

WORLD WAR II ALIEN ENEMY CONTROL PROGRAM CURRICULUM GUIDE AND LESSON PLANS

LESSON PLAN THREE: *“The Alien Enemies Act and Due Process”*

APPROPRIATE GRADES/COURSES: 8-14, U.S. History, Civics, American Government

TOPIC BACKGROUND SUMMARY:

In the hours immediately following December 7, 1941, President Franklin Delano Roosevelt signed Presidential Proclamations 2525, 2526, and 2527. Those proclamations were issued under the authority of the Alien Enemies Act (see below: Alien Enemies Act, Title 50, sec 21-24, United States Code). The Alien Enemies Act specifies that citizens of enemy nations can be “apprehended, restrained, secured and removed” due to a declared war or actual, attempted, or threatened invasion of the United States. The Alien Enemies Act declared that all German, Italian, and Japanese aliens over age fourteen were now defined as “enemy aliens.” They were required to register and carry certificates of identification. Approximately 600,000 Italians, 300,000 Germans, and 100,000 Japanese registered as enemy aliens who were subject to removal from designated prohibited or restricted areas. They also faced severe restrictions on their freedom of movement and their property rights.

Thousands of German, Italian, and Japanese so-called “dangerous enemy aliens” were arrested and detained under the authority of the “Alien Enemies Act.” After their arrest and detention, the enemy aliens were given brief hearings before an Alien Enemy Hearing Board, not as a right guaranteed under the provisions of the Alien Enemies Act, but as a gesture of what the government considered “fairness“. But the enemy aliens could not have attorneys, they could not know or see or challenge the evidence against them, they could not call witnesses on their behalf, and there were no procedures for appealing the government’s decision. Still, on the basis of the brief hearings, approximately half of the enemy aliens who went before hearing boards were sentenced to permanent internment.

31,275 enemy aliens were detained and interned in Justice Department camps under the provisions of the Alien Enemies Act--16,845 Japanese 10,905 Germans, and 3,278 Italians. One of the provisions of the Alien Enemies Act was that the government could also “remove” enemy aliens from their homes, if they happened to live in areas that the government designated as “prohibited” or “restricted.” Thousands of Italian, Japanese, and German enemy aliens, many with children who were American citizens, were forced to move from their homes. Eventually, as a result of national security measures which began with the enforcement of the Alien Enemies Act, tens of thousands of Japanese American citizens were removed from the West Coast.

The Alien Enemies Act is still in effect. The Act effectively eliminates traditional legal provisions for the issuance of a *writ of habeas corpus* (see below). In the event of a future declaration of war by the United States against any foreign power, citizens of that foreign power living in this country would be subject to the provisions of the Alien Enemies Act. There is considerable debate among historians, civil and human rights advocates, and national security officials over whether the Alien Enemies Act needs revising in order to prevent the civil rights abuses of the past, at the same time that it provides proper protection of the United States during a national emergency.

ESTIMATED TIME OF COMPLETION OF LESSON PLAN:

Flexible: one, two, or three days. The lesson plan's length can be adjusted to one, two, or three days, by eliminating some of the activities described below, and shortening others.

STUDENT OBJECTIVES:

Review and understand the history and language of the Alien Enemies Act.
Review and understand the various amendments to the Constitution covering issues of due process.

Review and understand *writs of habeas corpus*.

Understand the various provisions of the WWII Alien Enemy Control Program, especially provisions for a hearing before a panel of citizens from the region in which the enemy alien resided.

Understand how national security measures collide with issues of due process and human rights during times of war.

Understand the constitutional issues underlying the Alien Enemies Act and the Alien Enemy Control Program.

MATERIALS:

Printed copies of the **Topic Background Summary** (see above)
Printed hand-outs defining **Key Terms/Concepts** (see "Lesson Plan One")
Printed copies of **Article 1, Section 9, Paragraph 2**, U.S. Constitution re: suspension of *writ of habeas corpus* (see below)
Printed copies of the **Fourth, Fifth, Sixth, and Fourteenth Amendments** to the Constitution (see below)
Printed copies of the **Alien Enemies Act** (see "Lesson Plan One")
Printed copies of **Instructions to Alien Enemy Hearing Boards** (see below)

TEACHER PREPARATION:

Before unit begins:

Distribute above materials. Instruct students to read the material as homework.

Prepare list of discussion questions surrounding Alien Enemies Act. Some suggested questions:

Was the Alien Enemies Act necessary during WWII? If so, why? If not, why not?

Is the Alien Enemies Act so general in its provisions and language that it invites civil and human rights abuses? Where should it be more specific?

Should the Alien Enemies Act include language restricting or limiting the government's actions?

Should the Alien Enemies Act contain specific guarantees of due process?

Is the Alien Enemies Act necessary today? If so, why? If not, why not?

Where is the United States most vulnerable in times of war?

Should aliens be entitled to the same rights as U.S. citizens?

How do civil rights differ from human rights, if at all?

Is ethnic or racial profiling a legitimate strategy for national security precautions?

During World War II, was it appropriate for the government to consider German, Italian, and Japanese aliens as especially dangerous with respect to the possibility of sabotage or espionage?

Are there national security circumstances in the country that justify the suspension of the *writ of habeas corpus*?

PRE-UNIT STUDENT HOMEWORK:

Read copies of the **Topic Background Summary**

Read hand-out defining **Key Terms/Concepts** (see Lesson Plan One)

Read copies of the **Fourth, Fifth, Sixth, and Fourteenth Amendments** to the Constitution (see below)

Read definition of a **Writ of Habeas Corpus** (see Lesson Plan One, and: en.wikipedia.org/wiki/Habeas_corpus)

Read copies of the **Alien Enemies Act**

Read copies of **Instructions to Alien Enemy Hearing Boards.**

(Optional) Assign student reading of the David Cole essay "Enemy Aliens and American Freedoms." This is an essay by the Constitutional scholar David Cole, which can be accessed at: www.thenation.com/doc/20020923/cole

(Optional) Assign students to visit the Web site www.gaic.info and review at least three of the enemy alien case histories posted there.

(Optional) Assign students to visit the Web site: www.itvs.org/facetoface, which presents verbal case histories drawn from the Japanese communities and Muslim/Arab communities.

PERIOD ONE--CLASSROOM ACTIVITIES:

For the Teacher and students, first half of period:

Discuss and define the following terms: due process, civil rights, human rights, national emergency.

Suggested questions for classroom discussion:

Was the Alien Enemies Act necessary during WWII? If so, why? If not, why not?

Is the Alien Enemies Act so general in its provisions and language that it invites civil and human rights abuses? Where should it be more specific?

Should the Alien Enemies Act include language restricting or limiting the government's actions?

Should the Alien Enemies Act contain specific guarantees of due process?

Is the Alien Enemies Act necessary today? If so, why? If not, why not?

Where is the United States most vulnerable in times of war?

Should aliens be entitled to the same rights as U.S. citizens?

How do civil rights differ from human rights, if at all?

Is ethnic or racial profiling a legitimate strategy for national security precautions?

During World War II, was it appropriate for the government to consider German, Italian, and Japanese aliens as especially dangerous with respect to the possibility of sabotage or espionage?

Are there national security circumstances in the country that justify the suspension of the *writ of habeas corpus*?

Are aliens entitled to the same due process guarantees as citizens?

For the students: last half of period

Watch the fifteen minute DVD (see below): "Here, In America?"

PERIOD TWO--CLASSROOM ACTIVITIES:

For the teacher:

Divide the class into five or six groups, four or five students to a group.

Instruct each group to select a group discussion facilitator/recorder.

Distribute copies of the **Alien Enemies Act** to each student.

Deliver the following directions:

THE WAR AGAINST HUZARASTAN

The nation of Huzarastan, led by the dictator Enver "Bruno" Zegman, has claimed responsibility for setting off a low yield suitcase atomic bomb in the New York financial district. 250,000 people have died. The President, with Congressional approval, has declared war against Huzarastan. Meanwhile, there is considerable fear throughout the U.S. over more atomic bomb attacks by Huzarastan terrorists.

In the years before the declaration of war against Huzarastan, 250,000 immigrants were legally admitted to the United States as Huzarastan refugees. Approximately a quarter of them have been granted U.S. citizenship. The media has repeatedly reported rumors of espionage and sabotage and terrorist plots by Huzarastan refugees, most of

whom live in close-knit ethnic communities on the East and West Coasts.

The Huzare people are a mix of various ethnic, racial, and religious identities. They are dark skinned, very tall and slender, and many of them wear brightly colored knit skull caps as a mark of their national pride.

You and your group are to consider yourselves members of a National Security Council, charged with quickly rewriting the Alien Enemies Act so that it includes provisions for safeguarding the nation from would-be internal enemies during the war against Huzarastan. As you revise the Act, you are to take into consideration the successes and failures of the Alien Enemies Act as it was implemented during World War II. The most important part of your task is to insure that no part of your revised Alien Enemies Act seems to permit or invite violations of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the Constitution. You must also consider whether or not you want the language of the Revised Alien Enemies Act to include provisions covering the treatment, including the possibility of torture, of enemy alien detainees and internees.

For the students:

Each group will work the rest of the period on revisions to the Alien Enemies Act. As they work in groups, they will be expected to draw on several resources for their own thoughts: the existing **Alien Enemies Act**; the **AWRIC** video, David Cole's essay, the **Fourth, Fifth, Sixth, and Fourteenth Amendments** to the Constitution, and the **Instructions to Alien Enemy Hearing Boards**.

PERIOD THREE: CLASSROOM ACTIVITIES

For the students:

Group leaders present each group's Revised Alien Enemies Act to the rest of the class. Each presenter will be expected to briefly answer questions from the class. At the end of the period, the entire class will vote which Revised Alien Enemies Act to officially adopt.

For the teacher:

Have entire class vote on which Revised Alien Enemies Act they would ratify.

KEY TERMS/CONCEPTS:

See "Lesson Plan One" for a glossary of key terms and concepts.

THE FOURTH AMENDMENT:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly

describing the place to be searched, and the persons or things to be seized.

THE FIFTH AMENDMENT:

No person . . . shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

THE SIXTH AMENDMENT:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed . . . [The accused shall have the right to] be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witness in his favor, and to have the assistance of counsel for his defense.

THE FOURTEENTH AMENDMENT:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

ARTICLE 1, SECTION 9, PARAGRAPH 2, U.S. CONSTITUTION:

The privilege of *the writ of habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

INSTRUCTIONS TO ALIEN ENEMY HEARING BOARDS, January 8, 1942:

A board, consisting of representative members of the community, has been appointed in each judicial district in which alien enemies have been apprehended, comprising a chairman and two or more members to hear and recommend to the Attorney General the disposition which should be made in each case.

Three members of a Board shall consider each case.

The Attorney General has appointed to the Boards men prominently associated with the life of the community in which they live, and in whose understanding and judgment he has complete confidence.

The Board should be appointed for the district of [the alien's] residence, or the district in which he was apprehended.

All alien enemies are subject to detention and internment for the duration of the

war, without hearing, which hearing has however been provided, not as a matter or right, but in order to permit [alien enemies] to present facts in their behalf.

The Board may consider the evidence or reports presented by the United States Attorney before the alien is brought before it.

If the Board desires to question the alien, care should be taken to observe so far as necessary, the public policy against revealing confidential information or confidence sources of information.

Evidence on behalf of the alien may be presented by affidavits or by affidavits or by oral testimony.

The Board should determine in its discretion how many witnesses should be heard.

The alien may be accompanied at the hearing by a relative (or other advisor) who will not be permitted to object to questions or make any argument concerning any evidence or any phase concerning any evidence, or any phase of the proceeding, or otherwise to act as an attorney.

It is not necessary to make a complete stenographic report of all hearings or all the testimony of all the witnesses or the testimony of any witness.

The paroled alien will also be required to report weekly or at such intervals as may be directed . . . to the District Parole Officer.

The Attorney General [shall] review each recommendation of the Hearing Boards and enter the final order.

ONLINE/MEDIA RESOURCES:

The Assembly on Wartime Relocation and Internment of Civilians (AWRIC) was held in April 2005 at Hastings College of the Law in San Francisco. The public testimonial event involved over 23 community organizations and more than 64 participants. The historic gathering served to document and preserve the little known World War II internment stories of immigrants of German, Italian, and Japanese ancestry (in the U.S. and from Latin America). The AWRIC presented a dramatic and personal record of how wartime government policies and actions led to civil liberties abuses of individuals and communities in the name of “national security.” Highlighted are remembrances of individuals and families who were among over 31,000 “potentially dangerous” people interned under the WWII enemy alien program.

A DVD of the program, produced by Peek Media, is entitled “Here, In America? The Assembly on Wartime Relocation & Internment of Civilians.” The DVD provides a succinct overview of the event and the witnesses. A complimentary copy of the DVD is enclosed in the Enemy Alien Curriculum Package. For more information and to order additional copies of the AWRIC DVD or the accompanying report, contact the National Japanese American Historical Society, 415-921-5007, njahs@njahs.org. Running time of the CD is approximately fourteen minutes.