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CONFIDENTIAL February 14, 1943

MEMORANDUM TO: L. H. Bennett,
Project Director

SUBJECT: Opinion Re Construction and Legal Effect of Certain Questions in Military Registration Questionnaire and Answers Thereto.

I have been informed that there has been widespread misconstruction of the meaning and effect of Questions Nos. 27 and 28 of the questionnaire used in connection with military registration now in progress here. Inasmuch as it appears that misunderstandings may be based, at least in part, on deliberate misrepresentations by subversive elements in order to defeat the opportunities present and future for Americans of Japanese blood and their families in this country, I believe that an opportunity should be given to all who so desire to rectify any incorrect, mistaken answers given, without penalty. Of course, every person has a right to make any true answer without coercion, but he should be fully aware of the significance and consequences of his act.

My opinion, usbmitted herein, is offered with the caveat that since the registration is a War Department matter, interpretation and subsequent action to be taken based on answers to the questionnaire are solely for the determination of the War Department and the Department of Justice. Nevertheless, my opinion is supported, I believe, by legal principles of construction and by the laws of the United States.

A. Question 27 - "Are you willing to serve in the armed forces of the United States on combat duty, wherever ordered?"

No registrant who answers this question affirmatively can be called into military service as a volunteer because of his answer. He has not, by such answer, agreed to volunteer. A separate, spe cific voluntary offer to enlist at once would be necessary before the Army could induct any citizen as a volunteer. An affirmative answer to Question 27 in its ultimate analysis means only two things: 1) I am not a conscientious objector as defined by the draft laws; 2) I will, without reservation, obey the Selective Service Law of the United States and will not defy, violate or evade that law.

As a Draft Board official I have seen many completed questionnaires at this Center. I have not seen one which listed the registrant as a conscientious objector nor have I heard of such case. If there are any such objectors here, their number must be negligible. The draft questionnaires are signed under oath and must be accepted as true on that point.

Since Question 27 does not call for voluntary enlistment

and since there are few, if any, conscientious objectors among the registrants, only one construction can logically and legally be placed upon substantially all negative answers to the question, viz that such registrants are unwilling to obey the Selective Service laws and will refuse to serve in the military forces of the United States if called in the draft and will therefore accept a prison sentence in preference to military service. In my opinion, no other interpretation of a nagative answer to this question is possible, except in the case of conscientious objectors who have registered as such.

Any registrant who has knowingly and intentionally given a negative answer to the question when his true and honest answer would be in the affirmative, has, of course, falsified and misrepresented a material fact in a matter of concern to the War Department, and in so doing has made himself liable to a heavy fine and ten (10) years imprisonment as the questionnaire specifically states. These penalties attach to a false answer to any of the questions.

B. Question 28 - "Will you swear unqualified allegiance to the United States of American and faithfully defend the United States from any or all attack by foreign or domestic forces, and forswear any form of allgeiance or obedience to the Japanese emperor, or any other foreign government, power, or organization?"

There should be no misunderstanding as to this question. It seeks merely an affirmation of loyalty on the part of the registrant. The effect of an affirmative answer is simply that a presumption is thereby created that the registrant is not a traitor but is asserting his right and desire to be classed as a true American citizen and to enjoy his rights and meet his obligations as such.

A negative answer coupled with a request for repatriation constitutes an election of citizenship and nationality between the United States and Japan. While certain legal formalities would doubtless be necessary in order formally to nullify the citizenship of such registrant, it is more than likely that pending such formal proceeding he would be prohibited and prevented from exercising or enjoying any rights of citizenship and treated for all intents and purposes as an enemy alien. A negative answer to Question 28 not coupled with a request for repatriation is, in my opinion, a clear admission that the registrant is a traitor to the United States and as such is subject to the penalities provided for treasonous persons. It is difficult for me to believe, in spite of the indications, that there is any substantial number of traitorous citizens in this community and I feel therefore that there must have been misunderstanding of this question. A negative answer which does not constitute an election of citizenship in favor of Japan would invite the most serious penalties possible, and it is hard to believe that a number, if any, of the registrants de-

sired to indicate that they prefer to accept such penalty rather than either elect to discard their United States citizenship or affirm their loyalty to the United States.

C. Inducing Registrants to give Negative Answers to Questions 27 and 28.

Any person who by word, action or otherwise, directly or indirectly, intentionally causes a registrant to make negative answers to Questions 27 and 28 is thereby interfering with and obstructing a program of recruitment of the United States Army in time of war and is subject to the penalties provided by the Espionage Act of 1917 which imposes a heavy fine and up to 20 years' imprisonment for such activity. Physical interference or obstruction is, of course, not a necessary element of proof of this crime. A written or spoken thrdat, a question asked under circumstances which might constitute duress or coercion by fear, even a mere look or gesture inferring a threat, would be sufficient evidence to warrant a conviction. Furthermore, any person who, having knowledge that a violation of the Espionage Act has been or is being committed fails to bring that knowledge to the attention of officials of the United States Government, is chargeable with aiding and abetting the culprits and is subject to the same penalties as the principals in the crime.

The statements made in this opinion are merely statements and constructions of law rendered in accordance with my interpretation of the meaning and effect of the various laws applicable. The opinions are not in any sense intended as threats or prophecies of any nature, as you are well aware that it is merely my purpose and function to expound the legal significance of the issues upon which my opinion is given.

/s/ James H. Terry
Project Attorney

CONFIDENTIAL February 15, 1943

Philip M. Glick, Esq.,
Solicitor,
War Relocation Authority,
Barr Building
Washington, D. C.

Dear Philip:

Under ordinary circumstances I would have incorporated the subject of this letter in my weekly report but for reasons which will be apparent it seems best to make a separate communication of it. From what I am able to learn about the military registration at other projects I conclude that they are not facing the same problems in the registration and I decided against issuing the material in such form that it would normally reach the other Project Attorneys and perhaps as a result come into the hands of some of the evacuee staff.

The past week has been very disheartneing. At the end of the first day of registration I must admit that I was close to the brink of discouragement for all of my opinions, convictions and private prophecies appeared to have been proven false. I could see and feel the trend at once, I believe even before Mr. Bennett and many others became seriously apprehensive. It was obvious that there had been a systematic and effective campaign on foot for some time in advance to defeat the registration and everything it stands for. I have received information that numerous eligible registratns have deliberately failed to appear on the day their blocks were called in. I attended registration places at both Canal and Butte Communties and boserved groups of young men standing at the door quite apparently stopping each registrant as he came in and again as he came out for the purpose of inducing negative answers to Questions 27 and 28 by threat, persuasion, false argument or whatever means they could command. There have been night meetings during the week attended by the military registration group, Mr. Bennett, other WRA officials and myself. In my view there has been no adequate interpretation to us of many of the statements made at those meetings in the Japanese language. Word has reached me and others from a great many sources of the campaign against registration and the fact that it has been promulgated largely by the group whose names were furnished to the Director in connection with a possible segregation program. After the meeting in San Francisco and his return here Mr. Bennett felt that since everything was running along so smoothly and peacefully he would postpone immediate action on segregation until the policy became better defined and until a place had been established where the families of segregees could live with them and a place had been found for repatriates and the "martyred" families of internees. I still believe, in spite of what has happened, that there was strong justification for Mr. Bennett's position. However, it is clear that the bad boys have made hay with their dirty work in connection with the military registration. As you have perhaps been informed, up to Friday night when registration was temporarily suspended, roughly 60% of the registrants had answered Questions 27 and 28 in the negative. I am told that this compares with approximately 5% negative answers at Poston, which I hesitate to believe is superior in any respect to Gila. On Friday night, very forceful and I

believe effective talks were given by Captain Thompson and Mr. Bennett at a meeting of all Block Council Chairmen of both Communities. The meeting was by far the most courteous and orderly up to that time and I am informed that the discussion after we left was very sound and serious and I am glad to note that there are already indications of a turning of the tide. I hope and believe that we will weather the storm and that the people of the community will show themselves to the Army and the country in their true light, but it seems highly probable that fairly drastic action will be necessary, perhaps within the week.

First, I want to refer to a memorandum which I have written to Mr. Bennett which is intended to aid in clearing up some alleged misunderstandings about the two controversial questions and their answers. Although asserted to be, I will frankly admit that the opinion is not exactly a clam reasoned statement of law. Furthermore, I gravely doubt that it is entirely accurate, but any inaccuracies which exist are by reason of my not yet having received a United States Code and I sincerely believe that the conclusions expressed in the opinion are substantially accurate, although there is probably plenty of room for criticism of particular statements. The opinion was prepared to meet, or assist in meeting, a situation, and I hope you will accept it as such.

As you no doubt also know, Colonel Scobey and Lieutenant Hughes were here Saturday, much distrubed that Mr. Bennett had not as yet taken action in the matter of segregation. They strongly urged federal prosecution of any and all persons against whom even a modicum of evidence could be adduced to support a charge of violating the Espionage Act in connection with obstructing recruitment. The real answer to that is, to put it briefly, that we have no investigating service here whatever. We have no means of collecting evidence and no basis for a belief that even if evidence were secured it could be perpetuated for use in court. It just does not seem feasible that I or other division heads should play the part of detectives. United States Attorney Flynn will, I feel confident, undertake the prosecution of any case at my request but I cannot, of course, request a prosecution which would or legally should fail of conviction and I have no intention of destroying Mr. Flynn's confidence in our judgment and discretion here. Thus, the possibility of successful prosecutions seems remote to me at the moment. Mr. Bennett spoke to Mr. Myer by telephone yesterday and it seems that Mr. Myer is much averse to any action with respect to internment or to segregation at Moab unless the Washington office has had an opportunity to pass upon the facts of each case. If he were here he might feel differently, as I do. I am convinced that immediate action is highly desirable. To submit the facts to Washington in written form will be nearly worthless in attaining our object because by the time authorization to proceed is received here it will be too late to attain the desired result. Communicating the facts to Washington by telephone will risk the possibility of a leak and will hardly give opportunity for more than pro forma approval or disapproval by your office.

Mr. Bennett consulted me after talking to the Director and advised me that the Director had ultimately left the responsibility to him and that he intended to move those whose names had been submitted to your office and some additional people to Moab at once. I made an alternative suggestion which Mr. Bennett and Captain Thompson appear to approve. It is that, since the Army is conducting the registration and obstacles or subversive activities in connection with the registration are principally matters of concern to the Army, Mr. Bennett, Captain Thompson and I confer with United States Attorney Flynn early this week, lay the facts at our disposal about the various persons concerned before him, and that Captain Thompson request, with Mr. Bennett's concurrence, that the persons whose names are submitted be taken into custody, removed to the internment camp at Lordsburg, New Mexico, and there held for hearing before an Enemy Alien Hearing Board. We all firmly believe that we have sufficient facts which can be presented before such Board to justify internment. Captain Thompson will offer Mr. Flynn the services of the military police force here to accompany United States Deputy Marshals in arresting the men to be taken. At the same time that this is done, one Kibei citizen who has already been approved by your office for segregation and possibly a few others will be escorted to Moab. I believe that this procedure would satisfy the necessities of the situation without in any sense surrendering our authority, losing face or acting arbitrarily. The request for removal for internment hearing would be made to the United States Attorney by the Army and the military police would merely come into the picture for the purpose of assisting the representatives of the Department of Justice, on request, in the making of arrests. The removal or removals to Moab would be in accordance with your already given authorization except that in case additional removals seem imperative I shall satisfy myself that the facts are at least as strong as those in cases in which your approval has already been given and if I have doubts I shall consult you by telephone.

As I have previously said, I believe that the tide is at the turn and that there is a good chance of a presentable showing in the registration from Gila but I also believe that continued pressure against the opposition is essential. I am told that literally hundreds of boys here would willingly volunteer if it were not for the pleas of their parents coupled with threats of suicide and similar emotional appeals. The attitude of the parents has, I am sure, been brought about in many instances by the activity of the subversive element.

I realize that the picture I have drawn in this letter is anything but complete and that, in my haste, I may not have put across to you the points I have wished to make. (I remember my inability to express myself sufficiently clearly on a very closely related point at San Francisco.) Nevertheless, time is of the essence here and I am well convinced through pretty thorough canvassing of the situation that what we contemplate doing will have a wholly beneficent effect and is not apt to lead to any serious disturbance. I hope time and events will prove me right.

Much of my past week has been taken up with this problem and with the organization of the Cooperative and the survey of farm and automotive equipment although I have a number of other matters to discuss in my weekly report. I have already written

you on the first two and principal topics so I trust you will forgive the unavoidable delay in the report itself. I feel that I am imposing on the loyalty and cooperativeness of my secretary as it is to ask for a full seventh day of work without any possibility of compensatory time. I am sure you will agree.

Very sincerely yours,

/s/ Jim

JAMES HENDRICK TERRY,
Project Attorney

Enclosure

BJM

March 2, 1943

Mr. James H. Terry
Project Attorney
Gila River Relocation Project
Rivers, Arizona

Dear Jim:

We have given John Provinse a copy of your letter of February 25 about arrangements for project banking facilities. In explanation of his letter, commenting adversely on the proposal that the Valley National Bank establish facilities at the project, he stated that, although it is true that the Bank of America maintains facilities at the California projects, the Bank has found that the business done does not justify the trouble and expense, and has gradually curtailed the visits of its representatives. Because of this, and the belief that credit unions could furnish the needed facilities as adequately and had other advantages, it was decided not to encourage the establishment of banking services at other projects except through credit unions.

You should have received by now the sample organization papers that we prepared. John Provinse is going to make arrangements for someone to go to Gila for the purpose of assisting in organizing a credit union as soon as possible.

Sincerely,

/s/ Philip M. Glick

Philip M. Glick
Solicitor

cc: All Project Attorneys
Maurice Walk
Edgar Bernhard

FS

CONFIDENTIAL

March 27, 1943

Mr. James H. Terry
Project Attorney
Gila River Relocation Center
Rivers, Arizona

Dear Jim:

A few miscellaneous matters. The first had to do with your February 14 memorandum to the Project Director concluding that a negative answer to question 28, not coupled with the request for repatriation, is a treasonable act. We find that this conclusion is doubtful, since the crime of treason requires an overt act of levying war against the United States or adhering to our enemies, giving them aid and comfort. Mere attitudes or expressions of sympathy with the enemies' cause are not sufficient to support a conviction.

I know that you would have written your opinion differently if you had not been under such pressure to shoot from the hip. Perhaps you have already noted that your conclusion was too broad and advised Mr. Bennett accordingly. If not, it would be a good idea for you to do so in view of the fact that the particular conclusion expressed in your opinion was publicized in the News-Courier. Whether or not any statement should be made public can be left up to Mr. Bennett.

The second point - a minor one. Will you ask your secretary to do a little more paragraphing in your weekly reports. It is much easier to follow the text and refer back to particular items if the different subjects are separately paragraphed. I have been meaning to mention this for some time but since it was not very important it has slipped my mind. If you will look at your report of March 13 I think you will see what I mean.

Sincerely,

Philip M. Glick

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Philip M. Glick
Solicitor

Frank S. Barrett,
Manzanar

461 Market Street
San Francisco 5, California

May 24, 1945

Mr. James H. Terry
Project Attorney
Gila River Relocation
Rivers, Arizona

Dear Jim:

This will provide a more detailed answer to you teletype of May 23, relative to veteran's exemption than we were able to give you in our teletype of the same date.

Veterans are exempt from taxes to the extent of $1,000.00in property value under the provisions of Section 1¼ of Article XIII of the California State Constitution. The applicant may be a veteran discharged from the service under honorable conditions, or by constitutional amendment adopted November 7, 1944, a person "who in time of war is in such services."

To claim such exemption the veteran or individual in military service must comply with statutory requirements (Secs. 251, 252, 253, 255 and 255.5 of the Revenue and Taxation Code) by appearing in person and making affidavit before the county assessor as to information required by him.

Section 253 provides, however, that if an applicant is unable to attend in person before the assessor because of sickness or for cause "found to be unavoidable in the judgment of the assessor," and no deputy is available to go to the place where applicant is located, then the affidavit may be subscribed to before any person authorized to administer an oath.

Thus a qualified evacuee should write the assessor of the county of his residence setting forth his reason for failure to appear and make affidavit in person and request the necessary forms in order to subscribe to such affidavit as may be required before a notary at the relocation center.


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MAY 29 1945

Mr. James H. Terry 5/24/45

Section 255 provides that affidavits shall be filed with the assessor between noon on the first Monday in March and 5 p.m. on the last Monday in June.

Section 260 provides, that upon failure to follow the required procedure the exemption is waived.

By constitutional provision the exemption does not apply to any person owning property of the value of $5,000.00 or more or "where the wife of such soldier or sailor owns property of the value of $5,000.00 or more." The applicant must also be a legal resident of the State of California.

There is no limitation as to the type or kind of property exempted.

In addition, in the event the veteran's property is of a value less than $1,000.00, the property of his wife may be claimed exempt to the extent of the balance; or if the veteran is deceased, the widow is entitled to the exemption, and if no widow, the veteran's mother, if a widow, is entitled to the exemption.

Since we are sending a copy of this letter to all project attorneys we are including provisions as to householder's exemptions. Although you did not request this information, it may be of interest to some of the other attorneys.

"The householder's exemption is confined to personal property to the extent of $100 under the provisions of Sec. 10½ of Article XIII of the Constitution. Section 210.5 of the Revenue and Taxation Code provides in addition that:

> 'The surviving spouse of an established household, whether with or without dependents, as long as the family home is maintained is a householder and is entitled to the exemption from taxation provided by Section 10½ of Article XIII of the Constitution of California.'

"The Attorney General of California, Opinion No. N. S.-4839, has stated that evacuees involuntarily removed from the State are still "householders" in the county of original residence, and as such, entitled to $100 exemption on personal property within the state.

Sincerely,

Kent

Kent Silverthorne
Senior Attorney

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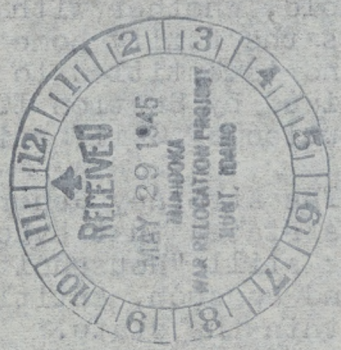
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MAY 29 1945
WAR RELOCATION PROJECT
HUNT, IDAHO

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

May 29, 1944

AIRMAIL

Mr. James H. Terry
Project Attorney
Gila River Relocation Center
Rivers, Arizona

Dear Jim:

I have sent you the following teletype with respect to the applicability of Sections 56-701 to 718, inclusive, of the Arizona Code Annotated to the Gila River Cooperative in carrying out its plan to furnish domestic services:

> "Re item 6 your May 20 report. In my opinion Arizona employment agency law is not (repeat not) applicable to domestic services plan as contemplated by Director and I cannot see any reasonable basis for argument that it is applicable. Airmail letter follows."

You will recall that WRA Manual Section 50.5.2F, which prescribes the procedure under which the business enterprises will furnish domestic services, provides that such services may be furnished by the business enterprises. It authorizes the business enterprises to employ the evacuees, to negotiate service contracts with the appointed personnel or evacuee residents, and to collect all fees for such services. The business enterprises will pay the workers the standard WRA wage, together with allowances, and will retain as a part of their regular income all sums received from the appointed personnel or evacuee residents for such services in excess of the cash wage and allowances paid to the workers. This contemplates that the evacuees engaged in domestic work will be employees of the business enterprises and that domestic services will be handled and performed by the business enterprises for a fee or other charge in much the same manner as other personal services, such as barber services and beauty parlor services. The use of the term "employment agency" in the Manual section heading is inaccurate and probably unfortunate if the member of the Industrial Commission with whom you talked thought that an employment agency plan was contemplated.

The written agreement between the business enterprises and the persons wishing to obtain domestic or other services should probably be along these lines:

"The Gila River Cooperative Enterprises, Inc. hereby agrees to provide services for _____ as follows: (Describe the services.)

"_____ agrees to pay the sum of _____ for such services."

The agreement may contain such other provisions as the business enterprises may decide to insert.

The sections of the Arizona Code mentioned in your report regulate employment agencies which, for a fee or other charge, furnish information to persons seeking employment which enables or tends to enable them to find employment. They also regulate employment agencies which furnish information to persons seeking workers which enables or tends to enable them to find workers. Section 56-701 which defines "employment agents" is as follows:

> "The term 'employment agent' shall mean and include all persons, firms, corporations or associations which, for a fee, commission, or charge, furnish to persons seeking employment information enabling or tending to enable such persons to secure the same, or which furnish employers seeking laborers or other help of any kind, information enabling or tending to enable such employers to secure such help, or which keep a register of persons seeking employment or help as aforesaid, whether such agents conduct their operations at a fixed place of business, on the streets or as transients, and also whether such operations constitute the principal business of such agents or only a side line or an incident to another business; but this term shall not include any employer who procures help for himself only, or an employee of such an employer who procures help for him and does not act in a similar capacity for any other employer."

This definition clearly indicates that the authority of the Industrial Commission under the statute referred to is limited to the regulation of agencies engaged in the placement of persons in jobs. The sections prescribing regulations applicable to "employment agents" are obviously not intended to regulate any agency that does not fall within the definition quoted above. We have found no other Arizona statute which might authorize the Commission to regulate agencies engaged in the furnishing of personal services, nor any Arizona court decision interpreting the statutory definition more broadly than the plain language of the definition would seem to warrant.

In drafting the domestic services plan, we definitely had in mind employment agency statutes of the various States. That is why the plan contemplates the actual furnishing of the services by the Cooperative rather

than the use of the Cooperative as a placement agency. I can see no legal difference between the furnishing of domestic services by cooperative employees and the furnishing of any other type of service, whether it be barber, beauty-shop, plumbing, painting, auto mechanic, or any other service operation performed by employees of firms contracting to furnish those various types of work. I am equally sure that the Industrial Commission would not take the position that those firms are subject to the employment agency statute because they perform those services.

The employment agency statute might be held applicable if the domestic service plan were permitted to become a subterfuge whereby the persons receiving the services were in fact the employers. However, the Manual section is quite clear that the cooperatives should actually furnish the services on the same basis as it furnishes other personal services. So long as the plan conforms to the stated policy there is no basis whatever, in my judgment, for application of the statute.

I am inclined to think that the member of Industrial Commission who indicated to you that he thought the law would be applicable did not completely understand the arrangement. I see no reason why it should be discussed further with the Commission unless your earlier discussions led you to believe that the Commission should be informed of the details of the arrangement. I see absolutely no reason for the cooperative to be concerned about the applicability of this statute to its domestic service plan. However, if the cooperative is concerned about the problem, I feel certain that your able presentation of the case to the Commission will convince the members of their error.

The time limit within which the plan will have to be put into effect will soon expire, and it will be essential that the Gila River cooperative have assistance in solving its problems in putting this plan into effect if the members of the appointed staff are to have domestic services. I trust that no further delays will be necessary in supplying the cooperative with the information that it needs in putting the plan into effect.

Sincerely,

/s/

Philip M. Glick
Solicitor

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Featherston

Irby

WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

June 1, 1943

Mr. James H. Terry
Project Attorney
Gila River Relocation Center
Rivers, Arizona

Dear Jim:

This is in reply to your letter dated April 23, 1943, with which you transmitted copies of the loan agreement, promissory note, transfer agreement, rental memorandum and operating agreement that were prepared in your office for execution by the Gila River Cooperative Enterprises, Inc. These documents were sent to the Community Enterprises Section for examination and were taken to the New York office. They were not returned until recently.

All of the instruments appear to be in good order. We have no comments concerning any of them except the operating agreement between the cooperative and the Authority. The operating agreement executed by the Gila River cooperative provides that the cooperative will hold the Authority harmless from any damage, loss, cost or expense arising, either directly or indirectly, from the use of the space and at the termination of the agreement will relinquish possession to the Authority of all such space in good condition and repair, ordinary wear and tear excepted. This would probably require the Cooperative to replace or repair a building in the event of fire or other casualty. The Administrative people have stated that it was their intention that the Authority should replace or repair any buildings that are damaged or destroyed by fire or other unavoidable casualty, and that the consumer enterprises should not be liable for rent while the buildings are not usable. Accordingly, I suggest that the operating agreement which was executed on April 1 be terminated and that a new agreement be executed containing the following provision:

> "If any building, or any part thereof, occupied by Consumer Enterprises, shall at any time be destroyed or so damaged by fire (or other unavoidable casualty) as to be unfit for occupation or use, the rent herein provided with respect to such damaged building shall, until the building shall have been rebuilt or reinstated and made fit for occupation or use, be suspended and cease to be payable. The determination of the Project Director as to whether any such building is fit

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for occupation or use shall be final. Subject to the availability of appropriations for such purpose, the Authority will rebuild or repair such building and put it in as good condition as it was before the fire or other casualty."

If this provision is inserted, the words "except as herein provided" should be added to the first clause in Section 11 ending with the words "while in the possession of the enterprises". Inasmuch as the operating agreement provides that it may be terminated any time by either party, no complication would be caused by terminating it and inserting this provision. Termination of the agreement and the execution of a new one would not violate the general rule that a contract may not be modified to the detriment of the United States, since the original contract contemplates that it may be terminated at any time.

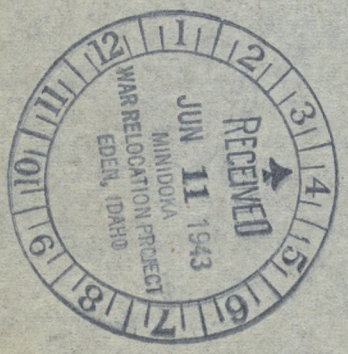
If the operating agreement is amended in this manner and if the Project Director decides to require the consumer enterprises to carry fire insurance, the fact that the cooperative willnot be required to replace the buildings should be taken into account in negotiating the fire insurance contracts. Inasmuch as the cooperative will not be liable for the replacement of the buildings, it is doubtful that it could recover on a policy insuring the buildings. Any policy that is written should, of course, describe accurately the loss against which it is intended to insure.

The material transmitted with your letter did not include a chattel mortgage to secure the loan, as required by Administrative Instruction No. 26, Supplement II. In earlier correspondence, we have indicated that we would do some research to determine whether a chattel mortgage on merchandise exposed to sale in the regular course of business in possession of the owner would be valid in Arizona with respect to the goods in stock at the time the mortgage was executed and with respect to after-acquired merchandise. An Arizona statute (Section 2329 Revised Code of Ariz. 1928) provides that a mortgage given by the owner of a stock of goods exposed to sale in the regular course of business, the possession of and control over which remains in the owner, shall be deemed fraudulent and void. However, the Arizona courts have held that the purpose of this statute is to protect innocent third parties, whether creditors or ordinary purchasers, and that such a mortgage is void as against innocent third parties but valid as between the parties. See Hartford Fire Insurance Commny v. Jones, 250 Pac. 248, 252 Pac. 192 (Ariz. 1927). Under the Arizona law, merchandise acquired after the execution of a mortgage may also be covered by it, if the description of the mortgaged property clearly indicates that the parties intended that the mortgage cover such property. See Howell v. War Finance Corporation, 71 F. (2d) 237 (C. C. A., 9th, 1934).

You have indicated that the administrative people at Gila River have questioned the advisability of requiring a chattel mortgage of the consumer enterprises, since executing such a mortgage would probably tend to affect its credit standing. On April 15, Larry Collins sent a letter to the Project Director advising him that the cooperative should, nevertheless, be required to execute a mortgage on property of value at least equal to the amount of the indebtedness of the cooperative to the Government. Will you please discuss this matter with the appropriate administrative people.

Sincerely,

Philip M. Glick
Solicitor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June 23, 1943

Philip M. Glick, Esq.,
Solicitor,
War Relocation Authority
Barr Building
Washington, D.C.

Dear Philip:

The tumult and the shouting have for the time being subsided sufficiently to warrant and permit a brief resume of recent events and the present situation.

First, I would like to thank you for your kind expressions about our wedding anniversary and Him's illness. The wedding anniversary was somewhat exaggerated as it was only our 20th. Him has completely recovered, thanks to sulfathiazole, and the two older boys are leaving here July 8th to attend the Summer Session of the Phillips Exeter Academy at Exeter, New Hampshire, with the intent of entering the regular school session in September. We regret having them so far away from us but it seems the wisest thing to do since secondary schools in this part of the country do not appear to compare favorably with those in the east.

I have become a notorious character in the State of Arizona within a week. The repercussions from the CorporationCommission hearing were more violent than I anticipated and resort has been had to all sorts of underhanded tactics. I have accumulated a vast file of news clippings, some of which I will send on in case you wish.

The campaign in this State against Japanese-Americans in and out of the State and against our agency stems almost entirely from a small well-organized politically powerful and utterly unscrupulous group of vegetable and produce growers headed by one Dean Stanley. In April they moved into action and formed a committee to attempt to drive the People of Japanese ancestry both in and out of relocation centers from the State and, if possible, to obtain wholesale cancellation of citizenship and deportation. They were well aware of the successful competitio of the Japanese in the vegetable and fruit enterprises in California and they believed that relocation in other parts of the country would continue the menace to their selfish interests as the produce growers of Long Island, New Jersey and other eastern localities have done. After forming their committee, they prevailed upon the Governor to give the committee official status by appointing it as his personal investigating committee. Without the slightest effort to visit any relocation center, communicate with any War Relocation Authority official or obtain any authentic data, they issued and broadcast by radio and in the press a preliminary report in May.

There are two factions in the Democratic Party here which are constantly at odds with each other. One is represented by the Governor and most of the State departments, and, although the Governor's principal support is from labor, the decent elements in the State, by force of choice, are inclined to support his faction. The other faction is represented by the Corporation Commission and the very smelly political administration of the City of Phoenix and its backers, and the latter

faction has the adherence of the low elements of the population and the many people who are ruled by their passions and emotions rather than by reason.

The vegetable growers have seized the opportunity to play these two factions against each other to their own ends. Having started the Governor's Committee on its way, they turned to the Corporation Commission and induced it, over two months afterthe license had been issued to this Cooperative, to rescind the license with wildly inflammatory statements which you will read in the enclosed order. The order was issued, as you know, without notice or hearing of any kind and was first brought to my attention through a radio report on Saturday, June 5gh. I communicated with Betts, the Chairman of the Commission, at his home that Saturday afternoon and was able to obtain an extension of the effective date of the order to June 15th. The following Monday, Mr. Bennett and I went to see the Commissioners at their office and found that they were out of town until the end of the week, no copies of the order were available, and that the secretary had been instructed not to hasten preparation of the order but to cut a stencil for mimeographing in her spare time. We then saw the Governor who deplored the action but, because of the political situation and the fact that the Commissioners are elected officials, felt himself power less to intervene. He agreed, however, to request thee Attorney General to issue opinions on the construction of various points involving House Bill No. 187 in so far as it affects our operations at the Center.

We communicated with Betts in Tucson and requested him to stop an confer with us here on his way to Phoenix at the end of the week. He refused to do this but made an appointment for Friday morning. Meanwhile, we confirmed our position to Betts by telegram to Tucson and received an unsatisfactory reply, fixing Monday, the 14th, for hearing, the day before the order was to become effective.

Mr. Bennett and I conferred with Mr. Betts and Mr. Peterson, the Commissioners, in Phoenix on Friday morning and pointed out that no formal hearing should be necessary and urged that the matter be disposed of by conference. The Commissioners, of course, were avid for their publicity spree and so they brushed such suggestions aside. The conference nearly reached an impasse at one point at which we were on the verge of withdrawing and taking the matter at once to the Federal court for an injunction, and perhaps it would have been best if this had occurred. However, it was obviously contrary to the purposes of the Commissioners and we felt that, with the order becoming effective almost immediately and the value which a record of such hearing would be to us in a court proceeding, it would be satisfactory to proceed with the hearing on the conditions which we prescribed.

Those conditions were that the witnesses in support of the order would be called first and could be cross-examined by us; that the effective date of the order would be extended until 10 days after notice of the decision of the Commission on the hearing, and that we would be permitted to call any witnesses without restriction in opposition to the order. It was also understood that the corporation, having received no notice of the Commission's action, would not appear at the hearing and that we would represent the Government's interests only.

Letter from James Terry to Philip Glick June 23, 1943

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The hearing began Monday morning and continued for over a day and a half with purported testimony of the proponents of the order, largely vegetable growers. Substantially no admissible evidence was offered. Wild and inflammatory opinions, rumors, hearsay and press reports were received into the record. Almost all of the witnesses admitted race prejudice, self-interest and the desire that the United States Constitution should be abrogated with respect to persons of Japanese ancestry whether citizens or aliens. The Commission fanned the flame of prjudice throughout the hearing. Such statements as "One Jap is worse than a thousand rattlesnakes"; and "We must sometimes stoop to utilizing our enemies in time of war and therefore permit Japanese-American citizens to serve in the army if under constant guard and rigid restriction"; and "Japanese in the centers are planning to poison all the people of Arizona by means of contam nated vegetables" and "Japanese are planning to blow up all the dams in Arizona and return the fertile valleys to desert"; and The Cooperative is a conspiracy to enable the Japanese to take over all of the agriculture business and other activities of the State and put true American Arizonans out of business" are some samples of the "testimony" in the record. We were able to prove, by calling the Chairman of the Commission, the baselessness of the contention that the corporation was not a bona-fida corporation, and we then proceeded to cover fairly, and I think, sufficiently the operations of the Cooperative and the administration of theCenter and the relationship between the Government and the Cooperative. Late Wednesday afternoon, the testimony concluded after the calling of a particularly rabid witness in support of the order on some false representation that his testimony would be in rebuttal. The Commission had prepared a final statement to read into the record and the newspapers had their articles attacking us ready for filing and I had a choice of concluding the hearing without summation and being charged with having no argument to advance against the order, or of taking the course which I did and attempting to convince the Commission of the unsoundness and futility of forcing a court test of their action when all of their alleged objectives could be accomplished with ut going to court. Apparently , my statement was all they were waiting for to touch off a phony demonstration. My statement was followed by hystericalremarks of all kinds by the Commissioners and other persons present. One of theCommissioners subsequently initiated resolution, largely against me personally, in the local American Legion Post, the Elk's Lodge and other organizat ons. It is interesting to note that none of the organizations concerned in such action had the slightest idea of what had been said, none of their members could have quoted an argument or remark of mine to which they allegedly took exception. No transcript of the record of the closing statements was available even to the Commission or to me before Friday night.

Incidentally, the Commission falsely charged me with attempting to alter the record of my statement. On Thursday, after the hearing, Mr. Bennett and I again conferred with the Commissioners and attempted to eliminate questions of personal feeling and apparently our efforts were accepted by Betts and at that time he expressed regret at having made the charges against me and stated that he had been under a misapprehension as to the facts. Nevertheless, later events proved that the Commissioners were not sincere in their apparent acceptance of our peace offers and he refused to retract the charges which he hadgiven publicly in the newspapers and on the radio. A copy of an affidavit of

the court reporter is enclosed for your information. This week the Phoenix paper which published the charges has printed a mild statement of their denial by me and incorporated the reporter's affidavit in the same article.

Last Saturday night, Mrs. Terry and I left here with Mr. and Mrs. Wolter in an attempt to snatch a 24 hour rest at a nearby guest inn, but that night the Governor called me on the telephone and urged me to see him on the following day, so I went to Phoenix again where Mr. Bennett joined me and we had a two hour conference with theGovernor.

The gist of the conference was that the Governor was extremely perturbed at the emotional temper of the people of the State toward the Japanese in the State. The publicity attending the Dies Committee hearings was probably primarily responsible and other contributing factors were the reports of the Governor's Committee, inflammatory newspaper articles of all sorts, including brutalities of the Japanese in the Pacific warfare and treatment of prisoners and civilians. In addition, the publicity attending the Corporation Commission hearing and the repercussions serves to stimulate the passions of unthinking segments of the population. The Governor was extremely fearful that violent action might result, particularly with respect to persons of Japanese ancestry outside of the centers. There had been rumblings beneath the surface in the surrounding towns where our trucks have gone to pick up and ship produce and merchandise. All shopping and day leaves were cancelled except those for emergency reasons. The Captain in charge of the military police here has station a guard at the Southern Pacific station at Casa Grande and limits have been prescribed by the Transportation Division for movement of the Truck crews while in Casa Grande. I subscribe to the precautions and feel that we are doing everything possible to avert any trouble. Of course, such provocation as there is or may be comes entirely from the residents of the State and the worst element at that.

The Governor's solution would, of course, relieve him of the responsibility of facing a nasty situation if it occurs. He is urging that the War Department not only return the area recently opened to its former status as a restricted area but that the line be moved north to include the farming area north of Phoenix and the dams and copper mines in that area. This would, of course, require the evacuation of an additional number of persons now residing in that area. You will agree that this is not a matter as to which our Authority can properly intervene. I cannot see any substantial argument to support such a move on the ground of military necessity, which is the only ground on which it could be justified. The Governor's position is that the situation here is extremely tense with possibilities of a massacre; that the military authorities believe an air attack on the west coast in the near future is extremely possible, if not probable; that such an attack would, in the Governor's opinion, touch off the situation here and cause violence and bloodshed; that the military authorities should take all means to avert such a catastrophe because of the possibld fdpercussions of such action on our military and civilian prisonersin the hands of Japan; that the State of Arizona is without any State military guard at present and would have to rely entirely upon a relatively small force of State and local police to quell any uprising; that the recent examples of violence in Texas, Los Angeles and Detroit give evidence of what might be expected on an even greater scale here where the feeling is so high and racial prejudice so extreme. The Gover or asked our advis once, first, in taking [illegible] on the administration of the

asked our assistance, first, in taking every precaution as far as the administration of the Center is concerned, which, of course, we agreed to do; and, second, he urged us, particularly me, to bring his ideas and hopes informally to the attention of persons in a capacity to give them consideration. I am personally of the opinion that while such action by the War Department might relieve the situation it could not be supported legally, and I say that in spite of the fact that you will note that my prophecy with respect to the Supreme Court action on evacuation and curfew has been quite fully vindicated. I intend, nevertheless, as a gesture, to pass his thought along unofficially and personally pointing out that such move would doubtless be opposed on numerous grounds by the War Relocation Authority. I must say that if sound basis were found in military necessity for the extension of the restricted area, I doubt that there would be any objection as far as the administration of this Center and probably Poston is concerned, and it might aid rather than hinder our administration provided a corridor were left open for travel by persons granted leave.

Incidentally, I gave the Governor a transcript of the closing statements at the Commission hearing to read and he returned them yesterday with a letter, copy of which I enclose.

Meanwhile, the Cooperative Corporationheld a meeting this morning and proposed an amendment to the articles of incorporation restricting its activities within the State of Arizona to the conduct of its enterprises at the Center while the Center is maintained. I do not know whether the Registrar of the District of Columbia will accept such an amendment.

I have ordered transcripts of the record of the hearing, one of which will be paid for by theCooperative. I am working on a letter to the Attorney General in accordance with your telephone instructions and teletype message. At the earliest possible moment I shall also commence work on a bill of complaint and application for temporary injunction. There has been no indication as yet of the decision which the Commission will render. The Governor seems to feel that they will stay out of court but I am far from confident of this.

My work, which is already more than I can handle effectively, has been augmented by the necessity of conducting hearings on applications to change answers to questions in the military registration questionnaires and conduct of hearings by leave applicants. In the latter case, at my suggestion to Mr. Bennett, two boards have been established to hear such applications and exhaustive investigations are conducted in each case. I see no daylight at present as far as returning to any normal office routine is concerned. I am greatly handicapped by the loss of the two relatively efficient attorneys who have joined the colors. The one man who is left has been devoting most of his time to the Cooperative and Community Government matters and the Evacuee Property Officer has not been able as yet to relieve me of much of that work.

I would like your comments on the escrow instructions in the net factory trust fund matter and also your commentson the proposed receipt and release which I assume you have received. There are numerous objections to the instructions; and the release, which I have not yet studied, improperly requires signature of Community Council members. Will you demand modification of the instructions and the documents from there or will it be necessary for me to attempt to accomplish that here?

Letter from James Terry to Philip Glick June 23, 1943

The firm of Peat, Marwick & Mitchell in Los Angeles have agreed to undertake an audit for the trustees which they will commence in the first or second week in July. Has the Treasury Department yet issued its special license covering disbursements by the trustees to blocked nationals?

I enclose a copy of the procedure which will be followed by the administrative office here in determing the amount due the War Relocation Authority for subsistence. I assume that you are getting the information relating to Poston direct from that Center.

When is Ed Ferguson going to pay this place a visit and find out what "heat" is in every possible form and definition? At any rate, don't worry about me - my head may be bloody but it's unbowed.

Sincerely

James Terry
Project Attorney

July 23, 1943

AIRMAIL

Mr. James H. Terry
Project Attorney
Gila River Relocation Center
Rivers, Arizona

Dear Jim:

In your telegram of July 14 you asked three questions pertaining to blocked nationals: (1) what precautions should be taken by WRA before issuing travel assistance grants to blocked nationals going on indefinite leave; (2) whether employers of blocked nationals may pay wages directly or whether they must pay the wages into a blocked account; and (3) whether a blocked national's indefinite leave should be approved before he obtains a license permitting withdrawals to cover living expenses.

I shall answer these questions in inverse order. A blocked national needs no special license to cover withdrawals of funds for living expenses. General License No. 11 authorizes the payment or transfer of credit to blocked nationals of sums needed for living, travelling and similar personal expenses in the United States up to the amount of $500 in any one month. This general license applies to Japanese nationals as well as nationals of other foreign countries. (The revocation of General License No. 11-A, which limited payments to Japanese nationals for living and personal expenses to $100 a month, had the effect of bringing Japanese nationals within the provisions of General License No. 11.)

Employers may pay blocked nationals directly, and do not have to pay the wages or salaries into blocked accounts, if the amount per month does not exceed $500. This is because an employer is regarded by the Treasury Department as a "banking institution" within the meaning of General License No. 11. The employer must satisfy himself that the wages paid are needed for living and personal expenses, and he must file monthly reports with the appropriate Federal Reserve Bank showing the details of such payments. These requirements appear in General License No. 11.

I do not believe that it is necessary to issue any instructions about precautions to be taken by WRA before issuing travel assistance grants to evacuees. While the Treasury Department takes the position that Federal agencies must comply with applicable regulations issued pursuant to Executive Order No. 8389, Treasury Department representatives have assured us that WRA would be regarded as a "banking institution" within the meaning of General License No. 11, insofar as the payment of travel assistance grants are concerned. They are also confident that we can get a waiver of the reporting requirement of that general license, and we plan to prepare a letter for the Director's signature to the Treasury Department seeking a waiver. In the meantime I believe we are justified in issuing travel assistance grants to all evacuees on the basis of present instructions.

Sincerely,

Philip M. Glick

Philip M. Glick
Solicitor

cc: Mr. Bernhard
Mr. Walk
all Project Attorneys