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H. R. 6758

Tuesday, March 17, 1942.

HOUSE OF REPRESENTATIVES
COMMITTEE ON MILITARY AFFAIRS
WASHINGTON, D. C.

The Committee met, pursuant to call, at 11:15 o'clock A.M., Honorable Andrew J. May (Chairman) presiding.

The Chairman. The Committee will please be in order.

We have for consideration at this time H. R. 6758, reading: "To provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, or leaving military areas or zones."

(The Committee had under consideration H.R. 6758, which is as follows:)

77th CONGRESS
2nd SESSION

H. R. 6758

IN THE HOUSE OF REPRESENTATIVES

March 10, 1942

Mr. Costello introduced the following bill; which was referred to the Committee on Military Affairs

A BILL

To provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, or leaving military areas or zones.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

That whoever shall enter, remain in, ^{or commit any act in} or leave any military area or military zone prescribed, under the authority of an Executive order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be guilty of a misdemeanor and upon conviction shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both, for each offense.

2)

The Chairman. The witness on this bill is Colonel B. M. Bryan. Colonel, come around and tell us the necessity for this legislation.

STATEMENT OF COLONEL B. M. BRYAN,

WAR DEPARTMENT

Col. Bryan. The purpose of this bill is to provide for the enforcement before Federal Courts of the orders issued under the authority of any Executive Order.

General DeWitt, who is Commanding General of the Western Defense Command, is charged with the responsibility of carrying out the provisions of that Executive Order. He can issue the necessary orders, but he cannot enforce those orders.

General DeWitt on March 12th telephoned and personally stated to me that the passage of this bill was necessary to enable him to properly carry out the provisions of the Executive Order.

Mr. McCloy, who is the Under Secretary of War, telephoned and stated that he is particularly anxious, that is Mr. McCloy was particularly anxious, that the committee be informed that General DeWitt proposed to impose such curfew restrictions and wants the legislation broad enough to cover the violation of any such restrictions.

The Chairman. That is of the military areas.

Col. Bryan. Yes, sir. He has written "There may be some doubt as to whether or not this bill will accomplish the purpose. To clarify the bill - - -"

The Chairman (interposing). You mean clarify the existing statute?

Col. Bryan. No, to clarify the proposed bill.

The Chairman. You mean clarify the proposed bill then.

Col. Bryan. (continuing). --- "the War Department

would like to suggest an amendment", which I have written in line 3.

The Chairman. All right. I will read the amendment.

"In line 3, page 1 of H. R. 6758 strike out the word "or" and insert after the word "leave" the following, "or commit any act in".

That is in line 3.

The section as amended would read:

"That whoever shall enter, remain in, leave or commit any act in any military" - - -

Mr. Costello. The word "or" should be stricken out.

The Chairman. May I interrupt you by reading here the statement of the Secretary of War with respect to one paragraph from his report here:

"General DeWitt is strongly of the opinion that the bill when enacted should be broad enough to enable the Secretary of War, or the appropriate military commander to enforce curfews and other restrictions within military areas and zones. To that end it is suggested in line 3, and so forth, which is this amendment you have offered.

Col. Bryan. Yes, sir.

Mr. Thomason. In that connection could not we add the comment of Mr. Costello, who has been there and knows first hand the situation?

The Chairman. This thing by reason of the situation on the West Coast, as I understand, is imperative, and is badly needed at this time.

Col. Bryan. Yes, sir. It is badly needed to enable General DeWitt to carry out the provisions of that order.

Mr. Thomason, As to this language you have submitted "commit any act in" what do you mean by that? What type of act?

Col. Bryan. As the situation now stands if a black-out or certain curfew restrictions are ordered within any military zone General DeWitt can put a man out of this zone, and when he comes back in the zone or commits a violation of the order General DeWitt has no power to punish this man, and no penalty is imposed now.

Mr. Harness. Why not say that very thing in there?

Mr. Sparkman. If the gentleman will read down "contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be guilty of a misdemeanor" and all of that, and if the gentleman will read on down he will understand.

Mr. Thomason. The gentleman may be right.

The Chairman. I think that is correct.

Any questions?

Mr. Harness. I would like to ask one question. What, for example, is a military zone?

Col. Bryan. Under the Executive Order, and this order has been decentralized by order of the Secretary of War down to General DeWitt, he is authorized to select any areas and he has established on the West Coast Military Areas 1 and 2.

Military Area 1 is approximately the western half of the seaboard of the Pacific, and No. 2 is the southern half of Arizona. Within those areas he can prescribe or immediately exclude any and all persons if deemed necessary by the situation.

Mr. Harness. How is a man traveling, say from Chicago to Los Angeles, going to know when he enters the military zone, and how is he going to know what the orders and rules of the commanding officer may be?

Col. Bryan. He would have to be notified to that effect. I do not think the point you raise will cause any difficulty. ✓

Mr. Harness. Would not he likely be guilty of a violation of orders?

Col. Bryan. I think that is covered here. It says: "That whoever shall enter, remain in, or leave any military area or military zone prescribed, under the authority of an Executive Order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order".

Mr. Harness. Everybody is supposed to know the law and what it is.

Mr. Brooks. What provision is made for the executing of those orders?

Col. Bryan. General DeWitt has issued a proclamation from his headquarters. That has been published and circulated, sir.

The Chairman. Why not in this amendment, instead of saying "any act", say "any act in violation of any proclamation by the commanding officer of said area, or in violation or a statute, or in violation of law"?

Mr. Sparkman. Mr. Chairman, line 7 says substantially that, "contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War."

The Chairman. That is right.

Mr. Sparkman. "Or any such military commander."

The Chairman. That is right.

Mr. Harness. How is a citizen in Indiana going to know what the orders and restrictions are?

Mr. Sparkman. The first answer is how is a citizen of Indiana to know what the laws are in Texas if he drives through Texas, and the second one is these rules do not apply in a restricted area as to citizens, but only as to aliens.

Mr. Harness. It does not say so in the act at all.

Mr. Sparkman. That is what it means when it says a restricted area, but in a prohibited area of course it applies to everybody.

Mr. Kilday. I want to make this observation: The bill reads: "if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof" which reverses the general rule of law that every man knows the law. And that would have the effect of throwing upon the prosecuting attorney of not only proving that the order was in existence, but that the defendant knew about it.

Mr. Harness. They have to do that anyway. The burden is always on them.

Mr. Kilday. No, it is not.

Mr. Thomason. Even so I would say it was pretty stout. That is martial law, is it not?

Col. Bryan. Sir?

Mr. Thomason. It is pretty stout on the citizen who enters that zone.

Col. Bryan. Yes, sir, but it comes right out of the Executive Order.

The Chairman. It is aimed at citizens.

Mr. Clason. Is every place in the United States military zones?

Col. Bryan. No. This only applies to the West Coast.

Mr. Costello. The bill would make a misdemeanor of this with a penalty of a fine of \$5,000 or imprisonment of not more than one year. I am wondering if it would not be advisable to make this a felony in order that one who had committed such an act would be given the full limit under the law instead of only a light fine because it was only a misdemeanor.

Col. Bryan. The War Department would like to have the bill passed as amended, because we feel we need speed in this to enable General DeWitt to go ahead and carry out this Executive Order. There is much to be said as to the question of making this a misdemeanor or a felony. On the other hand, one year's imprisonment and a fine of \$5,000 would certainly have a very strong effect on anyone who received such a sentence and on the rest of the people, too.

The Chairman. It leaves it, of course, in the discretion of the court to fine the defendant.

Col. Bryan. That is correct. That is the maximum, of course.

Mr. Harness. Colonel, do you have a copy available of General DeWitt's order?

Col. Bryan. Yes, sir.

Mr. Harness. I wonder if I could see it.

Col. Bryan (producing order). That is the proclamation issued, and there are the areas to which he referred.

Mr. Harness. This is not confidential?

Col. Bryan. No, sir, that is published to the public.

Mr. Costello. Colonel, is it your belief the courts would administer this rather as a maximum than a minimum?

Col. Bryan. I think it should be.

Mr. Costello. I might take this opportunity to say I think they are doing a good job on the Coast in expediting the removal of these people from the prohibited areas. I think the various agencies of the government have been cooperating very well and accomplishing a tremendous job and doing it in a short space of time.

The Chairman. If there are no further questions, thank you very much, Colonel.

77TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT
2d Session } } No. 1906

PROVIDING A PENALTY FOR VIOLATION OF RESTRICTIONS OR
ORDERS WITH RESPECT TO PERSONS ENTERING, REMAINING
IN, LEAVING, OR COMMITTING ANY ACT IN MILITARY AREAS
OR ZONES

MARCH 17, 1942.—Referred to the House Calendar and ordered to be printed

Mr. COSTELLO, from the Committee on Military Affairs, submitted
the following

REPORT

[To accompany H. R. 6758]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6758) to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones, having considered the same, submit the following report thereon, with the recommendation that it do pass with the following amendments:

In line 3 on page 1 strike out the word "or" before the word "leave" and insert after the word "leave" a comma and the words "or commit any act in".

Amend the title by striking out the word "or" before the word "leaving" and insert after the word "leaving" a comma and the words "or committing any act in".

The purpose of this legislation is to provide a penalty for any violation of the restrictions or orders which may be issued from time to time by the Secretary of War, or by any military commander designated by the Secretary of War, under the authority granted by an Executive order of the President issued on February 19, 1942, where the violation is committed by a person entering, remaining in, leaving, or committing any act in any prescribed military area or military zone, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, and where it appears that such person knew or should have known of the existence and extent of the restrictions or order and knew that his act was in violation thereof. The bill provides that the person so violating such restrictions or orders shall be guilty of a misdemeanor and upon conviction shall be liable to a fine of not

to exceed \$5,000 or to imprisonment for not more than 1 year, or both, for each offense.

This legislation has been requested by the War Department, as is indicated by the letter of the Secretary of War, dated March 9, 1942, and its urgency is shown by the further letter of the Secretary of War, dated March 14, 1942. Both of these letters are appended to this report and made a part hereof.

The necessity for this legislation arose from the fact that the safe conduct of the war requires the fullest possible protection against either espionage or sabotage to national defense material, national defense premises, and national defense utilities. In order to provide such protection it has been deemed advisable to remove certain aliens as well as citizens from areas in which war production is located and where military activities are being conducted. To make such removal effective, it is necessary to provide for penalties in the event of any violation of the orders or restrictions which may be established, as well as to enforce curfews, where they may be required. The passage of this legislation will not only provide for the protection of the military areas or zones, but also be a means for preserving the safety and security of the persons who are to be removed.

The committee unanimously recommend the passage of H. R. 6758, as amended.

The letters of the Secretary of War and the text of the Executive order of the President follow.

MARCH 9, 1942.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR MR. SPEAKER: There is enclosed herewith draft of a bill entitled "A bill to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, or leaving military areas or zones," which the War Department recommends to be enacted into law.

The purpose of the proposed legislation is to provide for enforcement in the Federal criminal courts of orders issued under the authority of Executive order of the President No. 9066, dated February 19, 1942. This Executive order authorizes the Secretary of War to prescribe military areas from which any and all persons may be excluded for purposes of national defense.

It is impossible to estimate the probable cost to the Government consequent upon the enactment of such legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation for the consideration of the Congress, as the enactment thereof would not be in conflict with the program of the President.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

A BILL To provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, or leaving military areas or zones

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whoever shall enter, remain in, or leave any military area or military zone prescribed, under the authority of an Executive Order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be guilty of a misdemeanor and upon conviction shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both, for each offense.

MARCH 14, 1942.

HON. ANDREW J. MAY,
Chairman, Committee on Military Affairs,
House of Representatives.

DEAR MR. MAY: By telephone on Thursday, March 12, 1942, Lt. Gen. John L. DeWitt, commanding the Western Defense Command, requested that action be taken to expedite passage of S. 2352 and H. R. 6758, bills to provide penalties for violation of restrictions or orders with respect to persons entering, remaining in, or leaving military areas or zones.

General DeWitt is strongly of the opinion that the bill, when enacted, should be broad enough to enable the Secretary of War or the appropriate military commander to enforce curfews and other restrictions within military areas and zones. To that end, it is suggested that in line 3, page 1, of H. R. 6758 the word "or" be stricken and that after the word "leave" there be inserted the words ", or commit any act in."

General DeWitt indicated that he was prepared to enforce certain restrictions at once for the purpose of protecting certain vital national defense interests but did not desire to proceed until enforcement machinery had been set up.

The War Department recommends immediate passage of the proposed law.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

BULLETIN }
No. 10 }

WAR DEPARTMENT,
WASHINGTON, February 28, 1942.

* * * * *
II. Executive order—Secretary of War authorized to prescribe military areas.—
The following Executive Order (No. 9066) is published for the information and guidance of all concerned:

EXECUTIVE ORDER

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U. S. C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

THE WHITE HOUSE,
February 19, 1942.
BY ORDER OF THE SECRETARY OF WAR:

FRANKLIN D. ROOSEVELT

G. C. MARSHALL,
Chief of Staff.

OFFICIAL:
E. S. ADAMS,
*Major General,
The Adjutant General.*

