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October 5, 1942 15 & 16 9:20 A
Col. Bendatzen and Lt. Hall

copy to
Commanding General

Evelyn M. Rudy

10-5-42

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Thurston
Trickett
Washburn
Bedrich
Ray
Smith

- H: ...evacuees from Hawaii go straight to Relocation Centers with as little hesitation as is possible.
- B: Then as I understand it, you have reached a decision at the War Department that if...
- H: ...I say "has been reached," it has not been finally settled but that is the way that things are going.
- B: Well let me restate it then. It looks as though the War Department will decide that if the number of evacuees to be sent from Hawaii is say less than 1500 on a voluntary basis, that they will be moved direct to Relocation Centers after their arrival at San Francisco.
- H: I wouldn't even put it with the "if". I'd say that regardless of any ultimate amount that may be shipped at the present time it has almost finally been decided to permit the established plan for assembly centers to go through and to throw over the problem of handling subsequent shipments of Japanese evacuees onto the shoulders of War Relocation Authority.
- B: Well of course if you are going to have more than 1500...
- H: What's that?
- B: If you are going to have more than 300 families coming in over a rather relatively brief interval of time for instance, then I would recommend that we keep Tanforan or some other appropriate center nearby available as an overnight stopping point, or as what you might call a "Collecting Station" or "Receiving Point".
- H: Right.
- B: But that in turn, must rest upon what is decided and ought to be decided right away with regard to the number - what General Emmons wants to do, I assume will control, won't it?
- H: The Operations Division told General Emmons that if he wishes to export more than 3,000, he would have to give 4 months notice.
- B: They did?
- H: Yes.

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B: If they wished to export more than an aggregate of 3,000 he would have to give 4 months notice.

H: Right.

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B: And they told him that when?

H: July 1st, approximately.

B: And has that been reaffirmed?

H: That has not been reaffirmed, but reference is made in General Emmon's cable to those particular letters.

B: I see. Now who has started this...(interrupted by Lt. H.)

H: ...conditions...(interrupted by Col. B.)

B: Who has reopened this, - General Emmons or the War Department?

H: General Emmons.

B: Well, I understand that he doesn't particularly desire to ship any appreciable numbers.

H: Well I think that's so, although originally he had that very much in mind.

B: But has since changed his mind.

H: And the situation has been made clearer to him, as far as the economic.

B: I see. Then the chances are there will not be a large shipment.

H: I don't think that General Emmons plans more than 5,000 at the most.

B: More than 5,000 at the most.

H: But that is subject to confirmation.

B: That is subject to confirmation and is a request to him en route? Since yesterday?

H: Well that is what I am going to advise, or suggest to Operations.

B: Well I think they ought to get on the horse if they can, today.

H: But they take the position that in view of the fact that he does not talk about 4 months or anything like that, that he has a very small number in mind.

B: Well then as I understand it he has already been advised that if the number to be shipped exceeds 3,000 he must give 4 months notice.

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H: That is correct.

B: Also it appears that he has ~~since~~ ^{RESTRICTED} changed his mind regarding the shipment of appreciable numbers and is now of the view that that is not the course he desires to follow.

H: I would say that that is correct.

B: Fine. Well then if you could suggest to Operations that it would be appropriate for them to get it nailed down today and tomorrow I think everything would be straightened out.

H: Well that is what I had in mind.

B: That's fine. Keep me advised.

H: Now one thing on this, Colonel, you are not I don't imagine very familiar with the Hawaiian situation as far as martial law and what proclamations may or may not have been issued.

B: I have a pretty good idea. I had quite a session here with General Green.

H: You did?

B: Yes. And I thought if we were ever going to head toward it that I probably should go over there and have a look, but the way it looks now that is not particularly indicated but I have an idea, yes.

H: Well now General Emmons is apparently planning to proceed on a voluntary basis to begin with, but with some coercive powers if necessary, and it becomes for that reason essential to look into what his powers are as far as evacuation of citizens.

B: Well I think more important is the consideration of what our powers are after they get here. I think as far as his powers are concerned, it is up to the Executive Department of the Government to decide what his powers are. I think if the power to evacuate is necessary, he has it.

H: Under 9066.

B: No! Under the suspension of the writ.

H: Well, wouldn't it be wise regardless of what his rights are under martial law, wouldn't it be wise to have another barrel to your gun? - And issue a proclamation similar to one issued by General DeWitt.

B: Well I think that as a military commander acting under the authority of the Commander in Chief in his military capacity, that through the chain of command from top-side down to General Emmons, - yes - it probably would be appropriate. But not essential. In other words the formalization of

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these things is not essential in any case to the validity of the action. But it is merely as you would agree, some written evidence of it.

H: And it's pretty good public relations on that **RESTRICTED**

B: Well I think so too, yes. In other words Emmons doesn't have to act under 9066 but if the Secretary of War designates him as a Military Commander under 9066 he certainly can act under it.

H: Yes.

B: But having powers of martial law he's acting under a wholly separate line of executive authority. But he can combine them. He can do both. And of course having the powers of martial law to back it up, he has all the sanctions he needs because he has his own courts.

H: Yes.

B: So he's in a better position - a more favored position than the other Military Commanders are. But I would agree with you that possibly a proclamation would be appropriate.

H: And then do the evacuation under both of the powers.

B: Well, yes.

H: Military Commander and 9066.

B: As I see it, Hall, his powers under the martial law situation serve as sanction for anything else he does.

H: Yes.

B: In other words we don't have that sanction. We have Public Law 503 as sanction. And we depend upon the Federal Courts as administered through the U. S. Attorneys and the Justice Department for the sanctions. He's in a better position however, than we are.

H: Yes.

B: He doesn't have to depend on that, but he can. He can depend on both.

H: Well then you raise the problem of what happens when they get here ... what is the control. I suppose the control could be made to be similar to the control which you've had over your persons of Japanese ancestry.

B: Well yes, it could be and in order to do that in accordance with our yesterday's recommendation, they should be hauled by this headquarters and come into the custody of the Commanding General of this headquarters if only momentarily. Then he would implement the movement by an appropriate proclamation.

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H: I see.

B: Putting them under his control until they get to the new Military Area of the Relocation Center in the interior. That would be my thought, off-hand.

H: Yes. What is the coerce of force or sanction that applies to the persons of Japanese ancestry while they are moving from Assembly Centers to Relocation Centers?

B: Well it's on the theory that they're in the custody of this headquarters under the Proclamation and the Restrictive Orders that the constructive sort of custody seems to attach. They haven't been released. Now that theory isn't my theory. It's the theory that was advanced by the Justice Department.

H: Yes.

B: I don't know that I subscribe to it because I don't know that it is entirely safe. I'd rather depend on something that is a little more realistic. And as a matter of fact we do. We have Military Police on the train. Therefore we are relying on something a little more realistic.

H: And the habeas corpus would be pretty hard to get one out on the train.

B: That's right.

H: All right sir, thank you very much.

B: You're welcome.

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