

WESTERN DEFENSE COMMAND AND FOURTH ARMY

Office of Assistant Chief of Staff, Civil Affairs Division

WARTIME CIVIL CONTROL ADMINISTRATION

1231 MARKET STREET
SAN FRANCISCO, CALIFORNIA
Telephone KLONDIKE 2-2611

July 4, 1942

SUBJECT: Proposed Proclamation No. 10. (Revision of Curfew and Travel Regulations for Enemy Aliens other than Japanese)

TO: Commanding General, Western Defense Command and Fourth Army
(THROUGH: Chief of Staff)

1. This paper deals with two subjects: (a) curfew, and (b) travel regulations. These subjects will be discussed in the order named.

2. a Curfew

(1) The object of the curfew is to reduce the opportunity for the commission of sabotage, espionage and participation in fifth column activities. The commission of any of these acts constitutes a high crime (felony) or even treason, and upon conviction severe penalties follow. Violation of the curfew is only a misdemeanor. It is improbable to suppose than an individual bent on the commission of a felony would be deterred by the fear of apprehension for the commission of a misdemeanor.

(2) In large measure, the curfew is unenforceable. German and Italian aliens cannot be readily distinguished from any other Caucasians when at large after curfew hours. Although relatively large numbers of such persons have been apprehended for violation of the curfew, all of them have proven to be small fry - most of them out after curfew hours while drunk. The arrest and prosecution of such persons will not contribute to the attainment of the objective.

(3) Large numbers of persons are prevented from necessary gainful employment by reason of the curfew. Their employment in non-war connected industries is essential on the home front. Unless there is something on FBI records of suspicious nature against them, in which case they should be interned, it is an unnecessary hardship on the individuals concerned, without beneficial result, to prevent their employment. It has been established that changing shifts is not the answer.

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(4) Of those persons most dangerous to the national security, at least an equal number are in the citizens group, in respect of whom there is no curfew restraint. Attainment of the objective cannot be accomplished by pursuing the "label" approach.

(5) With the coming invocation of the individual exclusion order plan, applicable with equal force to any dangerous person whether citizen or alien, a far better - though still incomplete remedy - will be afforded in substitution.

b. Travel Regulations

In order to achieve uniformity in the matter of travel regulation, it is recommended that German and Italian aliens be subjected to the same travel regulations as are applicable to such persons elsewhere in the United States. This will restore to U. S. Attorneys the obligation of issuing travel permits where necessary and proper. At present the situation is confused and unsatisfactory, although a semblance of control is imposed by this command upon travel. Except for the curfew five-mile travel limitation, in practice this control serves little object. For a more extended discussion of this subject, see Tab A, attached.

3. There are attached hereto proposed curative proclamations in the alternative (Tabs B and C). Under Tab B, a limited curfew is established between the hours of 12 midnight and 4 a.m. The arguments advanced in favor of retaining a limited curfew are these:

(1) It does not permit alien enemies to believe that they are free of all restraint.

(2) It may be necessary, in a changed military situation to impose other and drastic restraints and it has been suggested that the transition would involve less impact.

4. The retention of a limited curfew against Caucasian aliens may act as a shield against retaliatory or vindictive counter measures by the Japanese Government against American, British, Dutch and other Caucasians in the Orient. It will be remembered that concurrently with the publication of Proclamation No. 1, it was stated publicly that German and Italian aliens would be evacuated. The abandonment of evacuation may be used by Japan as an argument that this country is persecuting the Japanese

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American citizens and aliens alike on a race prejudice basis. The retention of a light curfew may ward off this specious argument.

Under Tab C, no curfew would be imposed. The arguments advanced in favor of Tab C are the following:

(1) Unless the main objective, viz., reduction of the opportunity for the commission of sabotage and espionage and for participation in fifth column activities, is accomplished, there is little point in having any curfew. A limited curfew between 12 midnight and 4 a.m. is less likely to achieve this result than the present one.

(2) Perhaps to a lesser degree, the same problems which have arisen in connection with the present curfew would arise in connection with a limited curfew.

5. This division recommends the execution of Tab B, viz., the revocation of the present curfew, substituting in the alternative, the limited curfew.

6. If the proposed curfew proclamation is adopted in either of the alternative forms, before publication thereof the Civil Affairs Division will take the necessary steps to clear the procedure with the various departments of the Federal government through Colonel Tate.

/s/ Karl R. Bendetsen

Karl R. Bendetsen
Colonel, G. S. C.
Assistant Chief of Staff
Civil Affairs Division

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- 2 - Tab B
- 3 - Tab C

WESTERN DEFENSE COMMAND AND FOURTH ARMY

Office of Assistant Chief of Staff, Civil Affairs Division

TAB A

A

WARTIME CIVIL CONTROL ADMINISTRATION

1231 MARKET STREET
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1. Alien enemies are formally required to obtain travel permits from the appropriate U. S. District Attorney and in addition to visit the nearest U. S. Post Office or the U. S. Employment Service office to obtain a change of residence card and also to make reports to the Commissioner of Immigration and Naturalization and the FBI, whenever they propose to travel more than five miles from their place of residence. The net result of these regulations was merely to make it difficult to travel, to require more administration and more paper work on the part of Government agencies. It did not stop travel. Although it is probable that there were hundreds of violations, but few were apprehended and those apprehended were released because of the improbability that any conviction in Federal court could be obtained, due to extenuation in the circumstances.

2. In an effort to reduce the confusing procedures required of the alien, the use of the Form WDC PM-2 (Revised) was inaugurated by this Division and the United States Employment Service office was designated as the issuing agency, because the latter office was associated with the Wartime Civil Control Administration and had numerous offices in the Western Defense Command and particularly in Military Area No. 1, wherefrom the aliens and Japanese could be serviced.

3. Shortly after the setting up of the Wartime Civil Control Administration and United States Employment Service offices for this purpose, Proclamation No. 3 was issued. This proclamation, as subsequent experience disclosed, was too inflexible to permit the carrying on of normal community life. By construction and the promulgation of new rules, as indicated by the exigencies of the moment, the United States Employment Service offices were able at once to so regulate travel as to assure substantial compliance with Proclamation No. 3 and at the same time to meet the travel requirements of the moment. It is interesting to note that during approximately three months of operation the United States Employment Service office was obliged to issue a total of 100,000 permits governing travel between cities and communities.

4. Notwithstanding the splendid service rendered by the United States Employment Service offices, the fact is that the travel permit system thus operated was only de facto. Serious questions could be raised whether prosecutions for travel permit violations could have been prosecuted in a criminal proceeding. This condition arose out of the fact that the United States Attorneys on the Pacific Coast

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construed Proclamation No. 3 and particularly the five-mile travel limitation language of Paragraph 2 thereof as depriving the United States Attorneys of the right to issue any kind of a travel permit and they governed themselves accordingly for more than a month. In the meantime the WDC PM-2 form which originally had been intended for use only in connection with changes of residence was used illegally in connection with any roundtrip daytime travel between cities or communities. The U. S. Attorneys objected to this and rightly so, notwithstanding which the de facto use of this procedure continued during this entire period. De facto procedures should not be and, of course, are not satisfactory predicates or substitutes for precise de jure military policy and practice.

5. The U. S. Employment Service office has already overstayed its suggested terminal date for the issuance of travel permits, but will continue to operate until Military Area No. 2 in California is evacuated. As a matter of fact, with the clearing of the Japanese from Military Area No. 1, the Wartime Civil Control Administration offices in the field have been closed down and the issuing of permits will be confined to this office and the U. S. Employment Service offices.

6. Entirely apart from the legalistic and procedural questions above referred to, there is involved also a very substantial economic and social consideration. The day to day recent events (for the most part military defeats) at the battlefields in other countries indicate the need for the increase of manufactured goods and agricultural products and a minimization of economic dislocation to the utmost extent consistent with the preservation of the national security. As the situation now stands under the existing curfew regulations farmers cannot irrigate their crops during the nighttime in accordance with the necessities of the case, produce growers cannot deliver and auction their crops in the early morning hours, janitors, bakers, garbage haulers (to cite only a few examples) cannot follow their trades during the nighttime. They have been obliged to give up their trades. Many of them have been unable to obtain new employment for the reason, among others, that they are not trained for any other vocation or because employers, knowing their situation, will not employ them. Many of these aliens were obliged to live at the base subsistence level and may become public charges.

7. The Northern California Sector got pretty much out of step with the other Sectors in the issuance of temporary certificates of exemption from evacuation and curfew. It will be recalled that when Proclamation No. 5 was issued it was contemplated that German Italian aliens should be exempted from curfew if they could also demonstrate their eligibility for exemption from evacuation. All the Sectors issued certificates of exemption in cases involving real hardships outside classifications provided for in Proclamation No. 5. The Northern California Sector, however, adopted an extremely liberal attitude and issued exemptions predicated in many cases solely upon the fact that an alien is married to an American citizen. The ultimate evacuation of the aliens, it was felt, would be per se a hardship. General Wilson, it appears, came to

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TAB A

the conclusion that he could not continue to take the responsibility for issuing permits in the so-called hardship cases outside of the provisions of Proclamation No. 5. Those cases were then referred to the Civil Affairs Division for action, and after review thereof the cases were referred back to the Northern California Sector for rejection. In the meantime, a total of 1198 so-called hardship exemptions had been granted by that Sector, as against the total of 4529 cases within the provisions of Proclamation No. 5. There is now great dissatisfaction on the part of German and Italian aliens who have married citizens and who cannot now obtain the same exemptions as were issued to the approximately 1198 number of hardship cases above referred to. This inconsistency not only between the Sector Commanders' actions in these cases, but the inconsistency which now exists within the Northern California Sector itself is embarrassing. However, since the exemption from the curfew itself was predicated upon the qualification for exemption from evacuation, and since mass evacuation of Italian and German aliens is not proposed, there is now no reason for allowing the temporary certificates of exemption to be outstanding and they should all be cancelled as they serve no useful purpose.

8. For all of the foregoing reasons, it is recommended:

- a. That the German and Italian aliens be subjected to precisely the same travel regulations as are applicable to all those aliens in the entire United States. This will place the burden for the issuance of travel permits on the United States Attorneys under the regulations promulgated February 5, 1942, will provide uniformity of treatment, and will relieve the Civil Affairs Division of the administrative task of issuing permits.
- b. That the present curfew be revoked and in the alternative (1) that there be imposed a limited curfew as to German and Italian alien enemies or, (2) that there be none at all as to German and Italian alien enemies.
- c. That the actual surveillance of suspected saboteurs and subverters be the task of the Federal Bureau of Investigation and other investigative agencies coupled with the use of individual exclusion orders to be issued by the Commanding General of the Western Defense Command in appropriate cases.
- d. That if a limited curfew is maintained all exemptions from evacuation and curfew heretofore issued by Sector Commanders be cancelled (except in the case of those few issued to part-blood Japanese). This will place all Germans and Italians on a parity and will subject them only to the limited curfew herein proposed.