

October 18, 1939

[US Ports - Edwigenant Submariners]

FDR Speech File

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EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D. C.

October 14, 1939

MEMORANDUM for the President:

There is transmitted herewith a draft of Proclamation, presented by the Secretary of State and received by me from the Attorney General, entitled:

"Prohibition on the Entrance of Belligerent submarines into the Ports and Territorial Waters of the United States"

The proposed Proclamation, which has my approval as to form, has been approved by the Attorney General as to form and legality, subject to the comments in his letter to you of this date.

Handwritten signature
Director

Enclosures.

*Not signed
changed & signed
Oct 18*

October 14, 1939

MEMORANDUM for the President:

There is transmitted herewith a draft of Proclamation, presented by the Secretary of State and received by me from the Attorney General, entitled:

"Prohibition on the Entrance of Belligerent
submarines into the Ports and Territorial
Waters of the United States"

The proposed Proclamation, which has my approval as to form, has been approved by the Attorney General as to form and legality, subject to the comments in his letter to you of this date.

(Signed) HAROLD D. SMITH
Director.

Enclosures.



Office of the Attorney General
Washington, D. C.

October 14, 1939.

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed proclamation entitled "Prohibition on the Entrance of Belligerent Submarines into the Ports and Territorial Waters of the United States."

The proclamation purports to be authorized under certain provisions of the Joint Resolution of August 31, 1935, as amended, which are set out in the proclamation.

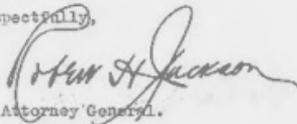
The question arises whether, in view of your authority as Chief Executive and as Commander-in-Chief of the Army and the Navy, any statutory authority for the proclamation is necessary. If statutory authority is necessary, the additional question arises whether the language of the statute is broad enough to permit the complete prohibition of the use of the ports and territorial waters of the United States by submarines, or whether it merely contemplates the placing of special restrictions upon such use, some use being allowed.

While, as pointed out, the question of the authority to issue the proclamation in its present form is not free from

doubt, this doubt, in my opinion, is not sufficient to justify my withholding approval of the proclamation. I feel, however, that it should be called to your attention.

Subject to the above comments, the proposed proclamation has my approval as to form and legality.

Respectfully,

A handwritten signature in dark ink, appearing to read "Robert H. Jackson". The signature is fluid and cursive, with the first name "Robert" and last name "Jackson" being the most prominent parts.

Acting Attorney General.

PROHIBITION ON THE ENTRANCE OF BELLIGERENT
SUBMARINES INTO THE PORTS AND TERRITORIAL
WATERS OF THE UNITED STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 8 of the joint resolution of Congress approved May 1, 1937, amending the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war," approved August 31, 1935, as amended February 29, 1936, provides as follows:

"Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of

The White House,

Washington, October 14, 1939.

I hereby authorize and direct the Secretary of State to cause the Seal of the United States to be affixed to my proclamation prohibiting the entrance of belligerent submarines into the ports and territorial waters of the United States.

dated this day, and signed by me; and for so doing this shall be his warrant.

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the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution declare and proclaim that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines of the belligerent countries named in my proclamations numbered 2346, 2353, and 2359 of September 5, 8, and 10, 1939, respectively, will serve to maintain peace between the United States and foreign states, to protect the commercial interests of the United States and its citizens, and to promote the security of the United States.

AND I do further declare and proclaim that it shall hereafter be unlawful for any submarine of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, or the Union of South Africa, to enter a port of the United States or the territorial waters of the United States.

AND I do further declare and proclaim that the provisions of this proclamation shall apply to the

Canal Zone except in so far as such provisions may be specifically modified by a proclamation or proclamations issued for the Canal Zone.

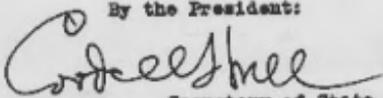
AND I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

This proclamation shall continue in full force and effect unless and until modified, revoked or otherwise terminated, pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this fourteenth
day of October, in the
year of our Lord
nineteen hundred
and thirty-nine,
and of the
Independence
of the United
States of America
the one hundred and
sixty-fourth.

By the President:


Secretary of State.

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Proclamation.

Proclamation?
P.S.

DEPARTMENT OF STATE

ASSISTANT SECRETARY

October 18, 1939

*File
Personal Confidential*

MEMORANDUM FOR THE PRESIDENT.

Herewith the proposed proclamation barring belligerent submarines from American waters.

They are allowed in under one condition: namely, force majeure, in which case they must enter with flags flying and leave with flags flying. This is because Justice believes you have not a right to exclude absolutely -- there must be at least one condition which permits them to enter. Under this condition, any submarine which was not chased in by a warship would be seized. A submarine chased in would be under control and would have to leave at surface -- under escort, of course -- which would mean running right into the blockading vessel.

All hands are agreed. The Navy registers its usual general objection to the effect that any restriction of belligerent rights might prove inconvenient to our naval vessels were we to find ourselves at war.

Attached also a proposed statement which you might make in press conference, covering the point you had in mind, namely, that submarines differ from surface craft in that they cannot be policed. Justice objects to having this in the proclamation itself, on the ground that it
might

might unduly limit the effect of that proclamation; and thinks that the statement had better be made at press conference, or by independent release.

You will notice that the Canal Zone is excluded. It seems that the Canal Zone treaty obliges us to give passage even to ships of war. The Navy people say that a submarine cannot, in practice, enter waters near the Canal, except on the surface; and should a submarine attempt to do so, she would of course be policed from the time of her arrival to the time she left the waters. Under the Declaration of Panama I presume we could go farther and virtually insist on her maintaining touch with patrol ships until she was escorted outside the three hundred mile limit.

A. A. B., Jr.
A. A. B., Jr.

DEPARTMENT OF STATE

FOR THE PRESS

October 18, 1939
No. 527

USE OF PORTS OR TERRITORIAL WATERS OF THE UNITED STATES BY SUBMARINES OF FOREIGN BELLIGERENT STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 8 of the Joint Resolution approved August 31, 1935, as amended by the Joint Resolution approved May 1, 1937 (50 Stat. 127; U.S.C., Sup. IV, title 22, sec. 245e), provides:

"Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply."

WHEREAS there exists a state of war between Germany and France; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa;

WHEREAS the United States of America is neutral in such war;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of section 8 of the Joint Resolution approved August 31, 1935, as amended by the Joint Resolution approved May 1, 1937, do by this proclamation find that special restrictions placed on the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of a foreign belligerent state, both commercial submarines and submarines which are ships of war, will serve to maintain peace between the United States and foreign states, to protect the commercial interests of the United States and its citizens, and to promote the security of the United States;

AND

AND I do further declare and proclaim that it shall hereafter be unlawful for any submarine of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, or the Union of South Africa, to enter ports or territorial waters of the United States, exclusive of the Canal Zone, except submarines of the said belligerent states which are forced into such ports or territorial waters of the United States by force majeure; and in such cases of force majeure, only when such submarines enter ports or territorial waters of the United States while running on the surface with conning tower and superstructure above water and flying the flags of the foreign belligerent states of which they are vessels. Such submarines may depart from ports or territorial waters of the United States only while running on the surface with conning tower and superstructure above water and flying the flags of the foreign belligerent states of which they are vessels.

AND I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

This proclamation shall continue in full force and effect unless and until modified, revoked or otherwise terminated, pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eighteenth day of October, in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[L.S.]

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.