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ASW 370.8 Hawaii

5 September 1944

The Honorable
The Secretary of the Interior
Washington 25, D. C.

Dear Mr. Secretary:

Attached herewith is a draft of a proposed Executive Order designating the Territory of Hawaii as a military area and prescribing certain powers which may be exercised by the military commander thereof.

It is proposed that this Order be presented to the Bureau of the Budget jointly by the War Department, with letters of concurrence from the Secretary of the Navy and the Secretary of the Interior. Referral papers for this purpose are attached.

In view of the advisability of presenting an agreed program I would appreciate your comments or concurrence on the proposed order.

Sincerely,

(SIGNED) JOHN J. McCLOY

John J. McCloy

Enc.

X-(Secy) Interior/
A-

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4 September 1944

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Comments relative to draft of proposed proclamation by Governor Stainback terminating martial law in Hawaii, transmitted on August 19, 1944, to the Assistant Secretary of War by the Acting Secretary of Interior.

1. First recital:

- a. Line 5, delete word "confirmed", and insert word "approved".
Reason: The radiogram sent to Governor Poindexter by the President used the word "approve" or "approved", instead of the word "confirmed".

2. Delete last sentence.

Reason: Governor's proclamation can add nothing to legality of acts of military commander, as their validity depends upon whether martial law was lawfully in existence at the time of the commission of the acts and whether the acts were required by military necessity or appeared to be so required by military necessity. Likewise, the approval of the Governor of lawful acts would not be necessary for acts lawful in the absence of his approval at this time. The sentence is mere surplusage.

In addition the use of the word "lawful" before the word "conviction", or "proper" before the word "application", and the word "validly" before the word "taken" before the word "under", undoubtedly indicate that the civilian governor is of the opinion that some acts of the military were illegal. There is no good reason why this viewpoint of the civilian governor should be published in the official document and it has no effect other than one of prejudicing the army in Hawaii.

3. I do not guarantee accuracy of all the dates stated in draft of proclamation.

Lt. Colonel Slattery

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BY THE GOVERNOR OF HAWAII

A PROCLAMATION

WHEREAS, the Governor of Hawaii by his proclamation of December 7, 1941, placed the Territory of Hawaii under martial law and suspended the privilege of the writ of habeas corpus, in the exercise of his powers under section 67 of the Hawaiian Organic Act, which action was ~~confirmed~~ ^{approved} by the President of the United States of America on December 8, 1941; and

WHEREAS, on September 2, 1942, and February 8, 1943, proclamations were issued by the Governor of Hawaii relating to the partial resumption by civilian officers of their functions and powers; and

WHEREAS, the public safety no longer requires the suspension of the privilege of the writ of habeas corpus or the continuance of martial law;

NOW, THEREFORE, I, INGRAM M. STAINBACK, Governor of Hawaii, acting herein with the approval of the President of the United States of America, do hereby proclaim that the privilege of the writ of habeas corpus is restored and that martial law is hereby terminated throughout the Territory of Hawaii (This proclamation shall in no way affect any prior lawful conviction or any proper application of military orders to persons or activities or any other action heretofore validly taken under the proclamations of December 7, 1941, September 2, 1942, and February 8, 1943.)

omit.

DONE at Iolani Place, Honolulu,
Territory of Hawaii, this
_____ day _____
1944.

8 Sept 44