

## The Alien Enemy Program---So Far

By James Rowe, Jr.

In any "progress report" on the government's alien enemy program since Pearl Harbor, it will be observed that the policies under which the government is operating are still in flux. The patterns are beginning to emerge, but the nation has far to go before they crystalize into routine administration "for the duration."

In discussing "alien enemies"--those million human beings in America cursed by this unsatisfactory and legalistic description--a basic frame of reference ought to be recognized at the outset.

1. A nation at war safeguards its internal security above all else. Nothing must be allowed to injure that security. To survive long enough to win its war, any State--including the strong democracy which is the United States--must resolve strong suspicion about and all individuals in its own favor and against those persons.

2. The use of the fifth column as a tactic of total warfare has infinitely complicated the question where civil liberties end and treason begins--for the alien as well as the citizen. Even the most tolerant and watchful members of this community of states (and this includes the American Civil Liberties Union) are aware of the fifth column's menace. They have watched its operation in Norway and France; they have seen its brilliant technique only too recently in Malaya and Java. They are convinced it exists at home. Gilbert and Sullivan's liberals and conservatives are of one mind in their proper suspicions, though they are not agreed whom to suspect. Time-tested and precedent-minded liberals are properly fearful of "witch hunts," governmental or vigilante; yet in each mind lurks a new and corroding doubt: "This time these charges may well be true, not just excuse for witch hunting"--an unpleasant dichotomy for the liberal.

3. Only the very naive will expect to find this troublesome fifth column primarily centered among enemy aliens. For one thing, they are too amenable of control: the Constitution is no protection to them in time of war. What we know, Hitler knows. The German mind is thorough: his agents have, of a certainty, examined American legal precedents from the First World War. The evidence is sufficiently impressive that these agents have cultivated more fertile fields for purposes of espionage and sabotage--the naturalized and even native-born citizen. These have the protection of the Bill of Rights and a thorough trial by twelve good men. No matter how well-founded the suspicions of the government, it must stand up in court and prove with provable evidence, subject to the niceties of the law, what is often legally unprovable.

3. The huge mass of German and Italian alien enemies (the Japanese centered on the West Coast are regarded as sui generis) are undoubtedly loyal. This recognized by government and individuals alike. They chose our good earth to live on. We American citizens give them, somewhat unselfconsciously, a high mark for their wise choice, because we like America too. But for one reason or another, partly because of executive restrictions or statutory rigidity, partly because of individual fault, they just did not get around to becoming American citizens. They should not now be held up to criticism; for that omission they are paying plenty today.

Nonetheless an unfortunate caveat is necessary. It is easier for the enemy to proselytize among those few who have. in some measure

retained their devotion to the fatherland. The most convenient point for the enemy to start is the outward sign of omission to become an American citizen. So the enemy has undoubtedly done considerable work among the one million alien enemies.

The acceptance of these criteria leads, in my opinion, only to one conclusion: the control of alien enemies must be left entirely to the Federal government. This is no field for amateurs. Anyone having to deal daily with the multitudinous and complex problems revolving around alien enemies must be tough-minded albeit fair-minded; sometimes turn and turn-about, often at one and the same time. These complexities have the experts seem absurd.

Any one who has the temerity to ask the American public for a "hands-off" attitude must, I suppose, also be courageous enough to try to prove that the government is performing this duty satisfactorily. Let us examine what it has done thus far.

With the rise of the Axis pressure-diplomacy and the success of the German armed forces throughout the world, it became apparent to the government long before December 7, 1941 that its house should be put in order. The Department of Justice began planning strong preventive programs ready for immediate action on the inevitable day of reckoning. As the interminable debate over America's foreign policy captured the headlines, planning quietly continued. At least a year before Pearl Harbor the Department began to least possible saboteurs and enemy agents among the German, Italian, and Japanese alien populations. These lists were carefully compiled by Federal Bureau of Investigation agents and submitted for thorough review to a comparatively unknown division, at that time called the Special Defense Unit, whose chief function was the planning of vigorous counter-measures in the event of war.

The Department of Justice was just as surprised as the public by the events of that Sunday afternoon in Hawaii. But it was not unprepared. The powder magazine had been well-stocked, the gun was loaded, the crew well-trained and ready for action. All that remained to be done was a touch of the button. The button was pushed that very Sunday. Attorney General Biddle submitted to the President for his signature a Proclamation providing that Japanese alien enemies deemed dangerous to the public peace or safety were subject to summary apprehension. Similar Proclamations pertaining to German and Italian nationals were issued Monday. The statutory basis for these Proclamations rests on the Act of 1798. Thus the government's policy that in time of war aliens enemies are subject to immediate arrest is one of the oldest traditions of this country.

Twenty-four hours later the FBI had arrested more than 1,000 Japanese aliens. By the end of the week 3,000 German, Japanese, and Italian aliens had been apprehended. In the First World War only 63 alien enemies were apprehended the first day, and the end of the first month found considerably less than 1,000 jailed. These figures are used merely to emphasize the thoroughness of preparation during the months preceding the war.

The figures, however, do not tell just what an alien enemy is. The Act of 1798 defines such a person as an alien, denizen, citizen, or subject of a nation at war with the United States. The term does not mean an enemy who happens to be an alien, but rather an alien who happens to have enemy nationality. It is only a legal term which does no more than describe the nationality of a person; but unfortunately too many Americans and even too many alien enemies themselves are convinced the term's connotations are necessarily restricted to a person who is an alien

disloyal to the United States.

As a rule of thumb (subject of course to many necessary exceptions), it has been decided an alien enemy is every person 14 years or over who is now a citizen or subject of Germany, Italy, or Japan, or every person whose last allegiance was to one of these countries. Austrians who were registered as such in the alien registration of 1940, Koreans, and natives of the Dodecanese Islands have been exempted as groups because of the belief their enemy nationality status was imposed on them against their will. This does not apply to an individual Austrian or Korean, however, if that person is suspected of being a dangerous alien enemy.

The next step was the formal creation by the Attorney General of a new division in the Department of Justice called the Alien Enemy Control Unit, charged with supervision of the million alien enemies. It has set up procedures for hearing and reviewing the cases of those apprehended by the FBI. It puts into effect regulations controlling the travel and other conduct of the alien enemy population. Because not only the FBI but also the Immigration and Naturalization Service, the United States Attorneys, and the State, War, and other government departments must perform many functions relating to alien enemies, it is the function of the Alien Enemy Control Unit to co-ordinate all these activities.

As soon as possible, the Attorney General appointed civilian alien enemy boards in every Federal judicial district to hear the cases of arrested persons. These boards consider the evidence gathered by the FBI and the Immigration Service, interview and cross-examine the affected alien, and then recommend to the Department of Justice what in their opinion should be the ultimate fate of each alien--release, parole, or internment for the duration of the war. More than 100 such boards are now operating in the nation. In districts where there is a large concentration of alien enemy population, such as the Southern District of New York, several have been appointed. Each consists of three or more prominent members of the district. Lawyers, doctors, bankers, businessmen, persons schooled in social work with alien enemy populations, are all well represented.

The recommendations of the boards are forwarded to the Alien Enemy Control Unit, where each case is carefully reviewed. This practice achieves more than a semblance of uniformity on a national scale, thus preventing haphazard application of severe punishment in minor cases, and vice versa. Finally, the Attorney General orders each alien enemy released or paroled or interned depending on his judgment of the facts in each case. Interned aliens are transferred to the custody of the Army.

The single test involved is that no chances can be taken, that any substantive doubts must be resolved in favor of the government. The number of persons apprehended since the beginning of the war exceeds 8,000 at this writing. So far internments have run about 50 per cent of the cases heard; 33 per cent have been placed on parole, and 17 per cent have been released. Those paroled must report twice a week to the Immigration and Naturalization Service office in their district; a citizen sponsor is also assigned to each. No one expected all those apprehended were guilty. Apprehension as an alien enemy on suspicion of fifth column connections is not the same process as arrest of a citizen on a criminal charge. Further, in the first few weeks, the government took absolutely no chances on anyone.

The FBI agents have been thoroughly trained for this work. While their training course insists on the scrupulous avoidance of Gestapo tactics, they are also taught not to take chances adversely affecting this country's welfare, which might allow a spy to remain at large or a saboteur to complete his work. A short time spent in custody by a person who has been erroneously suspected--while a definite hardship on the individual--is a small price to pay when weighed against the lives of American

workers or the continued operation of plants supplying American soldiers. The purpose of the civilian hearing boards is to weigh considerations of the internal security of the nation against evidence pointing to suspicious activities of individuals. If any injustices are done, the technique exists specifically to remedy them as soon as possible, while at the same time temporary detention safeguards of nation.

The other main phase of the government's program is concerned with the general control of the alien enemy has been required to complete a detail life questionnaire as the basis for a certificate of identification which bears his photograph and fingerprints. He must carry this at all times. If he travels outside the community where he lives (except when commuting to work), he must give complete information about the nature and destination of his trip and carry with him a form indicating this information has been received by the United States Attorney. Alien enemies cannot make airplane trips and cannot change their place of residence without the permission of the United States Attorney.

Beside the travel regulations, all alien enemies have been forced to surrender radio transmitters, short-wave radio receiving sets, cameras, firearms, and certain other dangerous articles. These regulations are rigorously enforced. The FBI has conducted thousands of searches and has arrested many alien enemies for possessing prohibited articles. The penalty for possessing these is severe, and includes internment for the duration of the war.

This, then, is a summary of the government's alien enemy program so far. It has, on the whole, worked satisfactorily. To be sure, the policies which are being followed have provoked considerable criticism. A large, somewhat vociferous group insists the Department of Justice is "coddling" obvious enemies of the nation. A numerically smaller group believes, on the other hand, that the government has been too ruthless in surveillance of a large number of persons who happen not to be American citizens and who, through the accident of birth, are becoming innocent victims of national vengeance against our enemies. This was expected by government administrators; there is nothing noteworthy in the complaints except for the present disinterest in the problem by the great majority of American citizens. If history is here a logical guide, such disinterest will not long continue.

The problem of the alien enemy has, so far, been met. The dangerous ones are where they should be; the others have been subjected to irritating but, I think, not too confining restrictions on their normal lives. The government administrator can not forget his primary duty to secure the national safety, yet must not forget it is unnecessary to sacrifice the substance of democracy while his countrymen battle in foreign lands to preserve its form.

Several major questions of policy lie ahead. They have not yet been decided and, at this point, only their general nature can be indicated.

Under the original Proclamation of the President, the Attorney General was given power to evacuate alien enemies from critical military areas. This was undertaken in January on the West Coast, but it was soon apparent that protection of military installations and strategic areas is primarily a military matter.

From the point of view of adequate protection, it does not matter what nationality any or all persons happen to have. The disloyal American citizen is just as dangerous as the disloyal alien. It matters little to the Army whether a saboteur, German or Italian or American, is adequately punished for destroying vital transportation bridge. The Army wants the bridge. It was determined, therefore, that the power of exclusion from any strategic military area must apply against any or all persons, irrespective of citizenship. This sweeping power, it seems clear, should properly be an exercise of military power based wholly on military reasons. Therefore the Attorney General, whose control under the President's Proclamation legally extended only to alien enemies, and the Secretary

of War requested the President to transfer authority to designate such areas from the Department of Justice to the War Department. This was done by Executive Order No. 9066, February 19, 1942. The order has already been enforced on the West Coast and, at this writing, is about to be extended to the East Coast. To insure that the economic and social problem created by evacuations were intelligently met by government officials skilled and experienced in migratory and other social upheavals, the President created by Executive Order No. 9102 at March 18, 1942, the War Relocation Authority.

The future, then, holds the need of integrated co-operation between the War Department and the Department of Justice in working out pragmatically the relationship of alien enemies, who happen to live on either coast of the United States, to military necessity. It will require the utmost in whatever poise and vision is possessed by both Departments to ballance military necessities against the possibility of disaffecting the minds of the great majority of loyal alien enemies. Much will depend on them; their performance over the past five months is a cheering token for future action.

Another pressing matter of policy is whether classes of alien enemies, or individual alien enemies, should be exempted from government restrictions. Many of the protests the government receives are from persons and groups who quite understandably believe the legalistic term "alien enemy" is in some way a badge of disloyalty. There have, for example, been many suggestions that "loyalty boards," similar in form to the hearing boards, be set up to determine the loyalty of each alien. When one remembers Thomas Mann is today an alien enemy and possibly subject to evacuation from the West Coast shoreline, this exemption program has understandable plausibility.

It has often been suggested that political refugees from Hitler's reign of terror be exempted as a class or, at least, be given the opportunity as individuals to prove their activities against the Axis. Yet there are disinterested arguments against such exemptions. They would, for instance, be unpopular with such groups as the Italian alien enemies who have lived here most of their lives but who, for one reason or another, have neglected naturalization. This is often true of women born in Italy, who traditionally are interested only in their homes and hearths. When the English experience is cited as aptly analogous, its American exponents are prone to emphasize the similarities and neglect the differences. England had only 80,000 alien enemies; there are five times that many in New York City alone.

There are almost insuperable administrative difficulties. It would take years to hold individual hearings. Experience has shown such hearings to be valueless without the intensive investigations which precede the alien enemy hearing board proceedings. Only specially trained investigators of the FBI can be relied upon to do this work. They are already overburdened with tasks much more immediately vital to the nation's security. And to provide another adequate staff of comparably skilled investigators would take years of training.

The "loyalty board" technique might also not be conclusive. The trained espionage agent or saboteur is probably sufficiently skilled to manufacture evidence of his loyalty convincing enough to delude the board into giving him a loyalty certificate. This would be a sufficient badge later to throw off doubts or suspicions which might lead to his ultimate exposure. And the loyal alien, on the other hand, might not because of lack of education or understanding or intelligence be able to marshal in his own behalf sufficient proof of his loyalty. He might place himself in a position worse than that he enjoys today and thereafter be stigmatized as not loyal.

There is also the great danger of exempting groups as groups; within each are undoubtedly dangerous and disloyal individuals who use them as protective cloaks for their activities.

At any rate, the problem is now under exhaustive study by the government agencies concerned.

As in so many other fields, "total war" has brought bitterly complex problems to enemy population. Those in the government charged with the responsibility of controlling them are attempting to meet these problems with intelligence and disinterest, with the single goal of serving the nation best. Where the solutions will lead us as a nation cannot yet be seen. But today we can at least say we are beginning to chart the way that lies ahead.

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From Common Ground

Issue--Summer\*\*\* 1942