

International Law Studies—Volume 15

International Law Documents

The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. Government,
the U.S. Department of the Navy or the Naval War College.

DOCUMENTS ON NEUTRALITY AND WAR.

I.

NEUTRALITY PROCLAMATIONS OF THE UNITED STATES.

Statement.—The President of the United States has issued general neutrality proclamations from time to time since August 4, 1914. He issued a special proclamation relating to the Panama Canal Zone on November 13, 1914 (p. 11), which was accompanied by a protocol of an agreement between the United States and Panama (p. 14).

[Neutrality—Italy and Austria-Hungary.]¹

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,
A PROCLAMATION.

Whereas a state of war unhappily exists between Italy and Austria-Hungary;

And whereas the United States is on terms of friendship and amity with the contending powers, and with the persons inhabiting their several dominions;

And whereas there are citizens of the United States residing within the territories or dominions of each of the said belligerents and carrying on commerce, trade, or other business or pursuits therein;

And whereas there are subjects of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade, or other business or pursuits therein;

And whereas the laws and treaties of the United States, without interfering with the free expression of opinion and sympathy, or with the commercial manufacture or sale of arms or munitions of war, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

¹ Proclamations declaring and enjoining neutrality, of like purport, were issued as follows: Austria-Hungary and Servia, Germany and Russia, Germany and France, Aug. 4, 1914; Germany and Great Britain, Aug. 5, 1914; Austria-Hungary and Russia, Aug. 7, 1914; Great Britain and Austria-Hungary, Aug. 13, 1914; France and Austria-Hungary, Aug. 14, 1914; Belgium and Germany, Aug. 18, 1914; Japan and Germany, Aug. 24, 1914; Japan and Austria-Hungary, Aug. 27, 1914; Belgium and Austria-Hungary, Sept. 1, 1914; Great Britain and Turkey, Nov. 6, 1914; Italy and Turkey, Aug. 23, 1915.

And whereas it is the duty of a neutral government not to permit or suffer the making of its waters subservient to the purposes of war;

Now, therefore, I, Woodrow Wilson, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the act approved on the 4th day of March, A. D. 1909, commonly known as the "Penal Code of the United States," the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or

armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war.

11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of a belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of a belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this Government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the 25th day of May instant, and during the continuance of the present hostilities, no ship of war or privateer of any belligerent shall be permitted to make use of any port, harbor, roadstead, or other waters within the jurisdiction of the United States as a station or place of resort for any warlike purpose or for the purpose of obtaining any facilities of warlike equipment; and no ship of war or privateer of either belligerent shall be permitted to sail out of or leave any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of an opposing belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least 24 hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States. If any ship of war or privateer of a belligerent shall, after the time this notification takes effect, enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and to put to sea within 24 hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in any of which cases the authorities of the port or of the nearest port (as the case may be) shall require her to put to sea as soon as possible after the expiration of such period of 24 hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than 24 hours after her necessary repairs shall have been completed, unless within such 24 hours a vessel, whether ship of war, privateer, or merchant ship of an opposing belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure

an interval of not less than 24 hours between such departure and that of any ship of war, privateer, or merchant ship of an opposing belligerent which may have previously quit the same port, harbor, roadstead, or waters. No ship of war or privateer of a belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than 24 hours, by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of an opposing belligerent. But if there be several vessels of opposing belligerents in the same port, harbor, roadstead, or waters, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the opposing belligerents, and to cause the least detention consistent with the objects of this proclamation. No ship of war or privateer of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs.

And I do further declare and proclaim that the statutes and the treaties of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said wars, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do hereby enjoin all citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within its territory or jurisdiction that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of a belligerent can not lawfully be originated or organized within its jurisdiction; and that, while all persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell with the United States arms and munitions of war, and other articles ordinarily known as "contraband of war," yet they can not carry such articles upon the high seas for the use or service of a belligerent, nor

can they transport soldiers and officers of a belligerent, or attempt to break any blockade which may be lawfully established and maintained during the said wars without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this Government, who may misconduct themselves in the premises, will do so at their peril, and that they can in no wise obtain any protection from the Government of the United States against the consequences of their misconduct.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 24th day of May, in the year of our Lord 1915, and of the independence of the United States of America the one hundred and thirty-ninth.

[SEAL.]

WOODROW WILSON.

By the President:

W. J. BRYAN,
Secretary of State.

[No. 1294.]

[Neutrality Panama Canal Zone.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas the United States is neutral in the present war and whereas the United States exercises sovereignty in the land and waters of the Canal Zone and is authorized by its treaty with Panama of February 26, 1904, to maintain neutrality in the cities of Panama and Colon, and the harbors adjacent to the said cities:

Now, therefore, I, Woodrow Wilson, President of the United States of America, do hereby declare and proclaim the following rules and regulations governing the use of the Panama Canal by vessels of belligerents and the maintenance of neutrality by the United States in the Canal Zone, which are in addition to the general "Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its Jurisdiction" put into force by Executive order of July 9, 1914, and I do bring to the attention of all concerned the protocol of an agreement between the United States and the Republic of Panama, signed at Washington, October 10, 1914, which protocol is hereunto annexed.

"RULE I.—A vessel of war, for the purposes of these rules, is defined as follows: a public armed vessel, under the command of an officer duly commissioned by the Government, whose name appears on the list of officers of the military fleet, and the crew of which are under regular naval discipline, which vessel is qualified by its armament and the character of its personnel to take offensive action against the public or private ships of the enemy.

“RULE 2.—In order to maintain both the neutrality of the Canal and that of the United States owning and operating it as a Government enterprise, the same treatment, except as hereinafter noted, as that given to vessels of war of the belligerents shall be given to every vessel, belligerent or neutral, whether armed or not, that does not fall under the definition of rule 1, which vessel is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea; but such treatment shall not be given to a vessel fitted up and used exclusively as a hospital ship.

“RULE 3.—A vessel of war of a belligerent, or a vessel falling under rule 2 which is commanded by an officer of the military fleet, shall only be permitted to pass through the canal after her commanding officer has given written assurance to the authorities of the Panama Canal that the rules and regulations will be faithfully observed.

“The authorities of the Panama Canal shall take such steps as may be requisite to insure the observance of the rules and regulations by vessels falling under rule 2 which are not commanded by an officer of the military fleet.

“RULE 4.—Vessels of war of a belligerent and vessels falling under rule 2 shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the canal regulations in force, and with only such intermission as may result from the necessities of the service.

“Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

“RULE 5.—No vessel of war of a belligerent or vessel falling under rule 2 shall receive fuel or lubricants while within the territorial waters of the Canal Zone, except on the written authorization of the canal authorities, specifying the amount of fuel and lubricants which may be received.

“RULE 6.—Before issuing any authorization for the receipt of fuel and lubricants by any vessel of war of a belligerent or vessel falling under rule 2, the canal authorities shall obtain a written declaration duly signed by the officer commanding such vessel, stating the amount of fuel and lubricants already on board.

“RULE 7.—Supplies will not be furnished by the Government of the United States, either directly or indirectly, through the intervention of a corporation, or otherwise, to vessels of war of a belligerent or vessels falling under rule 2. If furnished by private contractors, or if taken from vessels under the control of a belligerent, fuel and lubricants may be taken on board vessels of war of a belligerent or vessels falling under rule 2 only upon permission of the canal authorities, and then only in such amounts as will enable them, with the fuel and lubricants already on board, to reach the nearest accessible port, not an enemy port, at which they can obtain supplies necessary for the continuation of the voyage. The amounts of fuel and lubricants so received will be deducted from the amounts otherwise allowed in the ports under the

jurisdiction of the United States during any time within a period of three months thereafter. Provisions furnished by contractors may be supplied only upon permission of the canal authorities, and then only in amount sufficient to bring up their supplies to the peace standard.

“RULE 8.—No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of necessity due to accidental hindrance of the transit. In such cases the canal authorities shall be the judge of the necessity, and the transit shall be resumed with all possible dispatch.

“RULE 9.—Vessels of war of a belligerent and vessels falling under rule 2 shall not remain in the territorial waters of the Canal Zone under the jurisdiction of the United States longer than 24 hours at any one time, except in case of distress; and in such case, shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of an opposing belligerent.

“The 24 hours of this rule shall be construed to be 24 hours in addition to the time necessarily occupied in passing through the canal.

“RULE 10.—In the exercise of the exclusive right of the United States to provide for the regulation and management of the canal, and in order to insure that the canal shall be kept free and open on terms of entire equality to vessels of commerce and of war, there shall not be except by special arrangement, at any one time a greater number of vessels of war of any one nation, including those of the allies of a belligerent nation, than three in either terminal port and its adjacent terminal waters, or than three in transit through the canal; nor shall the total number of such vessels, at any one time, exceed six in all the territorial waters of the Canal Zone under the jurisdiction of the United States.

“RULE 11.—When vessels of war or vessels falling under rule 2, belonging to or employed by opposing belligerents, are present simultaneously in the waters of the Canal Zone, a period of not less than 24 hours must elapse between the departure of the vessel belonging to or employed by one belligerent and the departure of the vessel belonging to or employed by his adversary.

“The order of departure is determined by order of arrival, unless the vessel which arrived first is so circumstanced that an extension of her stay is permissible.

“A vessel of war of a belligerent or vessel falling under rule 2 may not leave the waters of the Canal Zone until 24 hours after the departure of a private vessel flying the flag of the adversary.

“RULE 12.—A vessel of war of a belligerent or vessel falling under rule 2 which has left the waters of the Canal Zone, whether she has passed through the canal or not, shall, if she returns within a period of one week after her departure, lose all privileges of precedence in departure from the Canal Zone, or in passage through the canal, over vessels flying the flag of her adversaries which may enter those waters after her return and before the expiration of one week subsequent to her previous departure. In any such case the time of departure of a vessel which has so returned shall be fixed by the canal authorities, who may in so doing consider the wishes of the commander of a public vessel or of the

master of a private vessel of the adversary of the returned vessel, which adversary's vessel is then present within the waters of the Canal Zone.

“RULE 13.—The repair facilities and docks belonging to the United States and administered by the canal authorities shall not be used by a vessel of war of a belligerent, or vessels falling under rule 2, except when necessary in case of actual distress, and then only upon the order of the canal authorities, and only to the degree necessary to render the vessel seaworthy. Any work authorized shall be done with the least possible delay.

“RULE 14.—The radio installation of any vessel of a belligerent power, public or private, or of any vessel falling under rule 2, shall be used only in connection with canal business to the exclusion of all other business while within the waters of the Canal Zone, including the waters of Colon and Panama Harbors.

“RULE 15.—Air craft of a belligerent power, public or private, are forbidden to descend or arise within the jurisdiction of the United States at the Canal Zone, or to pass through the air spaces above the lands and waters within said jurisdiction.

“RULE 16.—For the purpose of these rules the Canal Zone includes the cities of Panama and Colon and the harbors adjacent to the said cities.”

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 13th day of November in the year of our Lord, 1914, and of the independence of the United States the one hundred and thirty-ninth.

[SEAL.]

WOODROW WILSON.

By the President:

W. J. BRYAN,
Secretary of State.

[No. 1287.]

a. PROTOCOL OF AN AGREEMENT BETWEEN THE UNITED STATES AND PANAMA.

Protocol of an agreement concluded between Hon. Robert Lansing, Acting Secretary of State of the United States, and Don Eusebio A. Morales, envoy extraordinary and minister plenipotentiary of the Republic of Panama, signed the 10th day of October, 1914.

The undersigned, the Acting Secretary of State of the United States of America and the envoy extraordinary and minister plenipotentiary of the Republic of Panama, in view of the close association of the interests of their respective Governments on the Isthmus of Panama, and to the end that these interests may be conserved and that, when a state of war exists, the neutral obligations of both Governments as neutrals may be maintained, after having conferred on the subject and being duly empowered by their respective Governments, have agreed:

That hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or neutral, whether

armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and vice versa.

In testimony whereof, the undersigned have signed and sealed the present protocol in the city of Washington, this 10th day of October, 1914.

ROBERT LANSING. [L. S.]

EUSEBIO A. MORALES. [L. S.]