there was no demand for restriction. Sometimes it was thought advantageous to have ships of a possible enemy in port in order that they might the more easily be seized. At the present time the more powerful vessels of war if permitted without restriction to enter ports might constitute a formidable menace. For this and other reasons there has developed in recent years the idea that the proposed entrance of a ship of war to a foreign port should if possible be made known in advance. Possible embarrassments may be avoided by such procedure. A naval force belonging to the State having jurisdiction over the harbor may be drilling and may prefer that foreign observers should not be in the neighborhood. The practice of giving advance notice of entrance to a foreign port has now become common and in some States is regarded as almost obligatory. The advantages of such a notice for both parties when entrance is with a legitimate object, are so many that it may justly be regarded as the best form and is tending to become general.

The rule seems reasonable for the United States that foreign vessels of war need no special authorization to enter American waters, but previous notice of intended arrival should be given through the diplomatic channels.

*German regulation.*—The German regulation provides that ships or vessels of war of foreign States do not need special authorization to enter German ports, whether or not fortified, or to enter the estuaries, rivers,
or inland waters. It is, however, necessary that their visit should be announced in ample season through diplomatic channels. Without such notification ships and vessels of war of foreign States, except those carrying the head of a State or his accredited representative, or except those in distress, may not pass the outer line of fortifications. (Marine-verordnungs-blatt, 1910, no. 15.)

French regulation.—The French regulations of May 21, 1913, provide that the notification of a proposed visit, if circumstances permit, ought to be made through diplomatic channels seven days in advance. Exceptions are made as in the case of the German rules and also for ships engaged in supervision of the fisheries under treaty provisions.

Other States have made special rules to cover special waters.

Restrictions as to ports in United States.—The policy of restriction upon the entrance to ports prevails likewise in the United States. This restriction has been made known to naval officers as follows:

1503. (1) It has been ordered that the following-named harbors, Tortugas, Fla.; Great Harbor, Culebra; Guantanamo Naval Station, Cuba; Pearl Harbor, Hawaii; Guam; Subig Bay, Philippine Islands; Kiska, Aleutian Islands, are not, and that they shall not be made, subports of entry for foreign vessels of commerce, and that said harbors shall not be visited by any commercial or privately owned vessel of foreign registry; nor by any foreign national vessel, except by special authority of the United States Navy Department in each case. (Executive Order, Sept. 23, 1912.)

(2) Foreign Governments have been notified that permission must be obtained from the Secretary of the Navy through their respective diplomatic representatives at Washington before their men-of-war or other public vessels may enter the actual limits of a navy yard or naval station of the United States.

(3) For the proper control, protection, and defense of the naval station, harbor, and entrance channel at Pearl Harbor, Territory of Hawaii, the Secretary of the Navy is authorized, empowered, and directed to adopt and prescribe suitable rules and regulations governing the navigation, movement, and anchorage of vessels of whatsoever character in the waters of Pearl Harbor, Island of Oahu, Hawaiian Islands, and in the entrance channel to said harbor, and to take all necessary measures for the proper enforcement of such rules and regulations. (U. S. Navy Regulations, 1913, No. 1503.)
Regulation as to entrance in time of peace.—The changes in recent years seem to indicate that a reasonable regulation might be drawn on the following lines: In general, foreign ships of war need no special authorization to enter American waters, but previous notice of intended arrival should be given through the diplomatic channels. Foreign ships of war are, however, excluded from certain American waters.

3. Number of vessels of war.—Until recent years little attention has been paid to the question of the number of vessels of war which might be admitted to a port in the time of peace. Perhaps limitations were first imposed because of fear on the part of the State having jurisdiction over the port lest its own safety might be imperiled if many foreign vessels of war were to be admitted at the same time. This was particularly true in case of certain small States. The idea gradually gained ground that it would be advantageous for all States to limit the number of foreign ships of war which might be at the same time in a port. It was implied that if some such regulation should not be made, the safety of a neighboring State might be put in jeopardy. This might happen through the assembling of a large fleet in neighboring ports just before a declaration of war and preparatory to a declaration of war. While each State might, in the absence of regulations, have an equal right to assemble ships, the situation of a port might make such a procedure advantageous to one of the States while conferring no advantage upon the other. The difference in speed and the increase in fighting capacity of vessels of war have made them such powerful and effective instruments that States even in time of peace, are now much more concerned than formerly as to their conduct and nearness. This is seen in the rules already issued by States in regard to foreign vessels of war in territorial waters.

Foreign regulations as to number.—The French regulations of May 21, 1913, provide that the number of vessels of war flying the same flag should not be more than three in a district, the western coast forming two districts, the southern coast one district with Corsica, and the African coast one district.
The German regulations of July 26, 1910, also limit the number of foreign vessels of war flying the same flag to three, unless special permission has been obtained through diplomatic channels.

The question has been raised as to whether the same regard should be paid to number without consideration of the character of the vessel of war. Some have proposed to regard three battleships as the number ordinarily admitted, but to allow a larger number of torpedo boats or small vessels, pointing out that one battleship would ordinarily be accompanied by several smaller vessels. The complications which might arise in time of peace seem to be met by the provision that the admission of more than three vessels be only upon special permission and authorization.

*Regulation proposed.*—To embody the right to limit the number while allowing freedom to the receiving State the following regulation may be proposed as consistent with the general trend: Not more than three foreign vessels of war of the same flag shall at the same time sojourn in any naval district without specific authorization.

4. *Length of sojourn.*—In time of peace it is generally admitted that every courtesy should be extended to foreign vessels of war. At the same time, it might for many reasons be inexpedient to allow a foreign ship of war to remain indefinitely in territorial waters as a matter of right. The navy of the State having jurisdiction over the waters might wish to maneuver or to carry out plans which would be inexpedient in the presence of foreign naval observers. If no time limit is prescribed, a suggestion that the ship of war depart might be regarded as short of proper treatment. If a period is prescribed in advance, no offense could be taken and the sojourn beyond the period would be only after renewed permission had been granted.

A period which would be liberal for all purposes and give evidence of courteous and friendly disposition should be allowed in ports to which vessels of war are admitted. This period should not be unduly long that the receiving State may not be inconvenienced. A period of 15 days seems to be reasonable and liberal.
Foreign regulations as to sojourn.—The length of time which vessels of war may sojourn in foreign ports has received consideration because theoretically ships of war might remain indefinitely in time of peace unless there is a time specified. The harbor facilities may be insufficient to accommodate a large number of vessels for a long time or there may be other reasons for limiting the period of sojourn. Accordingly, to avoid misunderstanding it seems expedient that permission should be limited. The permit to enter sometimes contains the statement as to the length of sojourn allowed. France has enacted a rule prescribing a fortnight unless a special extension is obtained. This period seems reasonable from all points of view and being specific, the foreign ship of war would be under obligation to obtain permission for a longer stay.

Some States have prescribed longer or shorter periods according to geographical conditions.

Regulation proposed.—In order that a reasonable time may be allowed ordinarily, and in order that there may be the possibility of longer stay if there be a special reason, regulations have been somewhat flexible. The following seems to meet the requirements generally approved:

The sojourn of foreign vessels of war in American waters is limited to 15 days unless a longer period is specifically authorized.

5. Departure on notification.—There may be reasons why vessels of war, which under ordinary circumstances would be permitted to remain 15 days, should depart without delay.

The necessity under which the receiving State may be through the possible approach of hostilities may be a sufficient cause. Even a somewhat remote prospect of war might make it necessary to prepare for war in a certain port. This preparation might require immediate departure of foreign ships of war. A State should be free to request such departure without stating reasons, and the request should be heeded without delay.

The conditions in a neighboring State may be such that the sojourn of certain vessels of war might be a threat to the peace or well-being of that State and might be construed as evidence of an unfriendly disposition. The State in
whose waters the foreign ships of war may be must be free to judge under such conditions whether the ship of war should be requested to depart in order that its territory might not be used as a base preparatory for war.

In general, as a State has jurisdiction over its territorial waters, it is entitled to exercise this jurisdiction in a reasonable manner. Provision should be made for requesting the departure of foreign vessels of war whenever a State may deem it expedient, and this departure may be requested without statement of reason.

If the circumstances are not exceptional, a ship of war could be ready for departure within six hours after request. Accordingly, six hours might be a reasonable delay to mention in conveying the request. If longer time should be necessary, this could be specially considered.

*Foreign regulations in regard to departure.*—While cases of request to vessels of war to leave foreign ports have not been common, there seems to be a growing opinion that such requests may at times be necessary. Accordingly, certain States have made known that foreign ships of war within their ports might be requested to depart, and on request would be under obligation to leave.

The Belgian decree of October 30, 1909, names six hours as the time within which foreign ships of war should depart when notified.

France, in the regulations of May 21, 1913, also prescribes six hours as the period after notice, even though the time granted at admission may not have expired.

The German regulations of July 26, 1910, provide for forcible expulsion in case a ship of war does not move on notification, though it is presumed that reasonable time would be allowed.

The Italian law of August 20, 1909, provides that vessels shall betake themselves beyond range within 12 hours.

Other regulations seem to show that, considering the speed of modern vessels of war and the presumed preparedness of a ship of war in a foreign port, a six-hour allowance would not be too short.
Regulation proposed.—Foreign vessels of war must leave American waters within six hours if requested by the authorities, even if the limit of time of their sojourn has not expired.

6. Anchorage.—As vessels of war are granted special privileges in foreign ports, there is reason for care in following the port regulations, in order not to put the local authorities to any inconvenience. The place of anchorage is usually determined by the local authorities and may be assigned for special reasons. A port may be mined, military or other operations may be in process which may make it desirable that foreign vessels of war be kept within certain areas. No complaint can be made, as the local authorities must be permitted to determine such matters. For similar reasons a vessel of war may be requested to change her anchorage to another designated place in a harbor.

At the present time it has also become common for many States to refuse to vessels of war the privilege of anchoring in certain waters. This also is regarded as entirely within the competence of a State.

Foreign regulations as to anchorage.—As many ports in foreign States are more extensively fortified and more continuously in a state of preparation for war than American ports, the regulations in regard to the place of anchorage of foreign ships of war are frequently very specific.

The States having ports on the Baltic Sea have, in general, promulgated detailed regulations in regard to the method, time, and place of anchorage, sometimes providing for the change of place of anchorage and the formalities in connection therewith. The other European States have, in some cases, equally detailed regulations, but all assume full right to regulate anchorage.

Regulation proposed.—As reason and practice agree, the United States may properly make an announcement accordingly: Foreign vessels of war are subject to the port regulations as to anchorage.

7. Port regulations.—The regulations in regard to the use of a port are usually to some degree determined by local necessities. These necessities vary in different ports.
Sometimes port regulations are or seem to be arbitrarily established and without particular reason. Whatever may be the basis of the ordinary regulations established for and extending to other foreign war vessels, the similar vessels of the United States must give them respect. As such regulations must be respected by vessels of war of the United States in foreign waters, foreign vessels of war must respect the regulations of the United States established for the use of its ports. These regulations would particularly relate to such matters as quarantine, etc.

Quarantine.—The positive obligation of the rules for observance of quarantine is emphasized by the regulations of the United States.

3801. (1) Commanding officers of ships shall on entering a port, foreign or domestic, comply strictly with all its quarantine regulations.

(2) They shall, whether liable to quarantine or not, afford every facility to visiting health officers and give all the information the latter may require.

(3) Should doubt exist as to the regulations of the port, no communication shall be held with the shore, with boats, or with other ships until a sufficient time has elapsed to allow of the visit of the health officer.

3802. (1) Should a naval vessel arrive in port with a quarantinable disease on board, or should such disease break out while lying in port, the fact shall be at once reported to the commander in chief or senior officer present: the commanding officer shall hoist the quarantine flag and prevent all communication likely to spread the disease elsewhere until pratique is received.

(2) In order to check the spread of such disease on board ship, he shall arrange with the authorities of the port for the care and treatment of patients on shore or on board a hulk.

(3) If at sea in company with other ships and a quarantinable disease exists or appears on board, he shall keep the quarantine flag flying as long as the disease lasts and shall do all in his power to prevent its dissemination.

3803. (1) In boarding arriving vessels care shall be taken not to violate the rules of the port, and in case they are subject to quarantine the boarding officer shall, if possible, obtain the information required without going alongside.

(2) Vessels at sea coming from a suspected port not having a clean bill of health or otherwise liable to quarantine shall not be boarded unless it be absolutely necessary, and the fact of such communication, when it occurs, shall be reported on arrival in port to the health officer.

(3) No concealment shall be made of any circumstances that may subject a ship of the Navy to quarantine. (U. S. Navy Regulations, 1913.)
REGULATIONS AS TO FOREIGN VESSELS.

Netherlands regulation.—The regulation of October 30, 1909, of the Netherlands provides, in article 12, that ships of war of foreign States sojourning in Dutch jurisdiction, if they do not observe the rules prescribed, may be invited to depart, and, if it is necessary, may be compelled by force.

French regulations.—The French decree of May 20, 1913, article 10, provides:

Dans un cas où un bâtiment de guerre étranger ne se confor­merait pas aux règles édictées par le présent décret, l'autorité maritime ou militaire locale attirera d'abord l'attention de l'officier commandant sur la contravention commise et l'invitera formellement à observer les règlements. Si cette démarche échoue, l'autorité qualifiée, préfet maritime, commandant de la marine ou commandant d'armes, pourra inviter le bâtiment de guerre étranger à quitter immédiatement le port ou les eaux territoriales.

Foreign port regulations.—The port regulations of some foreign States are, as regards vessels of war, also very elaborate. Even the ceremonial to be observed for commanding officers of different grades is prescribed in detail. Provisions are made for conformity to fiscal and sanitary regulations, in regard to landing of forces, the circulation of boats in port, funeral honors, etc. Certain States reserve the right to send with a visiting ship of war one of their own naval officers in order to facilitate the observance of the local regulations. Statements in regard to the ship of war itself are required in some ports. The rules in regard to pilotage vary greatly and change from time to time.

Regulation proposed.—It is not possible to announce in advance what rules may be necessary. Vessels of war are, however, exempt from customs inspection. The following rule seems to cover present practice: Foreign vessels of war must observe other port regulations to which American war vessels are subject, except as to customs inspection.

8. Taking of soundings, use of submarines, aircraft, target, or similar practice.—The taking of soundings was formerly regarded as a form of scientific investigation or exploration and was carried on with a considerable degree of freedom. At the present time, sounding within the
SOUNDINGS, SUBMARINES, AIRCRAFT. 47

maritime jurisdiction of a foreign State is regarded as in excess of the right of a vessel except that when necessary soundings required for the immediate safety of the ships may be made.

As the movements of submarine vessels are or may be secret and may involve risk, the operations of such vessels in foreign waters is also in excess of right and should require special permission.

The use of aircraft forming a part of the equipment of a ship of war while it may not be secret as in the case of a submarine may permit observations which a foreign State may prefer should not be made. This might be particularly true when in the neighborhood of fortifications or mined areas. Accordingly, it seems proper that the use of aircraft over foreign ports and waters should require express permission and that in the United States such use should require special authorization.

Target practice, torpedo practice, and similar exercises by foreign ships have long required special authorization. There has been general assent that such limitation is reasonable and the grounds are so many and so evident that discussion is not necessary.

*Foreign regulations as to soundings, use of submarines, aircraft, etc.*—In recent years, with the introduction of new methods of warfare, regulations in regard to conduct of ships of war in foreign ports have become more specific. The taking of soundings and making of surveys is generally prohibited unless definite authorization is granted. These regulations seem to be entirely proper, as a foreign ship of war can not claim rights other than those which would be implied in hospitable treatment. The use of submarine and of aircraft is held to involve risks to which a foreign port should not be liable. Target practice is generally prohibited, though in special cases permits have been granted for such practice on unsettled and remote coasts; even practice in the placing of mines is prohibited in the regulations of certain States. The discharge of torpedoes is also frequently prohibited. The use of foreign waters for any purpose which would render a ship of war directly more efficient for war purposes
seems to be discouraged or prohibited with general assent of nations.

Regulation proposed.—The taking of soundings, except as required for immediate safe navigation, the making of surveys, the use of submarine or aircraft, target or similar practice in American jurisdiction are prohibited, though any of these may be specifically authorized.

9. Carrying of arms.—Many States prohibit the entrance of foreign armed forces within their land area. Armed foreign ships may be allowed within their ports, but the personnel of such ships are not permitted to go ashore under arms unless by special arrangement. Officers, however, may be required to go ashore in official capacity and as part of their official dress may wear the side arms recognized as appropriate.

Regulation proposed.—Arms other than the dress arms of officers are not to be worn outside the foreign vessels of war except by special authorization.

10. Disregard of regulations.—It may happen that regulations may be disregarded intentionally or unintentionally. Subordinate officials may be careless or ignorant of the requirements of different ports. As action against a subordinate official might create misunderstanding or disturb the relations existing between States, it is considered less liable to create misunderstanding to report the facts to the commanding officer of the foreign force who is in fact officially responsible. As this officer has the authority to determine the action of his subordinates, it may be inferred that the act in regard to which there is some question if continued or repeated, is with the approval of the commanding officer. If there be a disposition to misuse the privileges of a port of the United States, a request to depart is a mild measure and if not heeded, there is a right to use such force as may be necessary to compel the vessel to depart.

Regulation proposed.—It is advisable that definite action be taken if the rules established for the conduct of a foreign vessel of war be disregarded and the following rule conforms to that usually accepted: Disregard of any of the above regulations will be reported to the senior officer of
the foreign war vessels and the vessel or vessels may be requested or may be required to leave American jurisdiction immediately.

11. *Exemptions for public officials.*—The general rule for exemption from local jurisdiction of sovereigns and those who represent the sovereign power extends to the vessels which bear them. It is the established custom to give the widest possible freedom from all local restraints to such vessels. In order that this may be done and in order that the proper marks of respect may be shown to the visiting officials, early notice should, when possible, be given through the diplomatic channels.

*Regulation proposed.*—The above regulations do not apply when a foreign ship of war is carrying the sovereign or is upon a special diplomatic mission. The arrangements for the treatment of such vessels should be made through diplomatic channels.

12. *Vis major.*—Even in harbors which are ordinarily closed foreign vessels of war may be admitted under exceptional and pressing circumstances. The rights of humanity will prevail over the restrictions based upon political or other grounds and a vessel of war if in distress because disabled, or in want of necessary supplies in order to keep the sea, should be admitted to repair or take on necessary supplies. The local port regulations may be suspended or be waived in cases where a foreign ship of war is in actual and immediate distress.

*Regulation proposed.*—Vessels of war may be granted special privileges in case of vis major.

13. *Use of canals.*—As a canal is usually constructed at the expense of some state or of its citizens, it is usually regarded as specially subject to regulation by such state or by the state through whose territory it may pass. The nature and object of canals may vary. Some may be primarily for military purposes; others may be predominantly commercial or these purposes may be fairly balanced. Unless there are special treaty provisions, a canal would be considered as within the jurisdiction of the state through whose territory it passes and subject to its regulation.

71396—15—4*
Certain canals are usually kept open for general commerce, as the Kiel and Corinth Canals, but may be closed at the will of the state within whose territories they are. Germany and Greece reserve the right to make whatever regulations may seem best in regard to the use of their canals. In absence of treaty provisions, a state undoubtedly may regulate or even prohibit the passage of vessels of war through a canal within its jurisdiction, and in general, passage would be granted to vessels of war only after permission had been secured through diplomatic channels.

Panama Canal.—The use of the Panama Canal is by treaty of November 18, 1901, under similar restrictions to those governing the use of the Suez Canal, though the United States has "the exclusive right of providing for the regulation and management of the canal."

Suez Canal.—The regulations for the passage of the Suez Canal are detailed. The place of anchorage, the time of entrance, etc., may be prescribed. Equality of treatment is, however, assured to vessels passing through the canal. The convention of Constantinople of 1888, signed by nine powers, provided that the Suez Canal "shall always be free and open, in time of war as in time of peace, to every vessel of commerce or of war without distinction of flag." Belligerent rights were not to be exercised in the waters of the canal.

Project of interparliamentary union.—The commission of the interparliamentary union in 1913, desirous of devising rules which would apply to all interoceanic straits and canals, suggested the adoption of the following principles:

(a) The express recognition of the right of free passage to vessels of commerce without distinction of flag in time of peace and war in all straits uniting two seas which are not inland seas and interoceanic canals proper.

(b) The strict prohibition of blockade of these straits and canals.

(c) The interdiction to place mines or torpedos completely obstructing the passage of these straits and canals and the obligation of advising all ships of the placing of mines and torpedoes in the neighboring territorial waters.

(d) The interdiction to put out, even in time of war, the lighthouses which delimit the passage of these straits and canals.
(c) The recognition in the treaties concerning straits and canals of the use of arbitration or other means, amicable or judicial, for the settlement of disputes relating to the application or the interpretation of these treaties. (XVIII Conference Interparlementaire, La Haye, 1913, p. 40).

Regulation proposed.—Considering that canals vary in nature and in status, a general regulation only may be proposed: In general, the passage through canals is permitted only after notification by diplomatic agent and after permission is granted.

II. Vessels in Waters of United States in Time of War.

14. Entrance of foreign vessels in time of war.—The entrance to ports of a belligerent State or under belligerent control usually depends upon the flag of the vessel desiring to enter. Neutral vessels may be allowed to enter certain ports as in time of peace, while the entrance to others may be entirely closed. A neutral has no right to question the military necessity which may lead to the restriction upon the entrance to a port or the entire closing of the port. Since the Second Hague Conference of 1907 it is necessary in general that the neutral be notified in advance of the existence of war, and after such notification, the neutral is supposed to take precautions. The entrance, however, must be considered as under the laws of war. The vessel which is permitted to enter may presume that no other risks than those ordinarily incurred in war are involved in entrance.

Certain classes of vessels of the opposing belligerent may be allowed to enter under similar conditions.

In ports that are fortified or where there are ships of war there is always a possibility of hostilities. In case of such hostilities, neutral vessels and vessels not related to the hostilities will be preserved so far as military necessities permit. Such vessels, if in the line of fire or within the field of action, may suffer from the hostilities, and from these risks no State can guaranty vessels within its waters even though the vessels had permission to enter these waters.
French regulations in 1913.—The French decree of May 26, 1913, gives detailed regulations for which the minister of the marine gives reason:

I. Rapport au Président de la République Française:

PARIS, le 26 mai 1913.

MONSIEUR LE PRÉSIDENT: Les dispositions du décret du 19 juillet 1909 fixent une zone d'interdiction d'une largeur uniforme de 3 milles, pour la protection du littoral français en temps de guerre, et édictent des conditions d'accès identiques pour les bases d'opérations de la flotte et pour les ports de commerce. Il m'a paru nécessaire, pour assurer dans de meilleures conditions la sécurité de nos grands ports de guerre, d'étendre à 6 milles la zone d'interdiction située au large de leurs fronts de mer, la mettant ainsi en rapport avec la portée des arme­ments modernes; de différencier les conditions d'accès de ces ports, dont la défense est organisée, afin de leur permettre de remplir leur rôle de bases d'opérations de la flotte, de celles relatives aux ports de commerce uniquement protégés dans le but de les préserver des insultes de l'ennemi; enfin d'apporter des précisions sur les formes sous lesquelles l'accès des ports français devait être demandé et accordé. J'ai l'honneur de soumettre à votre haute sanction le projet de décret ci-joint qui modifie, sur les points énoncés, les dispositions du décret du 19 juillet 1909.

Je vous prie d'agréer, Monsieur le Président, l'hommage de mon profond respect.

Le Ministre de la Marine:

PIERRE BAUDIN.

(Revue Générale de Droit Int. Public, vol. 21, 1913; Documents, p. 56; also Journal Officiel, 14 juin 1913, p. 5097; 18 juin, p. 5234.)

II. Décret:

Le Président de la République française, vu le décret du 19 juillet 1909, réglant, pour le temps de guerre, les conditions d'accès et de séjour des navires autres que les bâtiments de guerre français dans les mouillages et ports du littoral français, sur le rapport de Ministre de la Marine, décrète:

ARTICLE 1. En temps de guerre, les conditions d'accès et de séjour des navires autres que les bâtiments de guerre français dans les mouillages et ports du littoral français et des pays de protectorat sont réglées par les dispositions précisées dans les articles suivants:

ART. 2. Aucun navire de commerce français, aucun navire étranger, de guerre ou de commerce, ne peut, sans s'exposer à être détruit, s'approcher des côtes dans les eaux territoriales françaises ou des pays de protectorat à moins de 3 milles, avant d'y avoir été autorisé. Cette zone d'interdiction est portée à 6 milles des côtes au large des bases d'opérations de la flotte, entre les limites fixées ci-après au titre de chacune d'elles: Cherbourg: du méridien du cap Lévi au méridien de la pointe de Jardeheu; Brest: du parallèle du phare du Four au parallèle de la pointe du Raz; Toulon: du méridien du Bec de l'Aigle
au méridien du cap Bénat; Bizerte: du méridien du Raz Enghela au méridien du cap Zébib.

Art. 3. Entre le lever et le coucher du soleil, tout navire visé par le présent décret doit porter son pavillon national et son numéro du code international (s'il en possède un) dès qu'il s'approche de la zone interdite. S'il désire y pénétrer, il en fait la demande en hissant le pavillon de pilote, mais il se tient en dehors de cette zone jusqu'à ce que l'entrée lui ait été accordée par un sémaphore, un poste de signaux ou un bâtiment d'arraisonnement. La réponse d'un sémaphore ou d'un poste de signaux est faite par les signes suivants du code international: Pavillon S: entrée accordée; Flamme D: entrée différée; Pavillon Q: entrée interdite. Si la demande est accordée, le navire entre à vitesse réduite dans la zone interdite en conservant battant le pavillon d'appel de pilote. Si l'entrée est différée, le navire manœuvre pour laisser libre l'entrée des passes, attend le bâtiment d'arraisonnement et se dirige vers lui à vitesse réduite quand il l'a aperçu. Si l'entrée est interdite, le navire doit renoncer à entrer et doit gagner un autre mouillage. Le bâtiment d'arraisonnement se distingue par trois boules hissées sur la même drisse.

Art. 4. Entre le coucher et le lever du soleil, tout navire visé par le présent décret doit porter son pavillon national et avoir ses feux de navigation allumés dès qu'il s'approche de la zone interdite. S'il désire y pénétrer, il en fait la demande en brûlant un ou plusieurs feux de bengale, appuyés d'appels au sifflet ou à la sirène; mais il se tient en dehors de cette zone jusqu'à ce que l'autorisation d'y pénétrer lui ait été accordée par un bâtiment d'arraisonnement. Le navire, les feux de navigation clairs, attend ce bâtiment d'arraisonnement en brûlant au besoin de nouveaux feux de bengale pour attirer son attention et, s'il n'a pas été semonné, peut se diriger sur lui à vitesse réduite quand il l'a aperçu. Le bâtiment d'arraisonnement se distingue par trois feux rouges superposés.—Un feu coston rouge, brûle d'un poste à terre, signifie que l'entrée est interdite; le navire doit alors renoncer à entrer et doit gagner un autre mouillage. Entre le coucher et le lever du soleil, il est interdit, en principe, à tout navire visé par le présent décret de demander à pénétrer dans les zones situées au large des bases d'opérations de la flotte: Cherbourg, Brest, Toulon, Bizerte, définies à l'article 2; les seuls cas où les capitaines puissent demander l'entrée sont les suivants: Bâtiments autorisés à le faire par gouverneur, soit à leur départ, soit en cours de route; bâtiments en danger et dont l'impossibilité absolue d'attendre à la mer le lever du jour ou de gagner un autre mouillage.

Art. 5. En cas de brume tout navire visé par le présent décret, désirant pénétrer dans la zone interdite, hisse les mêmes signaux que par temps clair et fait des appels au sifflet ou à la sirène jusqu'à ce que l'autorisation d'y pénétrer lui ait été accordée par un bâtiment d'arraisonnement. L'accès des bases d'opérations de la flotte: Cherbourg, Brest, Toulon, Bizerte est interdit en cas de brume dans les mêmes conditions que celles spécifiées à l'article 4.
REGULATIONS AS TO FOREIGN VESSELS.

ART. 6. Tout navire visé au présent décret est tenu de déférer immédiatement aux injonctions d’un bâtiment de guerre ou d’arraisonnement, ou un sémaphore ou d’un poste de signaux, faites à la voix, par signaux du code international ou par coup de canon de semonce. Tout navire semoncé par une batterie ou par un bâtiment de guerre doit, quelle que soit sa distance de terre, stopper immédiatement en cassant son erre. Après s’être arrêté tout navire semoncé peut renouveler sa demande d’entrée, mais il doit attendre sur place les ordres qui lui seront notifiés. Si malgré l’avertissement d’un coup de semonce à blanc le navire ne s’arrête pas sur le champ, il sera tiré, deux minutes après, un coup de semonce à obus et, si après un nouvel intervalle de deux minutes le navire n’a pas stoppé et cassé son erre, le feu sera ouvert effectivement contre lui. En cas d’urgence le coup de semonce à blanc peut être supprimé. La nuit le coup de semonce à obus peut également être supprimé et tout navire qui pénètre sans autorisation dans la zone interdite s’expose à être détruit sans avertissement préalable.

ART. 7. Les bâtiments autorisés à pénétrer dans les rades et ports français ou des pays de protectorat devront prendre le mouillage qui leur sera indiqué par l’autorité locale et se conformer strictement aux règlements de toute nature édictés par cette autorité. La durée de leur séjour restera subordonnée aux nécessités d’ordre militaire et, lorsque les circonstances l’exigeront, il pourra leur être prescrit de prendre le large ou de se retirer sur un point déterminé; cet ordre devra être exécuté sans délai, un sursis pouvant toutefois être accordé aux navires qui se trouveraient dans l’impossibilité justifiée de se conforter immédiatement. Aucun navire ne pourra appareiller, soit pour changer de mouillage, soit pour quitter la rade, sans en avoir reçu la permission de l’autorité locale; la demande peut être faite par signal: pavillon S.

ART. 8. Dans les rades et ports militaires, entre le coucher et le lever du soleil, toute circulation des embarcations autres que celles appartenant aux bâtiments de guerre français est absolument interdite. Du lever au coucher du soleil cette circulation n’est autorisée que pour les embarcations auxquelles les autorités maritimes auront délivré un permis de circulation spécial et le moyen de se faire reconnaître. Les embarcations autorisées devront s’écarter des navires de guerre si l’injonction leur en est faite et ne pourront, en aucun cas, les accoster sans en avoir reçu la permission. La circulation de ces embarcations restera en outre soumise aux consignes locales relatives notamment à l’interdiction de pénétrer dans certaines parties de la rade et d’accoster en tout autre endroit que ceux expressément désignés. Dans les ports de commerce, des mesures analogues seront prises par l’autorité locale pour imposer à la circulation des embarcations les restrictions jugées nécessaires, tout en ménageant les intérêts du commerce.

ART. 9. Les visites des bâtiments de guerre neutres restent soumises, en ce qui concerne la notification ou l’autorisation préalables, aux prescriptions du décret du 21 mai 1913, les conditions d’accès et de séjour étant réglées par le présent décret.
ART. 10. Les mesures prévues par le présent décret seront applicables dès la mobilisation ou à la suite d’un avis spécial.

ART. 11. Toute infraction au présent décret, en dehors des risques de destruction auxquels elle expose, entraînera les mesures de répression que comporteront les circonstances.

ART. 12. Sont abrogées les dispositions contraires au présent décret.

ART. 13. Le ministre de la marine est chargé de l’exécution du présent décret.

R. POINCARÉ.

Fait à Paris, le 26 mai 1913.

Par le Président de la République:

Le ministre de la marine, PIERRE BAUDIN.

(Revue Générale de Droit International Public, vol. 20, 1913, Doc. p. 57.)

Regulation proposed.—In view of such regulations as the above it would seem that a general regulation may be proposed as follows: In time of war any foreign vessel, public or private, even with permission, enters American waters at its own risk.

15. Conditions of entrance during day.—The waters of a belligerent are frequently mined or otherwise protected against the entrance of the ships of an enemy. The use against belligerent vessels of the means of protection may endanger other vessels. If the means of protection is hidden, as in the case of mines, due care should be taken in order that innocent vessels may not suffer injury. As the use of false flags is not yet forbidden in naval war the belligerent may properly assure himself of the identity of any vessel approaching his jurisdiction. Entrance to the waters off an open undefended coast is ordinarily freely open unless there be strategic reasons for closing such waters. Reasonable regulations are necessary for the safety of the belligerent, and such reasonable regulations would certainly include a requirement of due notification by a vessel before it should be permitted to enter belligerent jurisdiction. The form of notification commonly required is the display of the national flag with the signal for a pilot. In order to avoid risk, a vessel should remain outside till permission to enter is granted.

Regulation proposed.—Desire to enter American waters, when the United States is belligerent, between sunrise and sunset shall be made known by flying the national flag with the signal for pilot, but the vessel must remain
outside of American jurisdiction till permission to enter is granted.

16. Entrance during night, fog, or storm.—What has been said in regard to restrictions upon entrance by day is even more applicable in case of desire to enter belligerent jurisdiction during the night or in time of fog or storm. Proper signals should be displayed and the identity of the vessel should be established.

Regulation proposed.—When the United States is a belligerent, entrance to American waters during the night is prohibited. Desire to enter American waters between sunset and sunrise shall be made known by such signals as do not admit of mistake, but the vessel must remain outside American jurisdiction till permission to enter is granted. The same rule applies in fog or in storm.

17. Entrance under permission.—Permission to enter belligerent ports should, so far as consistent with military necessity, be granted. As entrance may be dangerous to the vessel entering, such precautions as are possible should be taken in order that the vessel may not be injured. The vessel may, by entrance, acquire knowledge of military conditions which should not be made public. In time of war the circumstances are usually such as would make necessary, both for the safety of the vessel and of the belligerent, that the conditions of entrance under which the permission to enter is granted shall be strictly observed.

Regulation proposed.—If permission is granted to enter American waters when the United States is at war, the foreign vessels must strictly observe its provisions.

18. Entrance without permission.—In time of war a belligerent may, under present rules, take measures necessary to insure protection of its coasts by the means sanctioned by the law, as by mines, etc.

Ordinarily, as in peace, so in war, neutral commerce with belligerents is subject only to the risk involved in the carriage of contraband, etc. This principle is, however, conditioned upon military necessity which may make it essential that a belligerent really close all or a part of his ports or waters to the entrance of vessels.
Regulation proposed.—Any vessel entering American waters without permission when the United States is at war does so at its peril, and such force may be used against it as the American authorities deem necessary.

General, Foreign regulations as to time of war.—There are controversies which may easily arise in modern times in consequence of the desire of foreign ships of war to enter or remain in ports in time of war. The greater number of ships of war is a simple reason why there may be more possibilities of misunderstanding. The greater speed may give rise to other complications. The interests which take ships of war into foreign ports sometimes make definite and prior regulations advantageous if not essential. The full statement of the laws of three foreign States may show the course of the development toward regulation.

Netherlands.—Decree of the Queen of the Netherlands fixing new rules in respect of the admission of warships of foreign powers to Netherland territorial waters. (The Loo, Oct. 30, 1909.)

[Translation.]

We, Wilhelmina, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.;

On the joint proposal of our ministers of marine, of war, for foreign affairs, and of justice, of the 26th April, 1909, the 3d May, 1909, the 18th May, 1909, and the 25th May, 1909;

Having seen the royal decree of the 2d February, 1893, containing provisions respecting the admission of warships of foreign powers into the estuaries, harbors, and inland waters of the State;

Considering that it is desirable to fix new rules of the admission of warships of foreign powers into the Netherlands territorial waters and into the Netherland territorial waters situated within the territorial waters;

Having consulted the council of state (report of the 17th August, 1909);

Having regard to the further report of our ministers of marine, of war, for foreign affairs, and of justice, of the 13th September, 1909, the 6th October, 1909, the 11th October, 1909, and the 15th October, 1909;

Have approved and agreed to stipulate as follows:

ARTICLE 1. The aforesaid royal decree of the 2d February, 1893, shall be withdrawn.

2. (1) Without prejudice to the provisions of article 4, relative to previous permission to enter the estuaries therein mentioned, and relative to the navigation of the inland waters of the State, warships of foreign powers shall be permitted to proceed from the sea into the Netherland territorial waters and the Netherland water territory situated within those territorial waters, provided this takes place in
58 REGULATIONS AS TO FOREIGN VESSELS.

order to reach by the shortest way and with the observance of the provisions of article 3, the roadstead or harbor situated nearest the sea, in order to anchor there; and provided the number of warships, including those under the same flag already present within the Netherlands jurisdiction, does not exceed three.

3. The provisions of the first paragraph do not prevent the free passage through the territorial waters, so far as this is recognized in international law.

3. (1) When navigating the estuaries and inland waters of the State, warships of foreign powers shall not be permitted to proceed outside the buoyed channels of which use is made by the State pilots on behalf of shipping.

(2) A warship of a foreign power shall only be permitted to find the ship’s position and to make soundings as far as is required for safe navigation.

(3) We reserve to ourselves the right to cause the strict observance of this provision to be controlled by causing the ship to be guided by an officer of the royal navy or an official of the pilot service.

4. (1) It shall be prohibited for warships of foreign powers to enter the estuaries mentioned hereafter without the permission of our minister of marine, or to navigate the inland waters of the State without such permission.

(2) The estuaries referred to are those of Terschelling, Texel, Ymuiden, Hook of Holland, Goeree.

(3) By inland waters of the State shall be meant all navigable waters situated within the estuaries of the State.

5. In special cases permission may be granted by us to deviate from the prescriptions of article 2 respecting the number of warships.

6. (1) Warships of foreign powers may not stay within the territory of the State longer than 14 consecutive days.

(2) The same warship may not, after its departure, again enter one of the estuaries of the State within 30 days without the permission of our minister of marine.

7. (1) The restrictive prohibitive provisions of articles 2, 4, and 6 shall not be applicable—

(a) To the warship on board which, according to the standard or the flag flown, there is reigning sovereign, a member of a reigning royal house, the president of a republic, or the head of a legation of a foreign power in the Netherlands, or the head of a mission of a foreign power destined for the Netherlands, or the accompanying warships.

(b) To cruisers for the police supervision by the powers for which the convention of the 6th May, 1892, is in force in the North Sea fisheries.

(c) To warships of foreign powers which are exclusively destined for religious, scientific, or benevolent objects.

(d) To warships of foreign powers in cases of distress, danger from the sea, or casualty. As soon as, in the opinion of the minister of marine, these causes cease to exist, the provisions of articles 2, 4, and 8 shall again enter into operation.
The exceptions to the restrictive prohibitive provisions mentioned in points (a) to (c), inclusive, shall only be applicable toward the powers which observe the same line of conduct toward Netherlands warships.

8. (1) The permission mentioned in article 4 must, so far as it is not obtained through the diplomatic channel, be applied for.

(2) (a) As regards the estuaries:
   For the estuaries of Terschelling, through the intermediary of the commissioner of pilots at Terschelling.
   For the estuary of Texel or that of Goeree, through the intermediary of the director and commander of the navy at Willemsoord or at Hellevoetsluis, respectively.
   For the estuary of Ymuiden or that of the Hook of Holland, through the intermediary of the commander of the warship stationed there, or, failing such a warship, through the intermediary of the commander of the garrison of the fort.

(3) (b) As regards the inland waters:
   In estuaries mentioned in article 4, through the intermediary of the authorities mentioned above under (a).
   In the other estuaries through the intermediary of the commander of the warship stationed there.

(4) If no warship is stationed there, permission should be applied for through the intermediary of the State harbor master; failing a State harbor master, through the intermediary of the commissioner of pilots; or, if none of these authorities are present, through the intermediary of the burgomaster.

9.. A copy of these provisions and a form, to be fixed by our minister of marine, containing a few questions, which form should be filled in to the best of the knowledge (of the commander of the warship), shall be presented by the authorities mentioned in article 8 to the commander of the foreign warship.

10. (1) Within the estuaries and territorial waters of the State, and in general within the limits of the State, warships of foreign powers may not make any hydrographic or terrain observations or carry out any exercises in landing, or, without having obtained the permission of our minister of marine, hold any gun, torpedo, or mine practice.

(2) The crew may not come on shore otherwise than unarmed; this does not apply to officers and underofficers, so far as the sword or the dirk belonging to their uniform is concerned.

(3) The ship's boats may not make any journeys otherwise than unarmed.

(4) If on the occasion of funeral ceremonies on shore, it is desired to deviate from the prohibition contained in the second paragraph of this article permission to do so must first be asked of our minister of marine through the intermediary of the authorities mentioned in article 8.

(5) No sentences of death may be executed within the estuaries and territorial waters of the State on board the warships of foreign powers.

11. Warships of foreign powers shall be bound to respect the existing police, sanitary, and fiscal laws and regulations and to submit to all harbor regulations in so far as the warships of the royal navy are bound to do so.
12. Warships of foreign powers staying within the limits of the State, which transgresses the aforesaid provisions, may be ordered to depart; if necessary they may be compelled by force to do so.

13. (1) If permission to enter has been granted through the diplomatic channel, the State pilots stationed outside the estuaries and ports shall be notified thereof, if possible.

(2) In general these pilots are acquainted with the contents of these provisions and with the existence or nonexistence of opportunity for answering a salute to the Netherlands flag.

(3) So far as necessary they shall communicate the foregoing to the commander of the foreign warship which is to be piloted by them, and they shall further furnish to the said commander such information regarding the foregoing provisions as he shall desire to receive.

14. (1) These provisions shall obtain in time of peace and toward warships of foreign powers who are not belligerent.

(2) We reserve to ourselves the right in time of war, impending war, or maintenance of neutrality, and, further, in all special circumstances, to restrict or to prohibit entirely the admission of warships of foreign powers into the Netherlands territorial waters and into the Netherlands water territory situated within those territorial waters.

(3) Warships of foreign powers which are present in the Netherlands territorial waters or in the Netherlands water territory situated within these territorial waters by virtue of this decree shall in any case be bound to put to sea within six hours or as soon as they shall have received an invitation to that end from or on behalf of our minister of marine.

Our ministers of marine, of war, for foreign affairs, and of justice shall be charged with the execution of this decree, which shall be inserted in the "Staatsblad," and of which a copy shall be sent to the council of state.

The Loo, October 30, 1909.

J. WENTHOLT, Minister of Marine.

W. Cool, Minister of War.

R. DE MARÉES VAN SWINDERE, Minister for Foreign Affairs.

NELISSEN, Minister of Justice.

Issued November 26, 1909.

NELISSEN, Minister of Justice.


Italy.—Decree of the King of Italy regarding the entry of vessels into fortified harbors and other places in time of war.—Sant' Anna di Valdieri, Aug. 20, 1909.

[Translation.]

Victor Emmanuel III, by the grace of God and the will of the people, King of Italy:

In view of the royal decree of the 21st April, 1895, No. 322, with regard to the approach and sojourn of ships in fortified harbors in time of war;
The opinion of the high naval council having been taken;
On the proposal of our minister of marine in concert with the minister of war;
We have decreed and do decree:

**ARTICLE 1.** Whenever a fortified port is to be put on a war footing, the commandant may, if circumstances demand, require vessels, whether of war or of commerce, anchored within the fortified zones, to put out to sea or to move to other berths which it may be convenient to assign to them.

Ships which receive the order to put out to sea are required to withdraw beyond the range of artillery fire within 12 hours from the moment that the order is received on board.

Vessels which are not in a state to sail within the time allotted will be accorded every facility admitted by the requirements of the fortress.

To secure the fulfillment of the order the commandant may resort to all means required by the needs of urgency of the case.

2. It is absolutely forbidden in time of war, by day as by night, that any privately owned craft, or the boats of neutral warships anchored in the waters of a naval fortress, should cruise in these waters without a preliminary and special consent issued by the commandant of the fortress.

National trading vessels and the trading vessels of allied nations, and also neutral warships anchored in a fortified port, may only communicate with the land during the day between sunrise and sunset, and their boats must go by the most direct way to the landing place designated by the authorities.

These same vessels are forbidden to keep boats in the water during the night. However, should an emergency render communication by night necessary, the authorities may furnish a suitable boat on receipt of a request made with the conventional signal previously fixed. Any other signaling is absolutely forbidden.

3. Any vessel which in time of war approaches a naval fortress by day, whether with the intention of asking permission to enter or merely passing within sight of the defenses, must first of all make herself known, and can not proceed toward the anchorage without first obtaining the explicit permission of the commandant of the fortress or that of the commander of the local naval forces acting in his stead.

4. Special very confidential papers containing the rules intended to control recognition of and approach to fortified places will be issued by the ministry (office of the chief of the staff) to vessels of war or national auxiliaries and vessels of allies.

5. In order to make themselves known, national trading vessels and those of the allied nations, and neutral ships of war and trading vessels, must hoist in a conspicuous position their respective national flags and the signal flags indicating their names according to the International Code of Signals.

If they desire to enter the fortified harbor, they must stop at the greatest distance from the port which the possibility of seeing the signals and the range of the semaphore permit (and this must never in
any case be less than 5 miles), and must communicate to the port their request to enter; this consists in hoisting along with their own above-mentioned indication of name either the usual flag for calling the pilot or else the international code signal P. D.: "I ask leave to enter the harbor."

6. The semaphore of the fort, on receiving this signal, communicates it immediately to the authorities, with the addition of such information as the officer in command may think it fit, as, for example, the name, nationality, distance, description, etc.

If the authorities do not think it desirable to permit the vessel to enter the port, they send a reply through the same semaphore by the signal V. S. X.: "I regret I can not accede to your request."

If, on the other hand, they agree, they send the pilot on board to bring the vessel to her anchorage.

An officer may also be sent with the special duty to reconnoiter at close quarters and to visit, and with instructions to grant permission to enter the port or not, according to the result of his investigations.

The authorities in command of the fortified harbor shall provide for special signals by which the officer sent to examine the vessel or the pilot can transmit through the semaphore stations any information which it may be found urgent or necessary to communicate. One of these signals should indicate that the vessel has been visited and another that the pilot has been taken on board; but, above all, provision must be made for a signal, which shall be changed daily and must be hoisted in a conspicuous position, by which it may be conveyed to the semaphore stations and to the defending fleet that the vessel flying it has obtained permission to enter the harbor and is steering to her anchorage.

7. It is for the officer in command to judge whether or not it be opportune to permit the vessels specified in article 5 to enter the port, always provided that their presence does not disturb or hinder the progress or measures of defense; with this object the authorities shall bear in mind—

(a) That entry into the harbor by night is forbidden.
(b) That neutral vessels, to whom it is absolutely necessary to enter the port, may be permitted to anchor in a suitably ordained space outside the boom.
(c) That in case of doubt or in special circumstances they can request instructions from the ministry to which they are responsible.

8. To enforce the observance of the dispositions laid down in the articles of the decree by ships transgressing them, whether inadvertently or willfully, the signals of the international code appropriate to the case shall be hoisted by the semaphore stations, and they shall be emphasized by a blank shot fired from the battery appointed for this purpose. Should this warning not suffice to obtain the execution of the orders after five minutes have elapsed from the first shot, a live shell shall be fired about a hundred meters in front of the vessel's bows; if she still remains refractory, she shall be fired upon.
If the conditions urgently require it, the previous warning by a blank shot may be omitted.

9. The ministry of marine shall draw up and publish a list of the fortified harbors and other places to which the present decree is applicable.

In the list shall be clearly stated in words the anchorages and portions of coast included in the radius of the said fortified harbors and places in question, as well as the semaphore stations, which, in accordance with the dispositions of articles 5, 6, and 8, shall reply to the signals made by the ships.

10. The royal decree of the 21st April, 1895, No. 322, which regulates the entry of ships into fortified harbors in time of war and their stay in them, is abrogated.

We order that the present decree, furnished with the seal of state, be inserted in the official collection of the Laws and Decrees of the Kingdom of Italy, enjoining on whomsoever it may concern to observe it and to cause it to be observed.

Given at Sant’ Anna di Valdieri, the 20th August, 1909.

VICTOR EMMANUEL.

Mirabello.
Spingardi.

[British and Foreign State Papers, vol. 102, pp. 453-455.]

Russia.—In 1904 Russia, by special regulations and for military reasons, assumed control over maritime areas off certain commercial and military ports. Among the ports was that of Libau. To the coast waters near this port “at a distance of five miles seaward from the shore” special regulations were extended. These regulations were to be temporary. Their character may best be seen from the published translation:

Temporary regulations for the protection in time of war of certain Russian ports so long as martial law shall not have been proclaimed therein. (Sanctioned by His Majesty the Emperor, Mar. 25 (Apr. 6), 1904.)

As long as martial law shall not have been proclaimed in the ports of Cronstadt, Sveaborg, Libau, Sevastopol, and Batum, and the fortress of Otchakoff, the special measures hereinafter mentioned shall be taken there for the purpose of securing unity of action among the organs of government instituted to insure public safety (arts. 2 and 3) with regard to the formalities to be observed by commercial vessels in entering the protected area.

2. The general control of the measures for the maintenance of security in the harbors, roadsteads, and, generally speaking, all the space occupied by the above-mentioned ports (art. 1), as well as by their establishments and buildings, is intrusted at Cronstadt to the commander in chief of the port at Cronstadt; at Sevastopol, to the commander in chief
of the Black Sea fleet; and at Sveaborg, Libau, Otchakoff, and Batum, to the commandants of these places.

3. The officer in charge of the defense of the port is intrusted with directing and supervising the execution of all the measures of order and security emanating, according to the laws in force, from the military and naval authorities, from the administrative authorities of the port, and from other administrative authorities established in the port.

4. Vessels bound for one of the above-mentioned ports (art. 1) are obliged not to approach it nearer than the radius fixed for each port without having provided themselves in each case with a special permit emanating from the authorities of the port. The latter do not grant this permit until they have examined the proper persons and, in case of necessity, visited the vessel.

5. The areas mentioned in article 4, as well as their limits, are fixed by common accord by the director general of navigation and commercial ports, the minister of war, and the director of the naval ministry, and are made public at the same time as the present regulations. These high officials are also obliged to formulate by common accord the instructions defining the method of making the examination (of persons) and the preliminary visitation (of the vessel), to authorize the approach of the vessel to the port, to designate the administrative officers of the port who are to be delegated for this purpose, and to indicate the coercive measures to be taken by the port authorities.

Note.—As regards the port of Sveaborg, the measures enumerated in the present article are taken by common accord by the minister of war and the director of the naval ministry. Complaints of private parties (art. 15) against the dispositions made by the officer in charge of the defense of this port (art. 2) must be presented within one month to the minister of war, who decides on them after an understanding with the director of the naval ministry.

6. Access to the port within a distance less than the radii indicated in article 4 is allowed vessels only from sunrise to sunset. The officer in charge of the defense of the port may, in exceptional cases, prolong this period and authorize certain vessels to enter the port during the night.

7. An administrative officer of the port must be sent out to vessels which are approaching the radius of the port. Upon the arrival of this officer on board the vessel, the captain or the person taking his place, after having received a copy of these regulations, is obliged to deliver to the said officer all the ship's papers and documents relating to the cargo, and, if the officer demands it, to give all the explanations required, to allow the visitation of the vessel in all its parts, and to have opened for this purpose all the holds, coal bunkers, and other parts of the vessel.

8. All communication between the vessel and the coast is prohibited until the preliminary examination, and, if necessary, the visitation of the vessel have been carried out.

9. If, after the examination, and, if necessary, the visitation, the authorities of the port deem it possible to admit the vessel into port, these authorities cause a special flag to be hoisted on the foremast.
10. Every vessel which has been refused access to the port must withdraw therefrom as soon as the order to that effect has been given it.

11. In case the authorities of the port do not deem it possible to allow the unloading of the vessel on the mooring line, this operation must be performed by means of lighters while the vessel is at anchor or moored to a buoy. If the captain or the consignee of the vessel does not consent to submit to this regulation, the vessel is obliged to quit the port.

12. In case vessels do not comply with the provisions of articles 4, 10, and 11, it is the duty of the officer in charge of the defense of the port to compel the vessel in question to submit to these provisions, and even to employ armed force for this purpose, if necessary. The captain of the vessel or his substitute is responsible for the consequences which these measures may involve.

13. If there should be in the ports designated by the present regulations any commercial houses or private persons who are the owners or consignees of vessels such commercial houses or private persons, as soon as they have been informed that a vessel consigned to them has left a Russian port or any foreign port, must communicate to the port authorities information concerning the port of departure of the said vessel, indicating the date of its departure, the approximate time of its arrival, its name, and its nationality.

NOTE.—The commercial houses and private persons mentioned in the preceding article may, in order to expedite the free passage into port of a vessel consigned to them, communicate to the authorities of the port, besides the information required by article 13, also data concerning the merchandise with which such vessel is laden, the quantity thereof, its place of shipment, its destination, and the nationality of the captain of the said vessel.

14. If the information mentioned in article 13 and the note thereto appended is communicated within the proper time to the administrative authorities of the port, the vessels should be admitted, if possible, into port after a preliminary examination and without being subjected to the visitation mentioned in article 4.

If, however, it is discovered, with regard to any vessel, that the information indicated in article 13, although received in due time by the owners or consignees of the vessels, has not been communicated to the administrative authorities of the port before the arrival of the vessel, the persons who have, without plausible reason, refrained from communicating this information to the proper authority, may be punished by order of the officer in charge of the defense of the port by a fine not exceeding 500 rubles ($250).

15. Complaints of private parties against the measures taken by the officer in charge of the defense of the port, according to articles 4 to 14 of the present regulations, must be presented within one month to the director general of navigation and commercial ports, except in the cases contemplated by article 5. This high official decides on these complaints after having submitted them to the examination of the committee on fort matters, assisted by a representative of the naval ministry.
REGULATIONS AS TO FOREIGN VESSELS.

In case, within the committee, the delegates of the ministries of war and navy are not in accord with the decisions reached by a majority of the members of the committee, the matters in question are transmitted to the proper person according to articles 52 and 53 of the organic statutes of the office of director general of navigation and commercial ports, approved by His Majesty the Emperor on June 10 (22), 1903. (U.S. Foreign Relations 1904, p. 712.)

Conclusion.—From discussion of the needs in time of peace and in time of war and from the principles embodied in regulations issued by other States the following regulations may be proposed for the United States:

REGULATIONS RELATING TO FOREIGN VESSELS OF WAR IN WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

General.

1. The term "vessel of war" applies to all vessels under public control for hostile purposes.

2. In general, foreign vessels of war need no special authorization to enter American waters, but previous notice of intended arrival should be given through diplomatic channels. Foreign ships of war are, however, excluded from certain American waters.

3. Not more than three foreign vessels of war of the same flag shall at the same time sojourn in any naval district without specific authorization.

4. The sojourn of foreign vessels of war in American waters is limited to 15 days unless a longer period is specifically authorized.

5. Foreign vessels of war must leave American waters within six hours if requested by the authorities, even if the limit of time of their sojourn has not expired.

6. Foreign vessels of war are subject to regulation as to anchorage.

7. Foreign vessels of war must observe the regulations to which American war vessels are subject, except as to customs inspection.

8. The taking of soundings, except as required for immediate safe navigation, the making of surveys, the use of submarine or air craft, target, or similar practice in American jurisdiction are prohibited, though any of these may be specifically authorized.
9. Arms other than the dress arms of officers are not to be worn outside the foreign vessels of war except by special authorization.

10. Disregard of any of the above regulations will be reported to the senior officer present of the foreign war vessels and the vessel or vessels may be requested or may be required to leave American jurisdiction immediately.

11. The above regulations do not apply when a foreign vessel of war is carrying the sovereign or is upon a special diplomatic mission. The arrangements for the treatment of such ships should be made through diplomatic channels.

12. Vessels of war may be granted special privileges in case of vis major.

13. In general, the passage through canals is permitted only after notification by diplomatic channels and after permission is granted.

II. When United States is at war.

14. In time of war any foreign vessel, public or private, even with permission, enters American waters at its own risk.

15. Desire to enter American waters between sunrise and sunset shall be made known by flying the national flag with the signal for pilot, but the vessel must remain outside of American waters till permission to enter is granted.

16. Entrance to American waters during the night is prohibited. Desire to enter American waters between sunset and sunrise shall be made known by such signals as do not admit of mistake, but the vessel must remain outside American waters till permission to enter is granted. The same rule applies in fog or in storm.

17. If permission is granted, the foreign vessels must strictly observe its provisions.

18. Any vessel entering American waters without permission does so at its peril and such force may be used against it as the American authorities deem necessary.