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Memorandum from the Commanding General, Western Defense Command, to the Assistant Attorney General, Mr. James Rowe, Jr.

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"January 5, 1942

"Memorandum for: Assistant Attorney General Rowe

Subject: Alien Enemy Control Requirements.

"1. Reference is made to the summary of report of the Assistant Attorney General Rowe to General DeWitt on Sunday, January 4, 1942, at 6:30 P.M. (TAB. 'A.')

"2. It should be stated at the outset that the Army has no wish to undertake the conduct and control of alien enemies anywhere within continental United States. Impressions to the contrary notwithstanding, the Army would accept transfer of such responsibility and authority with the greatest reluctance. Its desire is only that the Department of Justice act with expedition and effectiveness in the discharge of its responsibilities under the Presidential Proclamations of December 7th and 8th. The developments which have resulted in the current conferences between the Attorney General's representative, and General DeWitt and his staff, have been occasioned by the almost complete absence of action on the part of the Department of Justice over a period of nearly four weeks since promulgation of the mentioned proclamations, toward implementing sections 5 and 9.

"3. To the extent that an estimate can now be made, in the absence of actual demonstration, the courses of action proposed to be taken by the Department of Justice, as set forth in paragraphs 1, 2, 3 and 4 of Tab. 'A', appear to constitute a great step forward.

"4. While some amendment, clarification and implementation may be necessary, it appears that section 5 of the proclamation relative to prohibited articles will have been fully implemented when the measures detailed in Tab. 'A' have been taken. The means of determining whether all alien enemies are complying with the proscriptions of the Proclamations, as repeated in the contraband regulations promulgated by the Attorney General, may have to be further clarified. This phase of the problem, however, is closely associated with warrant issuance aspect of the alien enemy program.

"5. As agreed in the conference referred to in paragraph 1 hereof, the Commanding General of the Western Defense Command has initiated action within the California, Oregon and Washington portions of his command (as augmented by the inclusion of the Air Corps installations throughout his command), to furnish U. S. Attorneys not later than January 9, 1942, a list of the ~~very~~ areas which are regarded by Army authorities as falling within section 9 of the regulations relative to restricted areas. This report will include definite descriptions of such areas and will divide them into two categories as follows:

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"Category A: Those areas within, or through which no alien enemy alien may be permitted, under any circumstances.

"Category B: Those areas through, or within which alien enemies may be permitted on pass or permit.

"In this connection attention is invited to the concluding paragraph of Section 9 of the regulations which provides in substance that any alien enemy found within any restricted area contrary to the regulations shall be subject to summary apprehension. The military authorities desire to be advised whether, in the opinion of the Attorney General, apprehension of alien enemies under such circumstances may be without warrant and, if so, whether the military authorities are empowered to enforce.

"In order to avoid absolute confusion in the matter, Army authorities strongly urge that the Department of Justice undertake to establish immediate liaison and coordination with all appropriate relief agencies prepared to alleviate hardship resulting from compulsory change of residence on the part of Alien enemies residing in Category A, restricted areas. As the Department of Justice has requested permission to announce that the establishment of restricted areas has been made by the Attorney General only because the Commanding General of this theatre has so requested, military authorities desire it to be unequivocally clear that they desire that everything possible be done to eliminate unnecessary hardship and the need for planning and coordination along this line is strongly emphasized.

"Depending upon the manner in which compulsory eviction from Category A restricted areas is handled and upon how the pass and permit system respecting Category B restricted areas is developed, the action proposed in paragraph 2 of Tab. 'A' appears presently to provide for full implementation of Section 9.

"6. Comments relative to paragraph 3 of Tab 'A' entitled 'Search Warrants' will be deferred for inclusion in the portion of this memorandum relative to particular problems.

"7. As already noted, neither the War Department nor the Army desire to undertake responsibility for the alien enemy program in Continental United States. In view of this, the comment in paragraph 4 of Tab. 'A' to the effect that the Department of Justice is of the view that it is better qualified to conduct an alien enemy registration than is the Army, and in view of the expressed intention of that Department to act without delay, it would appear that the action proposed in paragraph 4, Tab. 'A', if speedily accomplished will satisfy the need for immediate registration of alien enemies.

"8. Reference is made to paragraph 5 of Tab. 'A' relative to 'spot raids' and 'mass raids.' The military authorities in this theatre are of the view that counter espionage measures require that the Department of Justice take whatever steps are necessary, effectively to provide for simultaneous 'mass raids' without warning to determine the presence of prohibited articles which may be in possession or under the control of alien enemies, or to which such persons may have access. By this type of raid is meant 'coordinated action' in several areas at the same moment and on successive occasions providing for the search of a given number of alien enemy premises in each area. Under such circumstances the premises to be searched during any such 'mass raid' would be only those in which it is known that an alien enemy may be found or in which there is cause to believe than an alien enemy may be found. It does not mean the 'willy-nilly' raiding of all premises within a prescribed area. The number of premises to be searched during any given 'mass raid' will depend upon the circumstances and the means at hand. This type of sampling or cross-sectional raiding is regarded as vitally important. While such raids may not be successful from the viewpoint of rounding up great quantities of contraband, they will have the important effect of driving contraband more deeply underground with the result that its illicit use becomes increasingly difficult.

"The military authorities request that they be advised by the Department of Justice of its position in this matter. If it is inclined to provide for this type of search, advice is requested as to the steps proposed by this Department.

"9. The courses of action proposed in Tab. 'A', when accomplished, will not solve a number of pressing problems. It is neither possible nor practicable to undertake or attempt to illustrate all of the problems which may arise in connection with the alien enemy program. As limited in the foregoing sentence, some of the problems and some of the questions remaining unsolved are:

"(a). A fix is established on a radio transmitter. Transmission of unlawful radio signals is established but the location is determined only within a defined area such as a city block. Manifestly an accurate description of the premises, the operator's name and a description of equipment can not be furnished. The operation of such a transmitter is equally unlawful on the part of a citizen, alien or an alien enemy. Unless a 'John Doe' search warrant can be obtained and obtained immediately, the consequences may be grave and the transmitter may be moved without trace. What action can be taken?

"(b). The facts are sufficient to support the issuance of an alien enemy warrant or a contraband search warrant, but the responsible law enforcement officer on the ground is unable to

communicate with the issuing authority due to the lack of means or because of the time element. What action can he take?

"(c). A known alien enemy is observed, in transit, in the possession of contraband or in the possession of articles believed, for good cause, to be contraband. If a warrant is procured under present as well as proposed machinery, the quarry will be lost. What action can be taken?

"(d). The unlawful transmission of radio signals has been established through interception. A series of fixes determines the location of the transmitter within a general area, such as Monterey County. Further, there is convincing evidence of shore to enemy submarine communication. What action can be taken to isolate the area and conduct an effective search to locate the mobile unit?

"(e). An alien is resident with a citizen, perhaps a relative such as wife. While it cannot be proven that he owns or actually controls contraband it can be proven that he has unlimited access to such. The situation is as potentially dangerous as if it could be proven that he owned or actually controlled the contraband. What action can be taken?

"(f). Question arises whether access of the character description in (e) above is unlawful under the Proclamations. Assuming that it is unlawful, to what extent may the search, under a contraband search warrant, of a mixed occupancy dwelling or other premises be carried to determine access to contraband?

"(g). The dual citizen problem is perplexing. Self-serving declaration of an election are of little meaning, particularly where conduct is incompatible with the so-called election. What methods exist or what steps are in contemplation looking toward the control of

1. Dual citizens.
2. Disloyal, subversive citizens (where there has been no overt act detected).

"(h). In the opinion of the Attorney General, to what extent may the responsible Military Commander in a theatre of operations, contravene normal processes to take necessary action in an emergency in order to provide for the internal as well as the external security of his theatre--to what extent is the Department of Justice able to take similar measures?

"(i). Military authorities are convinced of the desirability of close cooperation and collaboration between the War Department and the Department of Justice in connection with the instant subject. However, it is considered desirable to request advice as to the extent to which the Department of Justice is prepared to assume and to discharge the responsibility of taking whatever steps are necessary for the prevention of sabotage, espionage, and other fifth column activities from enemy alien courses, and the extent to which the Department of Justice will expect the military authorities to continue the outline of

Memo from Gen. DeWitt to James Rowe

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the necessary steps for progressive implementation of the enemy alien program.

"10. The foregoing represents the consensus of those concerned as understood by the undersigned. It does not necessarily reflect the official opinions of anyone concerned. It is intended primarily as exploratory of the problem.

Incl. 1.

J. L. DeWITT,
Lieutenant General, U. S. Army."

TAB "A"

Summary of Communication--January 4, 1942

"This is the summary by Assistant Attorney General ROWE to the Commanding General of a conversation with Attorney General of the United States, and Mr. ROWE'S understanding of what the Department of Justice is prepared to do on questions of Alien Enemy Control referred to him by the Commanding General and his staff.

"1. PROHIBITED ARTICLES.

Besides cameras, radios and firearms, the articles prohibited by the President's proclamation are to be deposited by all alien enemies with local police authorities by Monday night, January 5, 1942, at 11 p. m. Because sufficient publicity was not given to the requirement that all prohibited articles be so deposited, the Department of Justice will, by release for Tuesday morning, allow all alien enemies at least two more days, say, 11 p. m., January 7, to dispose of the articles. An effort will be made to obtain sufficient publicity by radio and in the press.

"2. RESTRICTED AREAS.

The Department of Justice tonight will by wire direct the United States Attorneys in the Western Theatre of Operations, with particular emphasis on Washington, Oregon, and California, to telephone Major General BENEDICT for recommendations as to what areas should be regarded as restricted. The United States Attorney will automatically accept the General's recommendations, and these areas will immediately become restricted areas pending confirmation by the Attorney General. As soon as possible, a press release ordering all enemy aliens to evacuate restricted areas by a certain date and hour will be issued. Any release by the Department of Justice will specifically state that the Attorney General has designated these restricted areas at the specific and urgent request of

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the Commanding General. The Army will request the Navy to submit its recommendations through the Commanding General. It is believed several days will elapse before the Army will be ready to submit its recommendations.

"3. SEARCH WARRANTS.

New forms for search and seizure of prohibited articles in homes controlled by, or inhabited by, alien enemies, are to be received tomorrow morning by Federal Bureau of Investigation teletype. The question of probable cause will be met only by the statement that an alien enemy is resident in such premises. It is Mr. ROWE'S understanding that the local United States Attorney's interpretation that more information is necessary to show probable cause is incorrect. The United States Attorney will issue a search warrant upon a statement by a Federal Bureau of Investigation agent that an alien enemy is resident at certain premises. It is not necessary that the Department in Washington be consulted.

"4. ALIEN ENEMY REGISTRATION.

The Department feels it can conduct an alien enemy registration in the Western Theatre of Operations within a week or ten days. Tomorrow morning by Federal Bureau of Investigation teletype a statement will be sent from Washington outlining a procedure of what the Department is prepared to do. The Department feels it can conduct such a registration, through the local police authorities, much faster than the Army itself. The Department also feels that the existing list from the previous alien registration, now in Washington, is in better shape than is the impression in San Francisco, and every effort will be made to have such lists available in the Western Theatre of Operations.

"5. The Department is willing to make spot-raids on alien enemies tomorrow or at any time after the registration, anywhere within the Western Theatre of Operations. Mr. ROWE emphasized that such raids must be confined to premises controlled by enemy aliens, or where enemy aliens are resident. In other words, the Department cannot raid a specific locality, covering every house in that locality, irrespective of whether such houses are inhabited by enemy aliens or citizens. The Attorney General requested Mr. ROWE to make clear to the Commanding General that under no circumstances will the Department of Justice conduct mass raids on alien enemies. It is understood that the term "mass raids" means, eventually a raid on every alien enemy within the Western Theatre of Operations. The Attorney General will oppose such raids and, if overruled by the President, will request the Army to supersede the Department of Justice in the Western Theatre of Operations.

"6. It was agreed by the Commanding General and his staff and Mr. ROWE that certain questions pertaining to raids on localities and the issuance of search warrants, particularly referring to raids on localities in which radio transmitters are probably to be found, will be transmitted to the Department, also for an indication as to how far the Department would proceed, as a

Memo from Gen. Witt to James Rowe

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matter of law and policy."

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"February 20, 1942

"COMMANDING GENERAL,
Western Defense Command Fourth Army,
Presidio of San Francisco, California.

"Dear General DeWitt:

"By Executive Order, dated February 19, 1942, copy inclosed, the President authorized and directed me, through the Military Commander whom I designate, to prescribe military areas for the protection of vital installations against sabotage and espionage. The cited Executive Order also authorized and directed the administering authority to impose such restrictions upon the right to enter, remain in, or leave any such areas as may be appropriate to the requirements in each instance. Accordingly, I designate you as the Military Commander to carry out the duties and responsibilities imposed by said Executive Order for that portion of the United States embraced in the Western Defense Command, including such changes in the prohibited and restricted areas heretofore designated by the Attorney General as you deem proper to prescribe.

"In carrying out your duties under this delegation, I desire, so far as military requirements permit, that you do not disturb, for the time being at least, Italian aliens and persons of Italian lineage except where they are, in your judgment, undesirable or constitute a definite danger to the performance of your mission to defend the West Coast. I ask that you take this action in respect to Italians for the reason that I consider such persons to be potentially less dangerous, as a whole, than those of other enemy nationalities. Because of the size of the Italian population and the number of troops and facilities which would have to be employed to deal with them, their inclusion in the general plan would greatly overtax our strength. In this connection it may be necessary for you to relieve Italian aliens from the necessity for compliance with the Attorney General's order respecting the California prohibited areas 1 to 88 (Category A). This may appropriately be done by designating, sufficiently in advance of February 24, the said areas as military areas and by excepting Italian aliens from the classes excluded.

"With due regard to your other missions you may use the troops you can now make available from your general command, but for this purpose the 27th Division and the 3rd Division reinforced are not to be considered as part of your general command as such troops are assigned to your command only for specific training.

"Your attention is invited to those provisions of the Executive Order under which you are authorized to call for assistance, supplies, and services from all Government agencies. It is desired that you take full advantage of that authority.

"Removal of individuals from areas in which they are domi-

Let. from Stimson to DeWitt

Feb. 20, 1942

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ciled should be accomplished gradually so as to avoid, so far as it is consistent with national safety and the performance of your mission, unnecessary hardship and dislocation of business and industry. In order to permit the War Department to make plans for the proper disposition of individuals whom you contemplate moving outside of your jurisdiction, it is desired that you make known to me your detailed plans for evacuation. Individuals will not be entrained until such plans are furnished and you are informed that accommodations have been prepared at the point of detraining.

"So far as practicable, fullest advantage should be taken of voluntary exodus of individuals and of the facilities afforded by other Government and private agencies in assisting evacuees to resettle. Where evacuees are unable to effect resettlement of their own volition, or with the assistance of other agencies, proper provision for housing, feeding, transportation and medical care must be provided.

"I desire that from time to time you make report direct to me of important actions and events, particularly with respect to the extent and location of military areas, and the restrictions applicable thereto.

"Sincerely yours,

"/s/ HENRY L. STIMSON,

"Secretary of War.

Regional Files, 710, Wash., D. C.
Miyamoto

Outside Employment
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A601

Transcript of telephone conversation between General DeWitt,
Commanding Western Defense Command Fourth Army, and Governor Langlie,
Governor of Washington, Olympia, Washington.
May 27, 1942

Governor Langlie: We're facing something of a problem here this summer in the shortage of labor, as they are everywhere, in connection with the harvesting of crops. Before we went too far in contacting local officials in Zone B in the State of Washington here relative to the possible use of some Japanese, I wondered what chances there would be of changing that Zone B and moving the boundary westward to the crest of the mountain...

General DeWitt: No, Governor, instead of doing that the tendency would be to move it further eastward. I'm afraid we couldn't do that.

L. That's all right, I don't care one way or the other, except that I wanted to know what the possibilities are because...

D. I want to keep them out of the forests.

L. Out of the forests, I see. This Yakima Valley, down in there-- we're expecting a shortage of about 20,000 laborers there by...

D. Governor, I'm going to suggest, not that you do it, but anybody you designate--of course, you do it if you want--to communicate with Mr. Eisenhower, in charge of the War Relocation Authority, who handles all those questions now, but deals directly with me, on the matter. If you could get what you want done, I mean with reference to Japs for working in the fields--if you could make that request on him, then he would bring the question up to me from the military standpoint and we could determine on it, whether we could do it or not.

L. That's fine; I'll contact him then, because in order to comply with the rules set down by Colonel Bendetsen...

D. Yes. Well, see, Bendetsen heads my section.

L. It would mean quite a little contact with local officials, and I didn't want to go through that in this particular area unless there was a possibility of being able to use Japanese, and if it is maintained as Military Zone B, then we can't use them apparently in there, in any event.

D. Governor, it would be just out of the question to move that boundary. But I wish, just the same, if you could put the proposition up to Eisenhower and he would then consult with Bendetsen and then they would both come up and consult with me. You see, Bendetsen is part of my headquarters.

L. All right, sir, thank you very much.

D. I'm glad to have had a chance to talk with you.

Regional Files, 710 Wash., D. C.
Miyamoto

Act. Employ

TT from D. M. Crawford, Tulalake Growers to E. R. Fryer

July 30, 1942

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We are wiring Gen. Dewitt for a meeting with our Growers Committee to discuss the possibility of changing the ruling governing the use of Japanese labor in Calif. We face a shortage of some 3000 men for our fall harvest and due to the shortness and severity of the fall season this may mean the loss of several thousand cars of potatoes and beets. Mr. Sherrill and the Japanese of Newell have assured us of their fullest cooperation we would appreciate your attending this meeting as it seems nothing can be done without consent of all concerned. Please wire us if such conference is possible.