



# University of Hawaii at Manoa

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March 10, 1977

Ms. Elisabeth Mann Borgese  
Center for the Study of Democratic Institutions  
Santa Barbara, California 93103

Dear Ms. Borgese:

Thanks very much for the copy of the NIEO and Los (Occasional Paper No. 4) that you sent me some months ago. I think it is brilliant.

I wouldn't have harassed you about it if I had some regular way of knowing what is coming out of PIM and IOI. If there is a way, would you let me know how to get onto it?

Knowing you would be interested, I have enclosed a copy of a manuscript on "Fisheries and the Law of the Sea" which I will be presenting at a meeting of the International Studies Association next week, and a brief statement on New Order in the Pacific, the project I intend to work on during my sabbatical next year.

My major reason for writing, however, is to raise a point about the 1945 Truman proclamation on the continental shelf. In "Boom, Doom, . . ." you say "De Jouvenal reminds us that the Truman proclamation was an internal, not an external act, in the first place. It determined relations between states and federal jurisdictions (and economic interests), not between federal and international jurisdictions (and economic interests)." You make similar points on pp. 144-145 of NIEO and LOS.

Now, I like your argument, and I want to believe it. It would have a role in a response I am contemplating to Hawaii Governor Ariyoshi's recent claim to rather broad jurisdiction for the state. The difficulty is that I have come across seemingly contradictory information.

George Doumani, in his Exploiting the Resources of the Sea, has reproduced an Executive Order 9633 and a White House Press Release, both dated the same as the Proclamation itself. The Executive Order says that the Proclamation does not affect issues between the United States and the several states regarding the continental shelf. Similarly, the press release says the Proclamation "does not touch upon the question of Federal versus State control." I have enclosed xeroxes.

Is this news to you? Do you have any suggestions as to how to reconcile this information with your accounts? My curiosity is up.

Best regards,

  
George Kent

AN EQUAL OPPORTUNITY EMPLOYER

## APPENDIX 4

PRESS RELEASE RELATIVE TO THE NATURAL RESOURCES OF THE  
CONTINENTAL SHELF

THE WHITE HOUSE, September 28, 1945.

The President today issued two proclamations asserting the jurisdiction of the United States over the natural resources of the continental shelf under the high seas contiguous to the coasts of the United States and its territories, and providing for the establishment of conservation zones for the protection of fisheries in certain areas of the high seas contiguous to the United States. The action of the President in regard to both the resources of the continental shelf and the conservation of high seas fisheries in which the United States has an interest was taken on the recommendation of the Secretary of State and the Secretary of the Interior.

Two companion Executive orders were also issued by the President. One reserved and set aside the resources of the continental shelf under the high seas and placed them for administrative purposes, pending legislative action, under the jurisdiction and control of the Secretary of the Interior. The other provided for the establishment by Executive orders, on recommendation of the Secretary of State and the Secretary of the Interior of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States.

Until the present the only high seas fisheries in the regulation of which the United States has participated, under treaties or conventions are those for whales, Pacific halibut and fur seals.

In areas where fisheries have been or shall hereafter be developed and maintained by nationals of the United States alone, explicitly bounded zones will be set up in which the United States may regulate and control all fishing activities.

In other areas where the nationals of other countries as well as our own, have developed or shall hereafter legitimately develop fisheries, zones may be established by agreements between the United States and such other States and joint regulations and control will be put into effect.

The United States will recognize the rights of other countries to establish conservation zones off their own coasts where the interests of nationals of the United States are recognized in the same manner that we recognize the interests of the nationals of the other countries.

The assertion of this policy has long been advocated by conservationists, including a substantial section of the fishing industry of the United States, since regulation of a fishery resource within territorial waters cannot control the misuse or prevent the depletion of that resource through uncontrolled fishery activities conducted outside of the commonly accepted limits of territorial jurisdiction.

As a result of the establishment of this new policy, the United States will be able to protect effectively, for instance, its most valuable fishery, that for the Alaska salmon. Through painstaking conservation efforts and scientific management the United States has made excellent progress in maintaining the salmon at high levels. However, since the salmon spends a considerable portion of its life in the open sea, uncontrolled fishery activities on the high seas, either by nationals of the United States or other countries, have constituted an ever present menace to the salmon fishery.

The policy proclaimed by the President in regard to the jurisdiction over the continental shelf does not touch upon the question of Federal versus State control. It is concerned solely with establishing the jurisdiction of the United States from an international standpoint. It will, however, make possible the orderly development of an underwater area 750,000 square miles in extent. Generally, submerged land which is contiguous to the continent and which is covered by no

more than 100 fathoms (600 feet) of water is considered as the continental shelf.

Petroleum geologists believe that portions of the continental shelf beyond the 3-mile limit contain valuable oil deposits. The study of subsurface structures associated with oil deposits which have been discovered along the Gulf Coast of Texas, for instance, indicates that corresponding deposits may underlie the offshore or submerged land. The trend of oil-productive salt domes extends directly into the Gulf of Mexico off the Texas coast. Oil is also being taken at present from wells within the 3-mile limit off the coast of California. It is quite possible, geologists say, that the oil deposits extend beyond this traditional limit of national jurisdiction.

Valuable deposits of minerals other than oil may also be expected to be found in these submerged areas. Ore mines now extend under the sea from the coasts of England, Chile, and other countries.

While asserting jurisdiction and control of the United States over the mineral resources of the continental shelf, the proclamation in no wise abridges the right of free and unimpeded navigation of waters of the character of high seas above the shelf, nor does it extend the present limits of the territorial waters of the United States.

The advance of technology prior to the present war had already made possible the exploitation of a limited amount of minerals from submerged lands within the 3-mile limit. The rapid development of technical knowledge and equipment occasioned by the war, now makes possible the determination of the resources of the submerged lands outside of the 3-mile limit. With the need for the discovery of additional resources of petroleum and other minerals it became advisable for the United States to make possible orderly development of these resources. The proclamation of the President is designed to serve this purpose.

APPENDIX 6

EXECUTIVE ORDER 9633

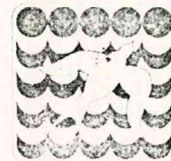
RESERVING AND PLACING CERTAIN RESOURCES OF THE CONTINENTAL SHELF UNDER THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE INTERIOR

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that the natural resources of the subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States declare this day by proclamation to appertain to the United States and to be subject to its jurisdiction and control, be and they are hereby reserved, set aside, and placed under the jurisdiction and control of the Secretary of the Interior for administrative purposes pending the enactment of legislation in regard thereto. Neither this order nor the aforesaid proclamation shall be deemed to affect the determination by legislation or judicial decree of any issues between the United States and the several States relating to the ownership or control of the subsoil and seabed of the Continental Shelf within or outside of the 3-mile limit.

THE WHITE HOUSE, September 28, 1945.

HARRY S. TRUMAN.

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Pacem in Maribus

Box 4716  
Santa Barbara, California 93103

July 19, 1977

Mr. George Kent  
Department of Political Science  
University of Hawaii at Manoa  
Porteus 640  
2424 Maile Way  
Honolulu, Hawaii 96822

Dear George,

Thank you for your letter of March 10 received only now after having returned to Santa Barbara.

After Occasional Paper 4 there was Occasional Paper 5, bringing No. 4 up to date, but unfortunately we are out of copies. However, instead I am enclosing a copy of Occasional Paper 6. Later this fall, there will be a voluminous paper, No. 7, which will again bring our larger study up to date, incorporating the results of the latest Session. If you write to Malta you can be put on the mailing list. The publications run between \$5 and \$10.

Now, as to the Truman Proclamation, I have not had time yet to study the documents you enclosed. It seems to me, however, that de Jouvenel and I were right. As a matter of fact, I remember the furious reactions of the oil companies at the time and ~~that~~ the sentence you underlined in your paper might be more of an assuaging than of a substantial nature.

All the best,

Yours sincerely,

Elisabeth Mann Borgese

July 23, 1976.

Professor George Kent  
Dept. of Political Science  
University of Hawaii  
Honolulu, Hawaii 96822

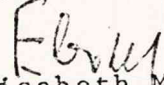
Dear George:

We are sending <sup>you</sup> a copy of THE NEW INTERNATIONAL ORDER AND THE LAW OF THE SEA by Arvid Pardo and myself. Actually it costs \$10.= if your library wants to pay for it. However, it is already somewhat outdated. We are feverishly working on a new edition, which will be the basis of our discussions in Pacem in Maribus VII in Algiers next October. We'll send you a copy of the new version too, as soon as it is ready.

In the meantime I think you should have yourself put on the mailing list of the Tenbergen Foundation to get all the stuff on the RIO Project (Reviewing the International Order). Just write to Mr. Jan van Ettinger, International Education Dept. Bouw Centrum, Rotterdam, Netherlands.

All the best,

Yours cordially,

  
Elisabeth Mann Borgese.

Encl: New Int. Ec. Order  
and Law of the Sea.

# UNIVERSITY OF HAWAII

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Department of Political Science

July 2, 1976

Ms. Borgese --

Would you let me know how I can get copies of the papers you and others have prepared on the New International Economic Order and the Law of the Sea?

Thanks.

Cordially,



George Kent

Yes George -

I want to write a paper on "Fishing and the  
Common Heritage," and in doing that I want to bring in  
the importance of attaching to the N100 arguments. Can I  
have some of the ~~fact sheets~~ <sup>papers</sup> you and Holt and others have done on the  
L05-N100 connection?

Would you send them to me, at the Department of  
Political Science, University of Hawaii, Honolulu, Hawaii 96822?

Thanks very much.

George Flint

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Jan: send him Baby + my paper on it  
Seeman.