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May 19, 1943  
Los Angeles, Calif.

The President

White House

California newspapers report that Dillon S. Myer, Director of the War Relocation Authority, has announced plans for the segregation of Japanese now confined in the relocation centers and the release of Japanese supposedly loyal to the United States.

As a member of the House of Representatives Committee to investigate Un-American Activities, and presently holding hearings on the West Coast, I strongly recommend that you instruct the Director of the W.R.A. to suspend immediately any further release of Japanese until such time as the Dies Committee has completed its investigation of relocation centers and until such time as the committee releases section two of its Axis Report which will deal with Japanese activities.

J. Parnell Thomas, M.C.



WAR RELOCATION AUTHORITY

Washington, D.C.

June 2, 1943

Hon. J. Parnell Thomas  
The House of Representatives  
Washington, D. C.

Dear Mr. Thomas:

The Office of the President has referred to me your telegram of May 19 to the President, recommending that the President instruct this agency to suspend further release of evacuees from the relocation centers until the Dies Committee has completed its investigation of relocation centers and until the second section of the Committee's report on Axis activities is released.

We are informed by our staff that investigators for the Committee have visited most of the centers. The brevity of the visits, and the nature of the inquiries leads us to have grave doubts of the value of any findings which may result from the investigations. The public statements which have been made recently by members of the committee have revealed either an ignorance of the policies and procedures of this agency or a willful intent to misrepresent the situation.

We believe firmly that loyal American citizens and law abiding aliens now in the relocation centers should be encouraged to relocate as soon as possible to normal communities where they may make a contribution to the war effort; we believe also that our procedures for determining eligibility for leave provide all proper precautions for the national security. In the absence of any evidence to the contrary, we shall continue our present program.

Sincerely,

/s/ D. S. Myer

Director



CONGRESS OF THE UNITED STATES

House of Representatives

Washington, D.C.

June 3, 1943

Mr. D. S. Myer  
Director  
War Relocation Authority  
Washington, D. C.

Dear Mr. Myer:

Your reply to my wire of May 19 to the President, if nothing else, clearly indicates your inability to hear the voice of the people crying out against the release of Japanese from the relocation centers. Further, the thoughts expressed in your letter are indicative of the unwillingness of the War Relocation Authority to pay attention to recommendations made from the outside.

If, as you write, the Dies Committee investigators only made brief visits to the relocation centers, then let me advise you that the visits were long enough to discover gross mismanagement, inefficiency, the destruction and abuse of Government property and the pampering and release of Japanese whose real loyalty is to the Emperor of Japan. At this point I would like to ask you a question and that is to what extent has your administration studied the activities prior to Pearl Harbor of the Japanese released and the organizations to which they belonged prior to Pearl Harbor other than the answers solicited by questionnaire. In making this reply, I would suggest that you bear in mind that I am familiar with the recent statement made by the Federal Bureau of Investigation.

In the release of 1000 Japanese a week from these centers you must have lost sight of the fact that we are at war with Japan or your wild desire to create another social experiment has blinded your reasoning. At any rate, you will soon have full opportunity at a public hearing and under oath to explain in detail your side of this question for it is my understanding that tomorrow a subcommittee of the Dies Committee leaves for California to hold hearings on the Japanese relocation centers and that immediately upon its return, public hearings by the full Dies Committee will be held in Washington, at which time you will be called. In the meantime I hope that you will pay more attention to the sensibilities of the general public on the Japanese question and less to the bleeding heart cabinet members who seem to be in such dire need of Japanese servants.

Sincerely,

/s/ Parnell Thomas



June 3, 1943

STATEMENT BY DILLON S. MYER? Director, War Relocation Authority  
regarding letter given to press by Congressman J. Parnell Thomas

If the War Relocation Authority were to comply with the suggestions made by Congressman Thomas, I am sure we should be accused, and justly so, of interfering with the war effort, particularly with the vital food production program.

He seems to question our knowledge of the evacuees to whom this agency grants permits to leave the relocation centers. We have a great deal of information which we have gathered ourselves, and furthermore we have available and we use information contained in the records of the federal investigative agencies. The Federal Bureau of Investigation has checked the records of over 50,000 evacuees at our request.

Seasonal workers, most of them in agriculture, are granted permits to work in specified areas, on the basis of W.R.A. records alone. Last year the Army and W.R.A. together granted seasonal permits, based on much less information, to over 10,000 evacuees, in response to the public demand for agricultural labor. Not one instance of disloyal activity was reported.

About 6,000 evacuees are living outside the centers on indefinite leave. No evacuee is granted a permit of indefinite leave if there is anything in his record with W.R.A. or with any of the investigative agencies to indicate that he would endanger the national security.



WAR RELOCATION AUTHORITY

Washington, D.C.

June 11, 1943

Hon J. Parnell Thomas  
House of Representatives  
Washington, D. C.

Dear Mr. Thomas:

In your letter of June 3 you raise the question of how much this agency has studied the pre-Pearl Harbor activities of the evacuees who are leaving relocation centers. Since the War Relocation Authority was established four months after Pearl Harbor and since other agencies of the Federal Government have been studying this question for years, we have arranged to secure from the Federal Bureau of Investigation and the War and Navy Departments information which they have collected. At our request, the Federal Bureau of Investigation has checked the names of more than 50,000 persons against its records. This represents approximately two-thirds of the evacuees in the relocation centers above the age of 17. The Bureau has agreed to continue until dossiers on all evacuees above the age of 17 years have been completed.

The recent statement made by representatives of the Federal Bureau of Investigation quoted in the press was correct. That agency does not make recommendations to us, but it does supply information at our request. I believe that you are also familiar with the fact that as a result of the work of the Federal Intelligence agencies, Japanese aliens considered to be of potential danger to internal security are apprehended by the Department of Justice and are confined in internment camps not under the jurisdiction of this authority.

I welcome an investigation of the program of the War Relocation Authority and shall be pleased to appear before the Dies Committee at any time I may be called.

Sincerely,

/s/ D. S. Myer

Director



CENTRAL REGION

HM:HD:GBI

HEART MOUNTAIN RELOCATION PROJECT  
Heart Mountain, Wyoming

May 25, 1943

TO: Mr. Gene Hagberg, Member of Dies Committee  
FROM: Dr. Charles E. Irwin, Principal Medical Officer  
SUBJECT: Health problems due to shortage of nursing personnel

The evacuees brought into the Heart Mountain Relocation Center spontaneously formed the third largest city in the State of Wyoming. Because of the fact that this influx of people formed such a high percentage of the population of the State of Wyoming, the Health Staff has been continuously conscious of the fact that an epidemic of any proportion would be likely to affect the population of, not only the neighboring cities, but the entire State as well. The staff, therefore, has attempted to be continually alert in isolating sporadic cases of measles, mumps, and other contagious diseases.

In the early days of the establishment of the Center, two train load of children, afflicted with measles, arrived with their parents and relatives. At that time we were fortunate in having an appointed public health nurse who was very competent. She immediately isolated these patients in an individual block and there was no further noteworthy spread of the disease. Since that time there have been but a few occasional sporadic cases of acute communicable diseases.

The more serious strain on the Health Staff was an acute respiratory infection. Although this was epidemic in size it was not common to this camp alone, but, according to medical reports, extended along the entire eastern Rocky Mountain region.

We are, however, conscious of the fact that since, at the present time, we have only a total of six registered nurses on the staff, including the Chief Nurse and the Head Surgical Nurse, to cover three shifts a day and seven days a week, should an epidemic arise at this time it might not only be difficult to handle medically, but since relocation is proceeding continuously, such an epidemic might be spread not only throughout the State of Wyoming, but throughout those districts into which relocated individuals are going.

This is in anticipation only, for we have been very fortunate and there are no contagious diseases reported to the Health Office at this time, from any section of the Center.



Of course, as a method of prevention, each child of school age has been examined and immunization against diphtheria has been kept up to date. Essential field workers have been vaccinated against Rocky Mountain Spotted Fever and small pox vaccinations have been followed through.

We are struggling to obtain a few more appointed nurses and if we obtain them, we will feel that the Center and public will be more strongly fortified against epidemic.

Charles E. Irwin, M. D.  
Principal Medical Officer



*Exhibits not attached*

MINIDOKA WAR RELOCATION PROJECT

Hunt, Idaho

*acc. of  
investigator  
unit*  
JUN 8 1943

TO: D. S. Myer, Director

SUBJECT: Special Minidoka Report on Dies' Committee Investigation

Thomas L. Cavett and Gene Hagberg, special representatives out of Los Angeles of the special committee on Un-American Activities, U. S. House of Representatives, visited the Minidoka Relocation Center Thursday, May 27. They arrived at the center carrying a letter of introduction by Martin Dies, chairman of the committee (copy attached).

Mr. Cavett and Mr. Hagberg arrived at the center about 11 a.m. Their arrival was not totally unexpected since a few minutes previously Willard Schmidt, Internal Security, Washington, D.C., who had recently been at Heart Mountain, told Philip Schafer, Assistant Project Director, that the two men were planning to visit Minidoka but he told that they would not arrive for another day. (Mr. Schmidt happened to be monitoring the center for short-wave equipment when the two investigators arrived and this was a surprise to them since they did not think such surveillance would be found.)

Upon their arrival the two men sat down with the assistant project director (H.L. Stafford, project director, was in Washington, D.C., attending conference) and verbally told him the information and data they wished submitted as exhibits. The attached list of exhibits shows what they wanted. At lunch the various members of the staff were requested to gather this material.

The two committee representatives ate at the administrative



*Confidential*

JUN 8 1943

Wash. Field

Mr. Tolson, Director

Subject: Special Agents Report on Visit to [illegible]

Enclosed is report of Special Agents [illegible]

and of the Agents of the Special Committee on [illegible]

of the [illegible] [illegible] [illegible]

On [illegible] they arrived at the [illegible]

[illegible] of [illegible] by [illegible] [illegible]

(copy retained)

Mr. Tolson and Mr. [illegible] arrived at the [illegible]

at [illegible] [illegible] [illegible] [illegible]

which previously [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

at [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

(verified with [illegible])

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]





staff dining hall. They also ate supper there and raised no question about eating a meal in one of the evacuee residents' mess halls.

They made two requests of an unusual nature. Mr. Cavett asked whether his car could be greased and the bolts tightened in the project shops. Mr. Hagberg requested medical attention, taping, for his ribs which he said were bruised or cracked in an accident in Wyoming. Both requests were refused by the assistant project director who explained why government facilities could not be extended to them in these instances.

The visitors said they had one hour to tour the project to get some idea of its physical lay-out. They were driven around by the assistant project director. He took them to a sixth grade classroom which is one of the outstanding schoolrooms. Unfortunately the appointed teacher was absent and the class was in charge of two evacuee assistants. The committee men made no comment.

At the public library which was visited next the two men went over the index of authors carefully and scanned the shelves. One spotted the book "Democratic Philosophy" by Wendell Thomas which contains an essay on Karl Marx. They raised several questions regarding this book, such as the review of books before they are put on the shelves, etc. The testimony of Mr. Schafer covers this point.

Incidentally, the book in question was located on the library shelf beside three copies of the Bible, but they did not comment on this. Also on the same shelf was "They Were Expendable" by William White.

The two investigators noted evacuee residents going to work and checked with their watches as to the exact time, between 1:10



and 1:15 p.m. This checked with testimony given later by Dan Sheehan, project engineer.

Mr. Cavett and Mr. Hagberg inspected the farming area and asked questions about the equipment. (A list of the equipment is one of the exhibits).

While engaged in looking over the farming operation the evacuee farm foreman rushed up to the assistant project director in a state of excitement and complained that his best plants were being stolen from the hot beds. And not only the plants--the best plants---but also tools. And the locks were being broken off the tool boxes when the residents "borrowed" the tools. The two visitors made no comment, but it was an embarrassing incident.

This was off set by a lucky break. As they were driving along one of the center streets Mr. Schafer asked the visitors to select a dining hall at random for them to visit. They picked one and it happened to be No. 17, a well-conducted, clean, pleasant-appearing dining hall. The service flag with a star for every volunteer drew their attention and they asked about it. They also visited the sanitary building in this block and found everythin in good order.

The two men then expressed a desire to see the inside of a resident's apartment. It so happened that the most convenient one was the one where Mrs. Howard Sakura, wife of one of the four Sakura brothers who volunteered, and their infant son live. This gave the assistant project director a chance to tell their story. During their visit to this apartment the visitors seemed to relax their official front for the first and only time. It was the one time that they expressed sympathy and seemed very interested in the



problems of relocation in such cases as this. Mr. Cavett, unofficially, commented that probably the center would have to continue "for a long time" before the older people could be relocated.

The remainder of the afternoon was spent in taking testimony from Mr. Schafer, Mr. Townsend, Mr. Pomeroy, Mr. Sheehan and two evacuee ministers, Rev. Yohaki, Buddhist, and Rev. H.E. Terao, Buddhist. Mr. Cavett seemed to be the more skillful in his questioning. Mr. Hagberg seemed to have a limited knowledge of Japanese and was inclined to ask double or complicated questions, especially in questioning the evacuee ministers.

About 4 P.M. they called their headquarters in Los Angeles and although they had previously indicated they would be here for a couple of days, their headquarters, after considerable conversation, instructed them to leave for Topaz. Mr. Cavett volunteered the information that further investigation would not be "profitable" here and that they had not found anything especially significant.

He indicated that his supervisor had questioned them as to why there was a lack of disturbances and difficulties on this project. Cavett replied that it was his interpretation that this was because the project administration was "tough", and he mentioned "strict discipline".

They indicated that they did not have any evidence in advance which would give them leads to follow-up to uncover weak spots on the project. When they arrived they said they intended to look into barrack and dining hall attics, but they did not mention this again. They seemed concerned principally about the lack of censorship of mail, searching of incoming cars and other surveillance.



They apparently did not make any contacts in nearby communities to sample sentiment there.

They departed after having dinner about 6 P.M. at the staff mess.

They left the transcript of the testimony to be completed and asked that it and the exhibits be mailed to the committee's Los Angeles headquarters. The project supplied them with an appointed stenographer, Miss Evelyn Anderson, and Mr. Schafer's secretary, Mrs. Yukio Nakiyama, acted both as stenographer and translator when the evacuee clergymen testified.

The exhibits were prepared and then reviewed by staff members including Mr. Schafer, Mr. Townsend, Mr. Pomeroy, Mr. Moore, project attorney, Mr. Barclay, internal security officer, and Mr. Bigelow, reports officer. The testimony and exhibits were mailed June 1 by registered mail to the Los Angeles headquarters of the committee.

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H. L. Stafford  
Project Director

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By John Bigelow  
Reports Officer



## LIST OF EXHIBITS

- A. Internal Security Personnel
- B. Births, deaths, contagious diseases, etc.
- C. Food inventory (not attached; on file in Washington.)
- D. Record of complaints and arrests
- E. Population Statistics
- F. Answers to Question 28.
- G. Job offers and leave destinations
- H. Travel Assistance grants
- I. Memorandum on return to project of relocated evacuees
- J. Copies of the Minidoka Irrigator, February 13 to May 22, inclusive (not attached, on file in Washington)
- K. List of motorized farm equipment
- L. Demurrage
- M. World War veterans in Minidoka center
- N. Volunteers from Minidoka center
- O. Flag Dedication speeches
- P. Membership in Dai Nihon Butokukai Nanka Shibu
- Q. Community activities schedules from May 26 to May 27.
- R. Number of agress pass issued May 16 to May 22.
- S. Evacuee religious workers
- T. Names of instructor for judo and sumo
- U. Script for shibai (not attached, duplicate unavailable)
- V. List of former missionaries teaching school at Minidoka Project
- W. List of organizations functioning on Minidoka project
- X. Courses of study
- Y. Elementary evacuee school assistants
- Z. Directory of teachers
- A1. Night school classes
- A2. Course of study for elementary schools



Central Utah Project  
Topaz, Utah

APD

AIR MAIL

June 15, 1943

MEMORANDUM TO: Dillon S. Myer  
Director, W.R.A.

Reference is made to your letter of June 9 concerning the visit of representatives of the Dies Committee and the material furnished as evidence of our general operations. A Mr. Thomas L. Cavett and Mr. Gene Hagberg of the Dies Committee visited this Project for a brief period beginning Friday, May 28 at 4:00 p.m. They remained over night at the Project and departed at 1:00 p.m., Saturday, May 29. We are attaching a copy of the transcripts of testimonies taken from various members of the appointed staff as listed below:

1. Transcript of conversation between Mr. J. F. Hughes, Assistant Project Director and Mr. Thomas L. Cavett, Investigator, May 29.
2. Statement from Dr. Laverne C. Bané, Night School Director and Mr. Thomas L. Cavett, Investigator, May 29.
3. Statement from Roscoe E. Bell, Chief of the Agricultural Division and Mr. Thomas L. Cavett, Investigator, May 29.
4. Statement from Mr. James I. Lamb, Associate Chief, Community Services Division and Mr. Gene Hagberg, Investigator, May 29.
5. Statement from Mr. Lorne W. Bell, Chief, Community Services Division and Mr. Gene Hagberg, Investigator, May 29.
6. Transcript of interview between Mrs. Shizu Yasuda, Mrs. Ida Aiko Ishikawa and Mr. Gene Hagberg, Investigator, May 29.

The two investigators personally made a very cursory inspection of the Project facilities, and relied for the most part on the testimonies indicated above and certain routine exhibits for the substantiation of their examination. Their attitude was reasonable, and they exhibited



D.S. Myer----2

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no apparent hostility nor antagonism toward members of the staff or our operations generally. I believe the statements attached to this letter will give you a fair picture of their interests and achievement during the course of their visit in this Center.

(SIGNED)

Charles F. Ernst  
Project Director

Attach:

JPH:MN



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June 17, 1943

To: The Director  
John C. Baker, Chief, Reports Division

Subject: Visit of Dies Committee investigators at Topaz

I believe you will be interested in the following item from the current weekly report of Ralph C. Barnhart, Project Attorney, Central Utah:

"Last week, we were visited by two investigators of the Dies Committee. Their visit followed pretty much the same pattern as has been reported by other projects. They arrived about noon of one day and left before noon on the following morning. They hoisted themselves into mess hall attics and visited the library where they uncovered a book by the late Heywood Broun which they immediately identified as communistic, and conducted random interviews about the project. On one trip about the camp, they encountered two Japanese small fry conducting a parade. The leader was carrying a small American flag over his shoulder, and the second was beating a drum. Their suspicions were immediately aroused that we were staging the parade for their benefit. They stopped the parade, took the names of the children, and interviewed their parents in order to determine that it was in fact bona fide rather than synthetic patriotism. 'Fine indoctrination' was the comment after the investigation had been completed. On the way to Salt Lake a couple of days later, we heard a news broadcast stating that the Dies Committee had released its first report of its investigations of the relocation centers and that their investigators had found plenty of chocolate bars, canned fish, pork and beans, coffee, beef, pork, and other delicacies on the centers. The Committee, obviously, selected for its report those items about which the country at large is most shortage-conscious and, consequently, most likely to arouse public feeling. It won't be long before the Dies Committee will be claiming credit for the Denver Post scoop."

Philip M. Glick  
Solicitor



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June 24, 1943

To: The Solicitor

Subject: Perjury prosecution against witness giving false testimony before Dies Committee

A copy of the House Resolutions under which the Dies Committee is operating is attached hereto. The first paragraph of House Resolution 282 under which the Committee was created and, by means of subsequent resolutions, still acts, sets out the scope of investigation which it is authorized to conduct. The second paragraph of H. Res. 282 sets out the procedure under which the Committee may act in securing evidence, compelling testimony of witnesses, etc.

The statute under which a perjury prosecution arising from false testimony given before the Dies Committee would have to be sustained appears in 18 U. S. C. A. sec. 231, R. S. sec. 5392, 35 Stat. 1111. It is as follows:

"Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than \$2,000 and imprisoned not more than five years."

A perjury prosecution on account of false testimony given at a Dies Committee hearing would have to be maintained in Federal Courts rather than in State Courts. Thomas v. Loney, (1890) 134 U. S. 372; MacIntosh v. Bullard (1910) 95 Ark. 227, 129 S. W. 85. The indictment would have to be brought in the Federal Judicial District where the false oath was taken and the false testimony given and not in

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some other district where the perjury testimony might have incidental effect. U. S. ex rel. Starr v. Mulligan (1932) 59 F. (2d) 200.

The perjury statute limits prosecutions to "any case in which a law of the United States authorizes an oath to be administered". 18 U. S. C. A. sec. 231. The Dies Committee was created by a resolution of the lower house of Congress only and not by a regularly enacted statute. The resolution itself contains the only authority under which the Committee acts. In other cases in which essentially a similar situation existed, however, it has been held that perjury prosecutions could be maintained. In United States v. Norris (1937) 300 U. S. 564 and Seymour v. United States (1935) 77 F. (2d) 577, a defendant was prosecuted for testimony falsely given before a United States Senate Subcommittee of the Committee on Elections. The authority of this Subcommittee to conduct the investigation in which it was engaged was phased on a Senate resolution merely, in the same sense that the Dies Committee's authority is based on a House resolution only. Convictions were sustained.

Furthermore, there is another statute appearing in 2 U. S. C. A. sec. 191, 52 Stat. 842, which provides that "any member of either House of Congress may administer oaths to witnesses in any matter pending in either House of Congress in which he is a member, or any committee thereof". If the oath was administered to the witness by a member of Congress who was a member of the Dies Committee, the oath would have been taken in a "case in which a law of the United States authorizes an oath to be administered. 2 U. S. C. A. sec. 191.

A principal question that is bound to arise in a case of this character is the materiality of the testimony given to the investigation being conducted. The test of materiality is the proper scope of the Committee's authority to investigate as prescribed by the creating resolution. Any testimony which was not material under that test could not be the basis of a perjury prosecution. As previously stated, the scope of the Committee's power to conduct investigations is prescribed by the first paragraph of H. Res. 282, which is attached hereto. Any particular testimony given by the witness should be checked against the relevant provisions of that paragraph to determine whether it is sufficiently material thereto to afford a basis for prosecution.

Another prerequisite to conviction for perjury is that the person giving false testimony must have known that it was false.



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This prerequisite of knowledge may be satisfied by a deliberate statement made under circumstances in which the witness knew that he did not know whether the statement was true or false, though he, without qualification, presented it as the truth.

Robert A. Leflar  
Head Attorney

RALeflar:glc



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June 26, 1943

To: The Solicitor

Subject: Inquisitorial powers of the Dies Committee

The Dies Committee was originally created under House Resolution 282, approved on May 26, 1938. It has been continued since that time by several consecutive resolutions, each of which referred to House Resolution 282 and provided that the Committee should continue to have the same powers as were conferred upon it by that original resolution. At present the Dies Committee exists under House Resolution 65, approved February 8, 1943. Copies of the relevant resolutions are attached hereto.

Under these resolutions the Committee was authorized to "hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpoena or otherwise, and to take such testimony, as it deems necessary .... Every person who, having been summoned as a witness by authority of said committee, or any subcommittee thereof, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by ...." 2 U. S. C. A. sec. 192. A copy of the relevant statutes governing the conduct and testimony of witnesses before Congressional committees is attached to this memorandum (2 U.S.C.A. secs. 192-194). Also see Ex parte Frankfeld (D.C., D. C. 1940) 32 F. Sup. 915, holding that the failure of a witness who has been summoned before a House Committee, such as the Special Committee on un-American activities, to answer questions pertinent to the subject under inquiry, is an offense under 2 U. S. C. A. sec. 192.

There is no express reference in the Federal Constitution to the power of Congress, or either House thereof, to engage in investigations and summon witnesses or procure evidence for that purpose. Both Houses of Congress have, however, from their very beginning engaged in such investigations and the courts have consistently held that the power to do so is inherent in the power to legislate, it being essential to the acquisition of information upon the basis of which legislation can intelligently be formulated and enacted. The United States Supreme Court, as well as lesser Federal Courts, have several times had occasion to sustain Congressional investigations on

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this theory. The only limitation on the inquisitorial power appears to be that the matter being investigated must be pertinent to some field of Congressional power. A liberal interpretation of pertinency has been evidenced by the decisions, and it is almost correct to say that anything which anybody might fairly deem to have a bearing on some subject which is appropriate for Congressional action is a proper subject for Congressional investigation. Landis, Constitutional Limitations on Congressional Power of Investigation, 40 Harv. L. Rev. 153; Hamilton, The Inquisitorial Power of Congress, 23 Am. Bar Assoc. Jour. 511.

A further limitation upon the inquisitorial power of any particular Congressional Committee appears in the resolution creating the Committee. The investigative power of the Dies Committee, for example, is limited by the express authorizations contained in the first paragraph of House Resolution 282. A witness called upon to testify or to produce evidence before the Dies Committee may exercise his judgment as to the pertinency of the questions asked him to the matter under investigation as indicated by the governing resolution. In doing so, however, he would be taking a considerable chance in the sense that in the event of prosecution for refusal to answer it would be for the courts to decide the relevancy of the questions asked him. See United States v. Norris, 300 U. S. 564; McGrain v. Daugherty, 273 U. S. 135; Sinclair v. United States, 279 U. S. 263.

It is possible that Congress, acting through its committees, may exercise more extensive powers in the course of investigations of other Federal Departments than in investigations directed against private citizens. It is clear that the Congress and its committees may not compel testimony or the production of papers from private citizens except after compulsory process. Wigmore, Evidence (1940) sec. 2195. On the other hand, it may be said that papers and information in the possession of a coordinate branch of Government are subject to investigation at any time by Congress as an incident to the exercise of legislative control by Congress over such coordinate branches. Committees of Congress will normally secure such papers and information from such coordinate branches by request for production merely, without subpoena, though they, of course, have the right to issue subpoenas for such materials. A frequent wording of resolutions authorizing Committees of Congress to investigate other Federal Departments has given such committees "power to send for persons and papers". It seems that the great majority of Congressional investigations, in earlier years, proceeded under this wording of authority to



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the committees. The more recently enacted statutes (2 U. S. C. A. secs. 191-194) providing for punishment of persons refusing to testify or produce evidence before Congressional Committees, would not be effective if that simple wording were the Congressional Committee's whole source of authority to secure evidence because the statutes punish only persons who have been "summoned". Perhaps the inherent power of the Congress to punish for contempt would enable it to punish a Government employee who, without having been summoned, refused to produce evidence, but that is not clear from the decisions. In practice, when no subpoena is issued it seems that the production of documents and similar evidence by other Departments of Government, at the request of a Congressional Committee, is controlled largely by courtesy, tempered by mutual convenience. On this basis, special arrangements are frequently made concerning the production of materials currently in use by the Government agency being investigated.

By House Resolution No. 282 the Dies Committee is not limited to subpoenas as a means of procuring evidence. The Resolution authorizes it to require the attendance of witnesses and the production of evidence "by subpoenas or otherwise". It might be urged that the words "or otherwise" authorize it to employ all conceivable means by which evidence could be procured. By stretch of the imagination this might even include authority to employ unlawful means, such as, breaking into file rooms at night time. There is no legal basis, however, for such a broad interpretation of the words "or otherwise". The only case which I have discovered that has bearing on this point is Reed v. County Commissioners (1927) 277 U. S. 376. In this case there was a resolution empowering the United States Senate Committee "to require by subpoena or otherwise the attendance of witnesses, the production of books, papers and documents, and to do such other acts as may be necessary in the matter of said investigation". The Court held that: "The phrase 'such other acts as may be necessary' may not be taken to include everything that under any circumstances might be covered by its words. The meaning of the general language employed is to be confined to acts belonging to the same general class as those specifically authorized...." It did not give the Committee the "authority to sue" for the production of certain ballot boxes and records. (Sergeant at Arms had refused to execute the Committee's orders because that term of Congress had expired and the finance officer would not approve the Committee's voucher for expenses. The Committee had then brought this action to obtain possession of the ballot boxes and records.) Though this case is not directly in point, it does indicate that the words "or otherwise" used in House Resolution 282 refers only to other lawful means for the procurement of evidence, in keeping with the specifically authorized method. In practice this would probably refer only to procurement of evidence by voluntary testimony or the voluntary production of documents by persons having custody thereof.



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Assuming that a subpoena duces tecum, for the production of records and documents, is being issued by a Congressional Committee, a question may arise as to what degree of certainty is required in the description of documents to be produced. Most of the cases which have bearing on this point have developed from judicial hearings. A considerable degree of latitude in description is allowed. Wigmore, Evidence (1940) sec. 2700. Probably in Congressional investigations even a greater latitude is permissible. A few typical cases cited in Wigmore may be summarized as follows:

United States v. Babcock (1876) 3 Dill. 566, 570: "The papers are required to be stated or specified only with that degree of certainty which is practicable considering all the circumstances of the case, so that the witness may be able to know what is wanted of him and to have the papers on the trial so that they can be used...."

Dancel v. Goodyear S. M. Co. (1904) 128 Fed. 753. (An application for "all books of account, minutes," etc. of the G.S.M. Co., and a long list of other documents named generally, held too broad on the facts.)

Hale v. Henkel (1906) 201 U. S. 43. (A call for all the correspondence, etc. between defendant's corporation and six others, all correspondence since the date of its organization between itself and 13 others, etc., held to be unreasonably broad.)

United States v. American Tobacco Co. (1906) 146 Fed. 557. (A subpoena calling for the minute books of a corporation for a period of three years and the copy-letter-books for a period of 3½ months, held not too broad.)

Federal Trade Commission v. American Tobacco Co. (1924) 26 U. S. 298. (In pursuance of a Senate resolution directing an inquiry into unfair competition, a subpoena called for exhibition of "all letters and telegrams received by the company from, or sent by it, to all of its jobber customers, between January 1, 1921 to December 31, 1921, inclusive", held, too broad. "Some ground must be shown for supposing that the documents called for do contain evidence.")

Brown v. United States (1928) 276 U. S. 134. (Subpoena calling for all correspondence between January 1, 1922, and June 15, 1925, on specified subjects, held not unreasonably broad. Here, a grand jury inquiry into violations of the Sherman Act.)



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Consolidated Mines v. S. E. C. (1938) 97 Fed. (2d) 704. (Subpoena calling for "all mining records" for certain properties "from January 1, 1934, to October 1, 1937," etc., held not improper on the facts.)

American Car and Foundry Co. v. Alexandria Water Co. (1908) 221 Pa. 529, 70 Atl. 867. (An order to produce all papers concerning the matter in dispute is not sufficiently specific".)

In the event of an unlawful search and seizure of materials by representatives of a Congressional Committee, remedies are far from satisfactory. If the unlawful search and seizure occurs on private premises and results in the taking of private property, a civil action for damages will lie against the wrongdoers. A Government official who engages in such an unlawful search and seizure goes outside his official capacity and may be sued personally for damages for his wrongful act. This right of private suit, however, would afford no relief in a case in which the victim of unlawful search and seizure was another Governmental department. The officials of the victimized department would have no standing to bring a private suit inasmuch as their own property would not have been interfered with. A criminal action might possibly be available against the wrongdoer in such circumstances but even that remedy is doubtful. Unlawful search and seizure by an officer was not an indictable offense at the common law. State v. Leathers, 31 Ark. 44; State v. Reynolds, 101 Conn. 224, 125 Atl. 636. The statutes in some States make such conduct by an officer a criminal offense. Apparently there is no such statute in the District of Columbia. The only relevant Federal statute appears in 18 U. S. C. A. sec. 53a and reads as follows:

"Any officer, agent, or employee of the United States engaged in the enforcement of any law of the United States who shall search any private dwelling used and occupied as such dwelling without a warrant directing such search, or who, while engaged in such enforcement, shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment: Provided, That nothing herein contained shall apply to any officer, agent, or employee of the United States serving a warrant of arrest, or arresting or attempting to arrest



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any person committing or attempting to commit an offense in the presence of such officer, agent, or employee, or who has committed, or who is suspected on reasonable grounds of having committed, a felony."

It is possible that an investigator of the Dies Committee, acting under House Resolution 282, might successfully contend that he does not come under the provisions of this section because he is not "engaged in the enforcement of any law of the United States", but rather in the enforcement of a mere resolution of the lower House of Congress. There have been no decisions which would shed light on this point.

If appropriate facts existed, a prosecution for burglary or housebreaking might be sustained. Actually it seems that such a seizure, if it should occur, would constitute an outrage practically without remedy except in the form of public opinion. Probably the influence of public opinion would prevent the occurrence of such a seizure from the files of a Government agency in the first place. At least, it is unlikely that such an unlawful search and seizure would occur in any case in which a responsible Government agency offers reasonable cooperation to a Congressional investigating committee.

Robert A. Leflar

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CONFIDENTIAL

Mr. Theodore H. Haas  
Project Attorney  
Colorado River Relocation Center  
Poston, Arizona

July 2, 1943

Dear Ted:

Regarding excerpts from Mr. Townsend's testimony before  
the Dies Sub-Committee.

Sincerely,

Philip M. Glick /s/  
Philip M. Glick  
Solicitor

EEFerguson:ls  
6/28/43

(Files sent to Confidential Files)

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JUL 10 1949

Hon. John M. Costello, Chairman  
Sub-committee of the Special Committee  
on Un-American Activities  
House of Representatives  
Washington, D. C.

Dear Mr. Costello:

During the hearings I stated that the steps taken prior to granting Seasonal Work Leave are substantially the same as the steps taken in connection with the granting of indefinite leave. The question was raised about the length of time this had been in effect. This has been true since the issuance of a supplement to Administrative Instruction No. 22 dated April 2, 1948, in which Instruction the Project Directors were authorized to issue indefinite leave prior to final action in the Washington office on leave clearance, provided, however, that the evacuee did not come within certain specified categories which were listed in the Instruction. As it now stands in both types of leave, seasonal and indefinite, the application is not granted by the Project Director if the evacuee has answered question 22 in the negative, if he has applied for repatriation, or if his application for leave clearance has previously been denied or suspended by the Director of WRA. For some time we have had under consideration a new Administrative Instruction which will do away entirely with the present minor differences in eligibility requirements for seasonal and indefinite leave. It is anticipated that this Instruction will be issued next week. The result will be that there will be only one set of eligibility requirements for leave to depart from a relocation center on either seasonal work leave or indefinite leave.

Congressman Mundt raised the question as to what happened in cases that were considered unsuited for resettlement within the Eastern Defense Command. I stated that I did not know whether there had been any such cases.

I have checked the matter and find that the records of the Japanese-American Joint Board do not indicate that any individual



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of Japanese ancestry who was being considered specifically for resettlement in the Eastern Military Area had been found by the Joint Board unsuited for such resettlement.

Sincerely yours,

*D. S. Myer*  
Director

DSM:ih  
July 10, 1943



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Dies Committee

MEMORANDUM

Subject: Food situation at Manzanar, reported by Dies Committee.

News story by Ray Richards in New York Journal-American, June 1, 1943, "Dies Committee" cites quantities of food purchased at Manzanar during week of May 6. These figures were confirmed as being correct by Ralph Merritt, project director, when he was in Washington last week of May. They were based on food requisitions given to Dies Committee investigators when they visited Manzanar earlier in month.

As reported by Richards the figures were misleading because:

1. It was assumed that the food ordered during a certain month was for only one week's consumption; actually, many of the items will be consumed over a considerably longer period.
2. No mention was made of rationing. W.R.A. is registered with O.P.A. as an institutional user of food, subject to the same rationing restrictions as all other institutional users. Points are issued to each relocation center, and rationed food is issued from the warehouses to mess halls in accordance with the points allowed for the number of persons to be served.
3. No mention was made of the cost limitation. W.R.A. sets a maximum allowance of 45 cents a day per person for food. Food produced at W.R.A. centers is charged against the money allowance and also against the point allowance.
4. From the start, W.R.A. has followed the practice common in any large institution, or in any city of 9,500 people, of keeping several weeks supply of staple foods on hand. The amounts of food on hand, divided by the number of persons to be fed, probably would be somewhat less than the comparable stock of food in the average household pantry.
5. "The investigators found the Japanese so copiously supplied that they are sending gifts of butter and coffee to friends outside the camps." Oleomargarine is used instead of butter in practically all instances, because of the lower point value. The point rationing system keeps the consumption of all fats, oils, and meats down to the level of other civilians.

June 8, 1943.



MEMORANDUM

Subject: Change of loyalty declarations at Manzanar.

News story by Ray Richards, New York Journal-American, June 1 reports charges by Dies Committee that "the War Relocation Authority has embarked on a systematic 'reward and penalty' system to persuade Japanese who had formally declared their adherence to Japan to change their expression to one of loyalty for the United States.

"A verbal change of declaration of loyalty would make the Japanese eligible for release from the camps."

More than 500 of the residents at Manzanar are kibeï, American citizens who received at least part of their education in Japan, and returned to the United States, most of them within the last few years. During the registration in February and March, most of the kibeï refused to pledge unqualified loyalty to the United States. Project Director Ralph Merritt and his staff set out to learn whether the answers given were a result of actual loyalty to the Japanese emperor, a protest against treatment by the United States government, or whether some other factor entered into the decision.

The staff conducted individual hearings for 505 kibeï who had given negative answers, and stenographic records were made of practically all the hearings. In each instance, Mr. Merritt attempted to make clear to the individual the probable long range effect of a negative answer on the question of loyalty. Copies of the stenographic transcript of some of the hearings were turned over to investigators of the Dies Committee. Merritt's remarks, made in an effort to make certain that each boy understood the significance of his answer, were apparently interpreted as an attempt to "persuade" some of the boys to change their answers.

Some of the kibeï did apply for permission to change their answers, usually in line with changes made in answers given by the parents. Aliens at first were asked a question which interpreted into Japanese meant "Will you bear arms for the United States?" The aliens, being denied the right of citizenship, and being ineligible for service in the armed forces, in many instances answered in the negative. A substitute question, introduced by W.R.A. for use in registration at all the centers soon after registration started, but after the registration of aliens at Manzanar was completed, asked "Will you observe the laws of this nation and agree to interfere in no way with the war effort?" The second polling of aliens at Manzanar, using the foregoing question, resulted in 97 per cent affirmative answers. When the aliens changed their answers, many of their children, nisei and kibeï, requested permission to change their answers on the question of loyalty, from negative to affirmative.



The statement, "A verbal change of declaration of loyalty would make the Japanese eligible for release from the camps" is not precisely correct. An evacuee who answered "no" at first, and then changed his answer to "yes" on the matter of loyalty would be eligible for consideration for leave, where previously he had been ineligible. However, the mere fact of his change would not automatically make him eligible. Careful study of his record with W.R.A. and with the investigative agencies would be made before it was determined whether or not he would be granted permission to leave.

June 8, 1943.



## MEMORANDUM

July 1, 1943

To: John F. Embree

From: Frank L. Sweetser

Subject: Possibility that Kilsco Haan was a Dies Committee Witness.

While Kilsco K. Haan is not mentioned by name in the Dies Committee Report on Japanese Activities, there is enough internal evidence to suggest that he may have been an important witness. Because of Haan's previous dubious charges against Japanese-Americans, especially in Hawaii, any dependence of the Dies Report on his testimony would make the latter, to say the least, open to question. (See Morris Opler, The Hand of Kilsco Haan.) Moreover, if it were to be established that Haan was the source from which the Dies Committee procured such bits of evidence as, e.g., the two maps of the Pacific area, some of the assertions in the Report as to the difficulty agents of the Committee experienced in obtaining such evidence would be open to grave suspicion.

Suggestive items in the Dies Report are:

1. Page 1724, item (5) - The unnamed "former attache of the Japanese Consulate in Honolulu" may well be Haan, for according to his own testimony, he was intimate with officials of the Japanese Consulate in Hawaii in 1937, working with them on a Fifth Column plot in the Islands. (See Morris Opler, loc. cit., p. 6.).

2. The book, The Triple Alliance and the Japanese-American War is misrepresented in precisely the same manner by Haan and by the Dies Report. On p. 1737 of the Dies Report, and in the note included by Haan as translator of an English edition (published in 1942 by Little, Brown and Co. under the title, How Japan Plans to Win), the following parallel assertions or implications appear:

a. The book was used in anti-American propaganda among Japanese Americans on the Pacific Coast by two Japanese officers.

b. The book was "a textbook for Japanese espionage" (Dies Report, page 1737) or "a kind of Japanese Mein Kampf", (Haan, translator's note, as quoted in Opler, loc. cit. p. 15).

c. The book had a limited distribution and copies were procured only with some difficulty.

(It is interesting to contrast these similar estimates of the



book's significance and purpose with remarks made about it by Congressman Carl Hinshaw of California:

"...as a military handbook it appears to some of our authorities, who are familiar with such things, to be very much like the articles or books on military subjects written by Americans, for sale and distribution on our own newsstands. In fact, this book had been on sale at a Japanese newsstand in San Francisco." (Included in Congressional Record, April 16, 1942, p. A1553-54 as Extension of Remarks of Hon. Carl Hinshaw of California.

Hinshaw nevertheless accepts the Haan interpretation as to the use of the book, as his statements just previous to those quoted indicate. (See Morris Opler, loc. cit., p.14) Morris Opler's own characterization of the book as "a typical anti-American book by a Japanese military officer of low rank and high temper" is probably more nearly accurate than either the Dies Report's of Haan's.)

3. Part of the Dies Report "evidence" purporting to reveal advance plans of Japan for the war against the United States consists of two maps of the Pacific area, inserted between pp. 1736 and 1737 and between pp. 1740 and 1741\*.

According to a Los Angeles Examiner story on testimony given by Haan before the House Immigration Committee in late May, 1943, Haan had submitted to that Committee on Oct. 29, 1941 "documents and maps...(said to show)...detailed plans of the Japanese for attacks in the Pacific" (quoted from Morris Opler, loc. cit., p. 21).

It seems not unlikely that the Dies Committee may have secured its maps from Haan.

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\* See my memorandum to you Re: the Dies Report, dated 29 June 1943, Items 1 and 2.