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THE WHITE HOUSE
WASHINGTON

Date 12/8/75

TO: Phil Buchen

FROM: DUDLEY CHAPMAN

Bob Hartmann's memo
is exactly what we
recommended. No further
action needed.

For filing
J.



THE WHITE HOUSE
WASHINGTON


December 5, 1975

Dudley,

For a prompt turn-around, please.

Thanks.

Phil Buchen



THE WHITE HOUSE

WASHINGTON

November 28, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT T. HARTMANN *RTH*

SUBJECT: Proposed Rescinding of Executive Order
9066 which Authorized the Internment of
Japanese-Americans during World War II.

In addition to the initial request from Governor Evans, other correspondence has been received from Members of Congress, Japanese-American businessmen, and others, endorsing the suggested rescission and public repudiation of the Executive Order which was signed by President Roosevelt in 1942. Copies of these letters and background information on the Executive Order are collected at TAB A.

The proposal for Presidential action, which was originally referred for comment to Mr. Buchen, has been referred for further comment to the Attorney General, and to Mr. Marsh, Mr. Buchen, Mr. Lynn and General Scowcroft. Their individual comments are collected at TAB B. Inquiries regarding the political impact among the Japanese-American community have been made by my staff.

Two occasions have been suggested as appropriate for such a Presidential declaration: (1) the 34th anniversary of the issuance of the Order, next February 19 and (2) on December 7 in Hawaii, upon your return from China.

The consensus view is that it would be an excellent political idea to recognize the contributions of Japanese-Americans in World War II and to publicly deplore the ordeal undergone by those Japanese-Americans who were evacuated from the West Coast as a result of the internment order. However, the strong consensus of all, both in the White House and among the Japanese-American community, is that raising the issue on Pearl Harbor Day would be politically unwise if not disastrous -- particularly in Hawaii where sensitivity to the Pearl Harbor attack is still deeply felt among members of the Japanese-American community. See Mr. Calkins' memo at TAB C.

As pointed out by Mr. Buchen and Mr. Lynn, there is a risk that a legal proclamation of rescission will appear senseless and unnecessary, since the Order, operative only during World War II hostilities, has long ceased to have any legal effect. Such a legal proclamation may also raise extraneous issues which might be better left at rest. For example, there exists a very small minority of Japanese-Americans who seek additional reparations for alleged damages resulting from the internment. Creating the impression that the Order still had legal existence might unnecessarily fan the embers of hope for their cause.

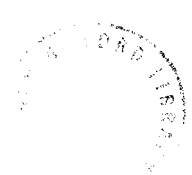
The appropriate course of action would seem to be the issuance of a proclamation or commemorative statement, carefully drafted so as not to raise legal issues, recognizing the loyalty and long record of contributions by Japanese-Americans, both of those who fought in World War II and those who were displaced as a result of the Executive Order.

RECOMMENDATION: That February 19 be set as a target date for such a proclamation, unless another logical occasion presents itself in the meantime. Consideration could be given to bringing in representatives of the Japanese-American community for a White House ceremony. (The four Japanese-American Members of Congress are all Democrats, and two of them are thinking of taking on Senator Fong next year, but they would certainly have to be included in any such ceremony.)

Approve _____

Disapprove _____

cc: Mr. Cheney
Mr. Buchen ✓
Mr. Marsh



TAB
A





WASHINGTON OFFICE

JAPANESE AMERICAN CITIZENS LEAGUE

1730 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20036

(202) 223-1240

NATIONAL HEADQUARTERS, JACL
DAVID E. USHIO, NATIONAL DIRECTOR
SUTTER
1765 SUTTER STREET
SAN FRANCISCO, CALIFORNIA 94115
(415) 921-5225

WAYNE K. HORIUCHI
WASHINGTON REPRESENTATIVE

November 14, 1975

Mr. Gerald R. Ford
The White House
Washington, D.C. 20500

Dear Mr. President:

This is to transmit a request by the Japanese American Citizens League (JACL) that you rescind Executive Order 9066, which led to the internment of 112,000 Americans of Japanese ancestry in American concentration camps during World War II. The Order was issued on February 19, 1942 by President Franklin D. Roosevelt and remains in effect to this day, symbolic of a dark period in the history of the United States when the rights and privileges of citizenship were denied a group of Americans - as a matter of public policy and solely on the basis of race.

The JACL is an organization of 30,000 members with 98 chapters throughout the United States which not only represents the interests of Japanese Americans, but is also committed to the extension, enhancement and preservation of the fundamental human and civil rights of all Americans. We are therefore most concerned that the instrument which led to the deprivation of the rights and liberties of so many be cancelled and removed as a blot from among the laws of the land.

We have attached letters from many prominent and distinguished individuals who support the Japanese American Citizens League in this request. The following individuals urge rescission of Executive Order 9066:

The Honorable Hiram L. Fong
The Honorable Daniel K. Inouye
The Honorable Spark Matsunaga
The Honorable Norman Y. Mineta
The Honorable Patsy T. Mink
Mr. William Hosokawa, Associate Editor of the DENVER POST
Mr. Jack Kusaba, Senior Vice President, Sumitomo Bank of California
Mr. William Marumoto, Former Special Assistant to President Nixon

Mr. Joseph L. Rauh, Jr., Counsel, Leadership Conference
- On Civil Rights
Mr. Edwin O. Reischauer, former Ambassador to Japan and
Professor at Harvard University
Mr. Shigeki Sugiyama, President of the Japanese American
Citizens League


We hope that other letters will be forthcoming in the immediate future.

As background information we have enclosed a chronology of the implementation of Executive Order 9066, a copy of the original executive order, and the Civilian Exclusion Orders which were issued by the Army pursuant to Executive Order 9066 and subsequently caused the evacuation and internment of the Japanese American.

In addition, the Congress of the United States is considering the repeal of Title 18, USC 1383, which gave statutory sanction to Executive Order 9066. The House has voted 388 to 4 for repeal while the Senate will consider it shortly. Part of the House Judiciary Report is also enclosed.

We respectfully request your most serious and favorable consideration to rescind Executive Order 9066.

Sincerely,



Wayne K. Horiuchi
Washington Representative



David Ushio
National Executive Director

Enclosure

I. Endorsement Letters

II. Informational Attachments:

Letter from Office of Governor Daniel J. Evans
Chronology of E.O. 9066
Copy of E.O. 9066
Copy of Civilian Exclusion Orders
Judiciary Committee Report on National Emergencies

I. ENDORSEMENT LETTERS

United States Senate

WASHINGTON, D.C. 20510

November 4, 1975

Mr. Wayne K. Horiuchi
Washington Representative
Japanese American Citizens League
1730 Rhode Island Ave., N.W., Suite 204
Washington, D.C. 20036

Dear Mr. Horiuchi:

I am writing to express my wholehearted endorsement of the Japanese American Citizens League in its efforts to encourage rescission of Executive Order 9066, under which evacuation of persons of Japanese ancestry was carried out during World War II.

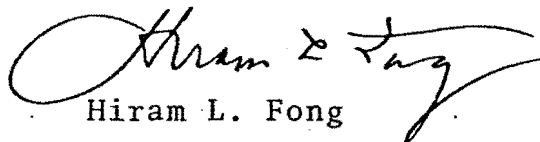
I have been privileged to know the JACL for many years and fully endorse your organization's goals and historical record of achievement.

The action to evacuate and intern 110,000 persons of Japanese ancestry in relocation camps was a human tragedy in American history.

As a member of the Senate Judiciary Committee concerned with issues of civil liberties, I believe favorable consideration should be given the rescinding of Executive Order 9066.

With best regards and aloha,

Sincerely,



Hiram L. Fong

HLF:lnm

Congress of the United States

House of Representatives

Washington, D.C. 20515

November 11, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I am writing in support of the Japanese American Citizens League's request that Executive Order 9066, signed by President Franklin Delano Roosevelt on February 19, 1942, be officially rescinded.

Executive Order 9066 was responsible for the internment of over 112,000 persons of Japanese ancestry, over two-thirds of whom were American citizens.

February 19, 1976 will mark the 34th Anniversary of the signing of Executive Order 9066 and it would be a fitting gesture if the order were formally rescinded by you on that date.

I am certain that we all recognize that the internment of the 112,000 persons during 1943-45 was a grave injustice and constitutes a shameful blot on the history of our nation. If there is any lesson to be gained from Executive Order 9066, it is not that the incredible did happen in America, but that it must never again be allowed to happen to any group anywhere under the American flag.

In 1971 Congress took a step to insure that the terrible injustice of Executive Order 9066 would never be repeated. Title II of the Emergency Detention Act of the Internal Security Act of 1950 was repealed after a three year effort on my part. I was privileged to have your support in that effort on the floor of the House.

I believe that the opportunity to take the second step is here. The rescission of Executive Order 9066 will surely be one of the highlights of America's

The President
November 11, 1975
Page Two

Bicentennial and proof that our nation will not let
past injustices be ignored and uncorrected.

I therefore strongly urge your serious consi-
deration to rescind Executive Order 9066 on
February 19, 1976.

Aloha and best wishes.

Sincerely,

A handwritten signature in cursive script, reading "Spark Matsunaga". The signature is written in dark ink and is positioned above the printed name and title.

Spark Matsunaga
Member of Congress

NORMAN Y. MINETA
MEMBER OF CONGRESS
13TH DISTRICT, CALIFORNIA

COMMITTEES:
PUBLIC WORKS AND
TRANSPORTATION
POST OFFICE AND CIVIL SERVICE

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON OFFICE:
510 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-2631

DISTRICT OFFICES:
GOLDEN PACIFIC CENTER
1245 S. WINCHESTER BLVD.
SUITE 310
SAN JOSE, CALIFORNIA 95128
TELEPHONE: (408) 984-6045
7951 WREN AVENUE
SUITE D
GILROY, CALIFORNIA 95020
TELEPHONE: (408) 847-2664

November 6, 1975

The President
The White House
Washington, D.C.

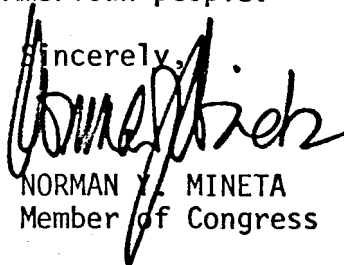
Dear Mr. President:

On February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, thus authorizing the U.S. military to evacuate and intern 112,000 American citizens of Japanese ancestry to "relocation camps."

As a result of this action, loyal Japanese-American citizens were subjected to a tragic injustice never before and never since incurred by a minority segment of the American people. In addition to bearing the moral injustice of this Order, many families suffered the mental anguish and economic consequences of leaving their homes and businesses behind.

As one who personally experienced this internment during World War II, I respectfully urge you to rescind E.O. 9066, thus removing this ignominious mark on American History and restoring honor and justice to the Japanese-American people.

Sincerely,



NORMAN Y. MINETA
Member of Congress

NYM/aw

PATSY T. MINK
SECOND DISTRICT
HAWAII

NOV 10 REC'D

OFFICES:
WASHINGTON, D.C.
2338 RAYBURN BUILDING
PHONE: 225-4906

HONOLULU, HAWAII
346-348 FEDERAL BUILDING
PHONE: 831-4602

WAIPAHU, HAWAII
94-801 FARRINGTON HIGHWAY
PHONE: 671-0170

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 6, 1975

COMMITTEE ON EDUCATION
AND LABOR (ON LEAVE)
SELECT SUBCOMMITTEE ON EDUCATION
GENERAL SUBCOMMITTEE ON EDUCATION
SUBCOMMITTEE ON EQUAL OPPORTUNITIES

COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS
SUBCOMMITTEE ON TERRITORIAL AND
INSULAR AFFAIRS
SUBCOMMITTEE ON NATIONAL PARKS
AND RECREATION
SUBCOMMITTEE ON MINES AND MINING,
CHAIRMAN

COMMITTEE ON THE BUDGET

Mr. Wayne Horiuchi
Washington Representative
Japanese American Citizens League
1730 Rhode Island Avenue, N.W.
Washington, D. C. 20036


Dear Mr. Horiuchi:

I write to strongly support the JACL request to the President encouraging rescission of Executive Order 9066 which ordered the evacuation of 112,000 American citizens of Japanese ancestry to concentration camps.

This Order, used to enforce the evacuation, represents the last legal vestige of an unlawful Act by the Government against its citizens of Japanese ancestry, solely on the basis of race and national origin.

It is therefore incumbent upon the Federal Government to exemplify its determination to rid itself and its people of the temptations of all forms of racism by renouncing Executive Order 9066 forever from the journals of this land. I join the JACL in calling upon the President to rescind this infamous law.

Very truly yours,


PATSY T. MINK
Member of Congress

THE DENVER POST

BILL HOSOKAWA
ASSOCIATE EDITOR

November 11,
1975

Dear Wayne,

I am amazed that Executive Order 9066, the basis for the outrageous legalized discrimination against an American racial minority in World War II, still remains on the statute books.


Today, nearly 35 years after Executive Order 9066 became law, in a time when encouraging progress is being made in the field of civil rights, this infamous measure must be repudiated.

I am happy to learn the Japanese American Citizens League is taking the lead in a drive to have Executive Order 9066 consigned to the scrap heap of historical mistakes where it belongs.

I would like to join other fair-minded citizens, interested in the creation of a better America for all Americans, in urging President Ford to take the necessary steps to rescind Executive Order 9066.

Please let me know how I can help.

Sincerely,



Bill Hosokawa

Mr. Wayne Horiuchi
Washington Representative
Japanese American Citizens League
1730 Rhode Island Ave., N.W.
Washington, D.C. 20036

The Sumitomo Bank of California

SAN FRANCISCO, CALIFORNIA 94119

JACK S. KUSABA
SENIOR VICE PRESIDENT
AND SECRETARY

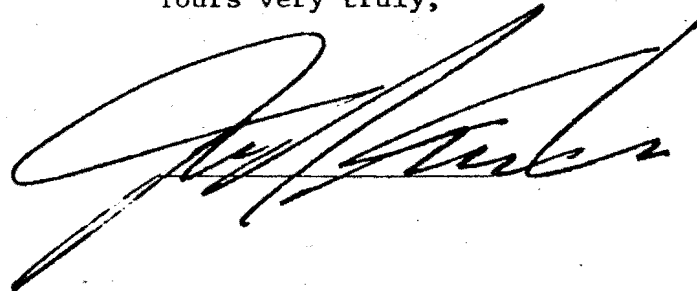
November 11, 1975

Mr. Gerald R. Ford
President of the United States
The White House
Washington, D.C.

Dear President Ford:

As a Japanese American who was evacuated together with my family and some 112,000 American Citizens of Japanese Ancestry from the Pacific Coast in 1942, I respectfully urge that you rescind and publicly repudiate President Franklin D. Roosevelt's Executive Order 9066.

Yours very truly,

A large, stylized handwritten signature in dark ink, likely belonging to Jack S. Kusaba, is written over the typed name. The signature is fluid and cursive, with a prominent initial 'J' and 'K'.

November 21, 1975

The Honorable Gerald R. Ford
President
The White House
Washington, D.C. 20500

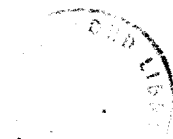
Dear Mr. President:

I write in support of the Japanese American Citizens League who is formally requesting your favorable action to rescind Executive Order 9066; the order which was responsible for the evacuation and internment of 110,000 persons of Japanese ancestry.

This tragic and disgraceful act still stands as a symbol which is antithetical to the American belief in civil and human rights. In this bicentennial year, it would only be appropriate that you favorably consider the rescission of Executive Order 9066.

As a member of the White House Staff under former President Nixon, I am particularly aware of the importance of this act to persons of Japanese American descent.

Sincerely,



LAW OFFICES
RAUH, SILARD AND LICHTMAN
1001 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036

202-331-1795

JOSEPH L. RAUH, JR.
JOHN SILARD
ELLIOTT C. LICHTMAN
HARRIETT R. TAYLOR

October 31, 1975

The Honorable Gerald R. Ford
The White House
Washington, D. C.

Dear Mr. President:

This letter is written in support of the Japanese American Citizens League's request that you rescind Executive Order 9066 signed by President Roosevelt on February 19, 1942 under which more than a hundred thousand American citizens of Japanese ancestry were interned in World War II.

Executive Order 9066 resulted in a great American tragedy. The tragedy lay in our nation turning its back on the high principles and purposes on which it had been founded.

We forgot that a policy of harsh severity toward any group of immigrants and their dependants should be impossible for a country whose lifeblood comes from our immigrant founders and builders.

We forgot that distinctions between citizens because of their ancestry are odious to a free people whose institutions are founded upon the principle of equality.

We forgot that loyalty is a matter of mind and of heart, and not of race.

We forgot that distinctions based on color or ancestry are utterly inconsistent with our institutions, our ideals and our Constitution.

We forgot that under our system of justice, guilt is personal and not inheritable.

We forgot all these things and denied over one hundred thousand persons of Japanese ancestry their constitutional

rights solely because they belonged to a particular race into which they had been born.

Few today would doubt the error President Roosevelt made in promulgating Executive Order 9066. Your rescission of that Order with a ringing "Never Again" declaration will strengthen civil freedom in our country and help bind up long-standing wounds.

Sincerely,

Joseph L. Rauh, Jr.

JLRJr./lj

HARVARD UNIVERSITY

EDWIN O. REISCHAUER

Room 503
1737 CAMBRIDGE STREET
CAMBRIDGE,
MASSACHUSETTS 02138
PHONE (617) 495-3220

November 12, 1975

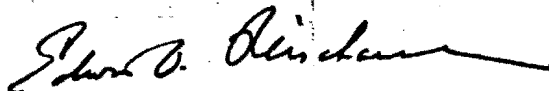
President Gerald R. Ford
The White House

Dear Mr. President:

I understand that the Japanese American Citizens League is formally requesting you to rescind Executive Order 9066, under which the Americans of Japanese descent were rounded up and put into concentration camps in 1942.

As you know, the people of America have long since realized that this act was not only unnecessary but was also grossly unfair and basically un-American, and they have long since attempted to make amends for it, though of course much of the damage can never be undone. To rescind the Executive Order at this late date naturally will not bring substantive changes of any sort, but the mere fact that the Japanese American Citizens League is asking that this should be done shows that psychologically it would be important. I have known and been close to the League for a long time, and, as I am sure you know, it is a fine organization of loyal American citizens doing a responsible and worthwhile job on behalf of a minority that has been unjustly treated in the past. At this time when your most successful visit to Japan a year ago and the equally successful visit here of the Japanese Emperor and Empress last month have come to symbolize a new stage of warmth and a sense of mutual equality in our important relations with Japan, it would be particularly fitting if you were to rescind this Order. It would be the just thing to do, even though it is only symbolic, and it would please our citizens of Japanese ancestry, the many millions of other Americans, like myself, who believe in justice and who value Japanese-American relations, and, I believe, the Japanese government and public as well.

Respectfully yours,



Edwin O. Reischauer

EOR:nkh



JAPANESE AMERICAN CITIZENS LEAGUE

NATIONAL HEADQUARTERS: 1765 Sutter St. • San Francisco, California 94115 • (415) 366-3202
REGIONAL OFFICES: Washington, D.C./Chicago/San Francisco/Los Angeles/Portland/Fresno
David E. Ushio, National Executive Director

November 19, 1975

Mr. Gerald R. Ford
The White House
Washington, D.C. 20500

Dear Mr. President:

It has come to our attention that Executive Order 9066, which led to the mass incarceration of 112,000 persons of Japanese ancestry in American concentration camps during World War II, and was promulgated on February 19, 1942 by President Franklin D. Roosevelt, has never been rescinded. We respectfully request that that Order be revoked.

The language of the Executive Order makes no direct reference to persons of Japanese ancestry. Nevertheless, the broad powers which that order conferred upon the military were applied selectively against citizens and residents of the United States solely on the basis of their race. Thus E.O. 9066 remains symbolic of a time in our history when the awesome powers of the Chief Executive in time of war were directed against a particular racial group in America without regard for the human and civil rights of the citizens affected. It remains as a painful reminder to us Americans of Japanese ancestry that we were once, as a matter of public policy initiated by the Executive and confirmed by the Congress and the Supreme Court, most callously deprived of our constitutional rights and treated as non-Americans unworthy of the rights of citizenship until we proved our loyalty and worthiness with our blood, sweat, and tears.


Equally and perhaps more importantly for all Americans, Executive Order 9066 remains uncanceled even today, available for us against particular groups of Americans. Although we trust that neither you, Mr. President, nor any future President of the United States would even consider reinvoking the provisions of Executive Order 9066, as long as the Order remains "on the books", the people of these United States remain unwittingly and unnecessarily under a threat to their civil liberties.

We note that the Congress of the United States has initiated action under the National Emergencies Bill (H.R. 3884) to repeal section 1383 of Title 18 of the United States Code, which in effect provided Congressional sanction and force to the implementation of Executive Order 9066 in 1942 (by providing criminal penal-

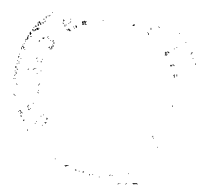
ties for disobedience of orders of the military issued pursuant to the Executive Order). Thus Presidential action to rescind Executive Order 9066 would be not only appropriate, but also timely, particularly as we approach the commemoration of the 200th anniversary of the founding of our great nation and a time to reaffirm our commitment to the ideals of freedom and liberty for all upon which our nation was founded.

On behalf of the 30,000 members and 98 chapters of the Japanese American Citizens League, an organization committed to the concept and to the furtherance of freedom and equality for all, may I request your most serious and favorable consideration of our request for the rescission of Executive Order 9066.

Respectfully yours,


Shigeki J. Sugiyama
National President

II. INFORMATIONAL ATTACHMENTS



Mrs. Gwen Anderson
Page Two
October 3, 1975

of course, lend any assistance possible in this effort, but I believe the citizens of Japanese heritage rather than this office should be the moving force.

Best regards,

Sincerely,

James M. Dolliver
Administrative Assistant

JMD:ks

cc: Dick Allison
Dudley Chapman
Martin M. Matsudaira



CHRONOLOGY OF EXECUTIVE ORDER 9066

December 7, 1941 Pearl Harbor is attacked and war is declared.

February 19, 1942 Executive Order 9066, 7 Federal Regulation 1407 is signed by President Franklin Delano Roosevelt which gave the Secretary of War the authority to designate "military areas" and to exclude "any or all" persons from those areas. Executive Order 9066 began United States military action to evacuate and intern 112,000 American citizens of Japanese ancestry to "relocation camps."

March 21, 1942 Congress passes Public Law 503 codified as Section 1383 of Title 18 United States Code which provides criminal penalties for "Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military areas or military zone prescribed under the authority of an Executive Order of the President, by the Secretary of the Army..." when it appears that the individual knew of the restrictions or order and that his act was in violation thereof. This legislation legally buttressed Executive Order 9066.

March 2 - March 27, 1942 General John L. De Witt issues four public proclamations which initiate the following:

Public Proclamation No. 1: Divides Washington, Oregon, California, and Arizona into two military areas and designates other military areas as "restricted zones."

Public Proclamation No. 2: Sets up four additional military areas in the states of Idaho, Montana, Nevada and Utah.

Public Proclamation No. 3: Instituted throughout the first military area an 8 P.M. to 6 A.M. curfew for all enemy aliens and "persons of Japanese ancestry" and provided that "at all



other times all such persons shall only be at their place of residence or employment or travelling between those places or within a distance of not more than five miles from their place of residence."

Public Proclamation No. 4: Forbade all Japanese, alien and citizens, to leave Military Area No. 1.

March 24, 1943 General De Witt issues first "Civilian Exclusion Order" and the evacuation begins.

June 21, 1943 The Supreme Court of the United States adjudicates Hirabayashi v. United States, 320 U.S. 81, 92 which held that Public Law 503 ratified and confirmed Executive Order 9066.

September 25, 1971 Congress passes Public Law 92-128 repealing Title II of the Internal Security Act of 1950 which eliminated a law which could have provided for concentration camps similar to the evacuation experience. The legislative fight was led by the Japanese American Citizens League.

September 4, 1975 The House of Representatives passes HR 3884 by a vote of 388 to 4 which repeals section 1383 of Title 18 (Public Law 503). The bill now awaits Senate action.

February 19, 1976 This date will be the 34th anniversary of the signing of Executive Order 9066.



THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES
VOLUME 7 1934 NUMBER 38

Washington, Wednesday, February 25, 1942

The President

EXECUTIVE ORDER

AUTHORIZING THE SECRETARY OF WAR TO
PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941,¹ and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other

steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972,² dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 19, 1942.

[No. 90661]

[P. R. Doc. 42-1663; Filed, February 21, 1942;
12:51 p. m.]

EXECUTIVE ORDER

PROVIDING FOR THE TRANSFER OF
PERSONNEL TO WAR AGENCIES

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and by Section 1753 of the Revised Statutes of the United States (U.S.C., title 5,

¹ 6 P. R. 6420.

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THE PRESIDENT

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**WESTERN DEFENSE COMMAND AND FOURTH ARMY
WARTIME CIVIL CONTROL ADMINISTRATION**

Presidio of San Francisco, California

May 3, 1942

**INSTRUCTIONS
TO ALL PERSONS OF
JAPANESE
ANCESTRY**

Living in the Following Area:

All of that portion of the City of Los Angeles, State of California, within that boundary beginning at the point at which North Figueroa Street meets a line following the middle of the Los Angeles River; thence southerly and following the said line to East First Street; thence westerly on East First Street to Alameda Street; thence southerly on Alameda Street to East Third Street; thence northerly on East Third Street to Main Street; thence northerly on Main Street to First Street; thence northwesterly on First Street to Figueroa Street; thence northeasterly on Figueroa Street to the point of beginning.

Pursuant to the provisions of Civilian Exclusion Order No. 33, this Headquarters, dated May 3, 1942, all persons of Japanese ancestry, both alien and non-alien, will be evacuated from the above area by 12 o'clock noon, P. W. T., Saturday, May 9, 1942.

No Japanese person living in the above area will be permitted to change residence after 12 o'clock noon, P. W. T., Sunday, May 3, 1942, without obtaining special permission from the representative of the Commanding General, Southern California Sector, at the Civil Control Station located at:

Japanese Union Church,
120 North San Pedro Street,
Los Angeles, California.

Such permits will only be granted for the purpose of uniting members of a family, or in cases of grave emergency.

The Civil Control Station is equipped to assist the Japanese population affected by this evacuation in the following ways:

1. Give advice and instructions on the evacuation.
2. Provide services with respect to the management, leasing, sale, storage or other disposition of most kinds of property, such as real estate, business and professional equipment, household goods, boats, automobiles and livestock.
3. Provide temporary residence elsewhere for all Japanese in family groups.
4. Transport persons and a limited amount of clothing and equipment to their new residence.

The Following Instructions Must Be Observed:

1. A responsible member of each family, preferably the head of the family, or the person in whose name most of the property is held, and each individual living alone, will report to the Civil Control Station to receive further instructions. This must be done between 8:00 A. M. and 5:00 P. M. on Monday, May 4, 1942, or between 8:00 A. M. and 5:00 P. M. on Tuesday, May 5, 1942.

2. Evacuees must carry with them on departure for the Assembly Center, the following property:

- (a) Bedding and linens (no mattress) for each member of the family;
- (b) Toilet articles for each member of the family;
- (c) Extra clothing for each member of the family;
- (d) Sufficient knives, forks, spoons, plates, bowls and cups for each member of the family;
- (e) Essential personal effects for each member of the family.

All items carried will be securely packaged, tied and plainly marked with the name of the owner and numbered in accordance with instructions obtained at the Civil Control Station. The size and number of packages is limited to that which can be carried by the individual or family group.

3. No pets of any kind will be permitted.

4. No personal items and no household goods will be shipped to the Assembly Center.

5. The United States Government through its agencies will provide for the storage, at the sole risk of the owner, of the more substantial household items, such as iceboxes, washing machines, pianos and other heavy furniture. Cooking utensils and other small items will be accepted for storage if crated, packed and plainly marked with the name and address of the owner. Only one name and address will be used by a given family.

6. Each family, and individual living alone, will be furnished transportation to the Assembly Center or will be authorized to travel by private automobile in a supervised group. All instructions pertaining to the movement will be obtained at the Civil Control Station.

Go to the Civil Control Station between the hours of 8:00 A. M. and 5:00 P. M., Monday, May 4, 1942, or between the hours of 8:00 A. M. and 5:00 P. M., Tuesday, May 5, 1942, to receive further instructions.

J. L. DeWITT
Lieutenant General, U. S. Army
Commanding

SEE CIVILIAN EXCLUSION ORDER NO. 33.



**Headquarters
Western Defense Command
and Fourth Army**
Presidio of San Francisco, California
April 1, 1942

Civilian Exclusion Order No. 4

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this headquarters, dated March 2, 1942, and March 16, 1942, respectively, it is hereby ordered that all persons of Japanese ancestry, including aliens and non-alien, be excluded on or before 12 o'clock noon, P.W.T., of Wednesday, April 8, 1942, from that portion of Military Area No. 1 in the State of California described as follows:

All of San Diego County, California, south of a line extending in an easterly direction from the mouth of the San Dieguito River (northwest of Del Mar), along the north side of the San Dieguito River, Lake Hodges, and the San Pasqual River to the bridge over the San Pasqual River at or near San Pasqual; thence easterly along the southerly line of California State Highway No. 78 through Ramona and Julian to the eastern boundary line of San Diego County.

2. A responsible member of each family, and each individual living alone, in the above described affected area will report between the hours of 8:00 a.m. and 5:00 p.m., Thursday, April 2, 1942, or during the same hours on Friday, April 3, 1942, to the Civil Control Station located at:

1919 India Street
San Diego, California

3. Any person affected by this order who fails to comply with any of its provisions or the provisions of published instructions pertaining hereto, or who is found in the above restricted area after 12 o'clock noon, P.W.T., of Wednesday, April 8, 1942, will be subject to the criminal penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, entitled "An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving, or Committing Any Act in Military Areas or Zones," and alien Japanese will be subject to immediate apprehension and internment.

J.L. DeWITT
Lieutenant General, U.S. Army
Commanding



I, We, and each of us, the undersigned owners of the real property hereinafter set out opposite our names, and being situate in the County of San Diego, State of California, and being in Block 47 Shermans Addition, according to the map thereof NO. 478, filed in the office of the Recorder of the County of San Diego, State of California, on January 4, 1888, do hereby agree to, and do bind ourselves and each and all of our heirs, executors, administrators, successors in interest and assigns, to the following restrictions and/or conditions and/or covenants, to wit:

1. That we will not, nor will any of us, our heirs, executors, administrators, successors in interest, and assigns, permit the said real property, or any part thereof, owned by us or any of us, our heirs, executors, administrators, successors in interest and assigns to be used and/or occupied by any person, or persons, not of the white or Caucasian race, whether as owner, tenant, or otherwise.

2. That said restrictions and/or conditions and/or covenants shall run with the land for the benefit of all the undersigned owners thereof, their heirs, executors, administrators, successors in interest and assigns, and for the benefit of the real property owned by us, or any of us, in said Sherman's Addition.

3. That the breach of any of the said restrictions and/or conditions and/or covenants of this agreement, or the continuance of any such breach may be enjoined, abated or otherwise remedied by any appropriate legal proceeding by all of us or any of us, our or either of our, or any of our heirs, executors, administrators, successors in interest and assigns.

4. That in all conveyance of any of said real property situate in Block 47, Sherman's Add., I, we and each of us, our heirs, executors, administrators, successors in interest and assigns, will incorporate in such conveyance of said real property the express covenant and/or restrictions and/or conditions that the grantee or second party to any such conveyance of said real property, will not permit said real property so conveyed, or any part thereof, to be used and/or occupied by any person, or persons not of the white or Caucasian race.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of January, 1937.

NAME OF PROPERTY OWNER	REAL PROPERTY OWNED BY US IN BLOCK 47 SHERMAN'S ADDITION.
CORA E. BLACK GROVER CLEVELAND BLACK	(Lot 2)
GUY F. AUSTIN MRS. EMMA L. HOEGE	(Lot 1)
ABBIE S. HOLLINGTON	(Lots 4, 5, and 6)
CHAS. R. SELLORS IRMA E. MYERS	(Lot 7)



Kiyoshi Hirabayashi v. United States (Decided — June 21, 1943, 320 U.S. 81; 63 Supreme Court)

An Executive Order has given a military commander the right to designate a military area and make restrictions to govern this area. The Act of Congress of March 21, 1942 makes it a misdemeanor to knowingly disregard these restrictions. Gordon Kiyoshi Hirabayashi was convicted in the District Court (California) of violating the Act of Congress. The decision was appealed and the judgment of conviction affirmed.

The particular restriction presently being discussed states that all persons of Japanese ancestry residing in the military area must be within their place of residence daily between the hours of 8:00 p.m. and 6:00 a.m. It has been contended that the curfew order and other orders on which it rested were beyond the war powers of the Congress, the military authorities and of the President (as Commander in Chief of the Army). It is also being questioned whether the restriction violated the Fifth Amendment by unconstitutionally discriminating between citizens of Japanese ancestry and those of other ancestries.

Gordon Kiyoshi Hirabayashi (appellant) asserted that the indictment should be dismissed because he was an American citizen who had never been a subject of and had never pledged allegiance to the Empire of Japan. In addition, the Act of March 21, 1942 was thought to be an unconstitutional delegation of Congressional power.

The appellant was born in Seattle in 1918 of Japanese parents who had come from Japan to the United States, and who had never afterward returned to Japan. He was educated in the Washington public schools and at the time of his arrest was a senior in the University of Washington. It was also maintained that Mr. Hirabayashi had never been in Japan or had any association with Japanese residing there.

Gordon Kiyoshi Hirabayashi felt that he would be giving up his rights as an American citizen in obeying the curfew imposed by the military commander. For this reason he was away from his place of residence after 8:00 p.m. on May 9, 1942. The jury returned a verdict of guilty on both counts: 1) failure to report to the Civil Control Station on May 11 or May 12, 1942 to register for evacuation from the military area, and 2) failure to remain in his place of residence from 8:00 p.m. to 6:00 a.m. Hirabayashi was sentenced to imprisonment for a term of three months on each, the sentences to run at the same time.

Certain social, economic and political conditions existed when the Japanese came to the United States. These conditions are believed to have caused the Japanese to stick together and prevented their assimilation as a part of the white population. In addition, large numbers of children of Japanese parentage are sent to Japanese language schools after public school is over. Some of these schools are thought to be sources of Japanese nationalistic propaganda, encouraging the children to pledge allegiance to Japan. Considerable numbers, estimated to be approximately 10,000 of American-born children of Japanese parentage have been sent to Japan for all or part of their education.

As a result of all these conditions affecting the life of the Japanese in the Pacific Coast Area, there has been little social intercourse between them and the white population. Because persons of Japanese ancestry have been faced with many restrictions while residing in the United States, they may have become more isolated from the rest of the population and more attached to Japan and Japanese institutions.

The Executive Order permitted establishment of military areas for the purpose of protecting national defense resources from sabotage and espionage. The Act of Congress ratified this Executive Order. Both were an exercise of constitutional power



to wage war. Once the Executive and Congress have this power, they also have the freedom to use their own judgment in determining what the threat is and how it can be resisted. A court should not decide whether the Executive and/or Congress did the right thing nor should a court substitute its own judgment for that of the Executive or Congress.

Measures adopted by the Government may point out that a group of one nationality is more dangerous to the country's safety than any other group. This is not entirely beyond the limits of the Constitution and should not be condemned just because racial differences are usually irrelevant.

Appellant, however, insists that the exercise of the power is inappropriate and unconstitutional because it discriminates against citizens of Japanese ancestry, in violation of the Fifth Amendment.

Distinctions between citizens solely because of their ancestry are hateful to a free people whose institution are founded upon equality. For that reason, discrimination based on race alone has often been considered a denial of equal protection. These considerations would be in effect here were it not for the fact that the danger of espionage and sabotage makes it necessary for the military authorities to look into every fact having to do with the loyalty of populations in the danger areas.

Mr. Justice Frank Murphy concurring statement

Distinctions based on color and ancestry are utterly inconsistent with our traditions and ideals. They are at variance with the principles for which we are now waging war. We cannot close our eyes to the fact that for centuries the Old World has been torn by racial and religious conflicts and has suffered the worst kind of anguish because of inequality of treatment for different groups. There was one law for one and a different law for another. Nothing is written more firmly into our law than the compact of the Plymouth voyagers to have just and equal laws. To say that any group cannot be assimilated is to admit that the great American experience has failed, that our way of life has failed when confronted with the normal attachment of certain groups to the lands of their forefathers. As a nation we embrace many groups, some of them among the oldest settlements in our midst, which have isolated themselves for religious and cultural reasons.

Today is the first time, so far as I am aware, that we have sustained a substantial restriction of the personal liberty of citizens of the United States based upon the accident of race or ancestry. Under the curfew order here challenged no less than 70,000 American citizens have been placed under a special ban and deprived of their liberty because of their particular racial inheritance. In this sense it bears a melancholy resemblance to the treatment accorded to members of the Jewish race in Germany and in other parts of Europe. The result is the creation in this country of two classes of citizens for purposes of a critical and perilous hour — to sanction discrimination between groups of United States citizens on the basis of ancestry. In my opinion this goes to the very brink of constitutional power.

Except under condition of great emergency a regulation of this kind applicable solely to citizens of a particular racial extraction would not be regarded as in accord with the requirement of due process of law contained in the Fifth Amendment.

... a denial of due process of law as that term is used in the Fifth Amendment. I think that point is dangerously approached when we have one law for the majority of our citizens and another for those of a particular racial heritage.



Nor do I mean to intimate that citizens of a particular racial group whose freedom may be curtailed within an area threatened with attack should be generally prevented from leaving the area and going at large in other areas that are not in danger of attack and where special precautions are not needed. Their status as citizens, though subject to requirements of national security and military necessity, should at all times be accorded the fullest consideration and respect. When the danger is past, the restrictions imposed on them should be promptly removed and their freedom of action fully restored.

Toyosaburo Korematsu v. United States (Decided December 18, 1944, 323 U.S. 214; 65 Supreme Court 193; 89 L. Ed. 194)

Hardships are part of war and war is a collection of hardships. All citizens, whether they be in or out of uniform, feel the impact of war. Citizenship has its responsibilities as well as its privileges, and in time of war, the burden is always heavier.

It is said that Korematsu has been imprisoned in a concentration camp solely because of his ancestry, without any evidence to show his loyalty or disloyalty towards the United States. Our task would be simple, our duty clear, were this a case involving the imprisonment of a loyal citizen in a concentration camp because of racial prejudice. First of all, we do not think it justifiable to call them concentration camps, with all the ugly pictures that term brings to mind. Secondly, regardless of the true nature of the assembly and relocation centers, we are dealing specifically with nothing but an exclusion order. To bring in the issue of racial prejudice, without reference to the real military dangers which existed, merely confuses the issue.

Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire. Military authorities feared an invasion of our West Coast and felt it necessary to take proper security measures. The military urgency of the situation required that all citizens of Japanese ancestry be segregated from the West Coast temporarily. Congress put their confidence in our military leaders and decided that they should have the power to carry out the necessary measures. There was evidence of disloyalty on the part of some so the military authorities felt that the need for action was great. The fact that we can look back and see things more calmly does not allow us to say that at that time these actions were unjustified.

Mr. Justice Owens Robert:

"I dissent, because I think the facts exhibit a clear violation of Constitutional rights.

This is not a case of keeping people off the street at night as was *Kiyoshi Hirabayashi v. United States*, nor a case of temporary exclusion of a citizen from an area for safety reasons. Korematsu was not offered an opportunity to go temporarily out of an area in which his presence might cause danger to himself or to his fellows. On the contrary, it is the case of convicting a citizen as a punishment to not giving in to imprisonment in a concentration camp.

In addition, if a citizen were forced to obey two laws and obedience to one of them would violate the other, to punish him for violation of either law would be unfair. It would be to deny him due process of law."

The Court also dealt with a technical complication which arose. On May 30, the date on which Korematsu was charged with remaining unlawfully in the prohibited area, there were two conflicting military orders, one forbidding him to remain in the area, the other forbidding him to leave but ordering him to report to an assembly center. The Court held the orders not to be contradictory, since the requirement to report to the assembly center was merely a step in a program of compulsory evacuation from the area.



Mr. Justice Frank Murphy, dissenting:

"This exclusion of 'all persons of Japanese ancestry, both alien and non-alien,' from the Pacific Coast area because of military necessity ought not to be approved. Such exclusion goes over 'the very brink of constitutional power' and falls into the ugly abyss of racism.

At the same time, it is essential that there be definite limits to military discretion. Individuals should not be denied their constitutional rights because of a 'military necessity' that has neither substance nor support.

The exclusion order is reasonable only if one assumes that all persons of Japanese ancestry may have a dangerous tendency to commit sabotage and espionage and to aid our Japanese enemy in other ways. It is difficult to believe that such an assumption could ever be supported.

All individuals of Japanese descent have been referred to as 'subversive', as belonging to 'an enemy race' whose 'racial strains are undiluted', and as constituting 'over 112,000 potential enemies . . . at large today' along the Pacific Coast. There is no reliable evidence to show that these individuals were generally disloyal, or had behaved in a manner dangerous to war industries and defense installations.

No adequate reason is given for the failure to treat these Japanese Americans on an individual basis by holding investigations and hearings to separate the loyal from the disloyal, as was done in the case of persons of German and Italian ancestry.

Moreover, there was no adequate proof that the FBI and the military and naval intelligence services did not have the espionage and sabotage situation under control during this long period. Nor is there any denial of the fact that not one person of Japanese ancestry was accused or convicted of sabotage after Pearl Harbor while they were still free, a fact which indicated the loyalty of the vast majority of these individuals.

I dissent, therefore from this legalization of racism. Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life. It is unattractive in any setting but it is utterly revolting among a free people who have embraced the principles set forth in the Constitution of the United States. All residents of this nation are kin in some way by blood or culture to a foreign land. Yet they are primarily and necessarily a part of the new and distinct civilization of the United States. They must accordingly be treated at all times as the heirs of the American experiment and as entitled to all the rights and freedoms guaranteed by the Constitution."

Mr. Justice Robert Jackson, dissenting:

"Korematsu was born on our soil, of parents born in Japan. The constitution makes him a citizen of the United States by nativity and a citizen of California by residence. No claim is made that he is not loyal to this country. There is no suggestion that apart from the matter involved here he is not law-abiding.

Korematsu, however, has been convicted of an act not commonly a crime. It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived.

The Army program is said to be a danger to liberty. If the Judiciary were to sustain the order, however, it would be more of a blow to liberty than the declaration of the order itself. A military order, however unconstitutional, is not apt to last longer than the military emergency. Even during that period a succeeding commander may revoke it. Once a judicial opinion rationalizes such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the order is sanctioned,



the Court has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to purposes."

Mitsuye Endo v. United States (Decided December 18, 1944, 323 U.S. 238; 65 Supreme Court 193)

Mitsuye Endo is an American citizen of Japanese ancestry. She was evacuated from Sacramento, California by the military in 1942. At that time, she was placed in the Tule Lake War Relocation Center located in Newell, Modoc County, California. In July of 1942, however, she filed a petition for a writ of habeas corpus, asking that she be released from the Center and restored to liberty.

Her petition for a writ of habeas corpus states that she is a loyal and law abiding citizen of the United States. Moreover, it states that she is being unlawfully detained and confined in the Relocation Center under armed guard and against her will.

The Department of Justice and the War Relocation Authority agree that the appellant (Mitsuye Endo) is a loyal and law-abiding citizen. However, they maintain that although she has been granted permission to leave, it is necessary for her to remain in the Center for an additional period of time.

Persons for the appellant argue that whatever power the War Relocation Authority may have to detain other classes of citizens, it has no authority to force a loyal citizen to go through clearance before leaving.

In this case, the military has the power to detain persons only if they present a threat of espionage or sabotage against the war effort. However, a citizen who acknowledges that he/she is loyal presents no problem of espionage or sabotage. Loyalty is a matter of the heart and mind not of race, creed, or color. If a person is loyal, he/she is by definition not a spy or saboteur. Therefore, the military has no power to detain loyal citizens.

In addition, the Act of March 21, 1942 makes no mention of detention. This may be due to the fact that detention in Relocation Centers was not part of the original program of evacuation. Instead, the detention developed later in order that the evacuees not be subjected to increasing hostility from various communities.

We do not mean to say that detention in the evacuation program would not be lawful at all. The fact that the Act and the orders do not mention detention does not mean that the power to detain is not permitted. Some such power may indeed be necessary to the successful operation of the evacuation program. At least we may so assume. Moreover, we may assume for the purposes of this case that initial detention in Relocation Centers was authorized.

Mr. Justice Frank Murphy:

"I join in the opinion of the Court, but I am of the view that detention in Relocation Centers of persons of Japanese ancestry regardless of loyalty is not only unauthorized by Congress or the Executive but is another example of the unconstitutional resort to racism inherent in the entire evacuation program. As stated more fully in my dissenting opinion in *Fred Toyosaburo Korematsu v. United States*, racial discrimination of this nature bears no reasonable relation to military necessity and is utterly foreign to the ideals and traditions of the American people.



Moreover, the Court holds that Mitsuye Endo is entitled to an unconditional release by the War Relocation Authority. It appears that Miss Endo desires to return to Sacramento, California, from which Public Proclamations Nos. 7 and 11, as well as Civilian Exclusion Order No. 52, still exclude her.

If, as I believe, the military orders excluding her from California were invalid at the time they were issued, they are increasingly objectionable at this late date, when the threat of invasion of the Pacific Coast and the fears of sabotage and espionage have greatly diminished. For the Government to suggest under these circumstances that the presence of Japanese blood in a loyal American citizen might be enough to warrant her exclusion from a place where she would otherwise have a right to go is a position I cannot sanction."

Mr. Justice Owens Roberts:

"I think it inadmissible to suggest that some inferior public servant exceeded the authority granted by executive order in this case. Such a basis of decision will render easy the evasion of law and the violation of constitutional rights, for when conduct is called in question the obvious response will be that, however much the superior executive officials knew, understood, and approved the conduct of their subordinates, those subordinates in fact lacked a definite mandate so to act. It is to hide one's head in the sand to assert that the detention of relator resulted from an excess of authority by subordinate officials.

I conclude, therefore, that the court is squarely faced with a serious constitutional question, — whether the relator's detention violated the guarantees of the Bill of Rights of the federal Constitution and especially the guarantee of due process of law. There can be but one answer to that question. An admittedly loyal citizen has been deprived of her liberty for a period of years. Under the Constitution she should be free to come and go as she pleases. Instead, her liberty of motion and other innocent activities have been prohibited and conditioned. She should be discharged."



TAB
B



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

November 13, 1975

MEMORANDUM FOR: ROBERT T. HARTMANN
FROM: JIM CONNOR
SUBJECT: Internment of Japanese-Americans
in World War II

We have staffed the material attached to your memorandum of October 21st on this subject as you requested. The views of the Attorney General, Brent Scowcroft, Jim Lynn and Jack Marsh are attached. Let me know if there is anything further you need from us.

Attachments

cc: Phil Buchen



~~THE~~ THE WHITE HOUSE
WASHINGTON

Shirley - This is FYI.

Note - Hartman has
made the same
recommendation we did.

File.

D.C.



October 22, 1975

Dudley,

May we have your further comments?

shirley



THE WHITE HOUSE

WASHINGTON

October 21, 1975

MEMORANDUM TO JAMES E. CONNOR

FROM: ROBERT T. HARTMANN

SUBJECT: Internment of Japanese-Americans
in World War II

We have been urged by Governor Evans of the State of Washington to have the President, as a symbolic gesture to Americans of Japanese ancestry, rescind Executive Order 9066 under which the Japanese Internment Camps were established during World War II and that he do so on February 19, 1976, the 34th anniversary of the issuance of this Executive Order by President Franklin D. Roosevelt.

I have referred this matter to Mr. Buchen whose opinion, which is attached, is that the Order was self-terminating at the end of World War II and that a "rescinding" of it by the current President would be legally pointless and potentially embarrassing.

I have discussed this with the President and it is his desire to have this question commented upon by a broader spectrum of his advisers, specifically including the Attorney General. Will you please take the necessary steps to circulate it for comment with a minimum delay. It might be appropriate, if any action is to be taken in this area, to do so on the President's forthcoming trip to California.

My personal opinion, having been a participant in 1942 in this unfortunate chapter of our history, is that an expression by the President regarding the proven loyalty and contributions of Americans of Japanese ancestry would be an appropriate postscript to the Emperor's recent visit and the closing of the book on recrimination of 35 years ago. This might be done at Pearl Harbor or somewhere in Hawaii on the President's return from China and on or about December 7th, the anniversary of the Japanese attack. I see no particular purpose in calling further attention to the February 19th anniversary as proposed by Governor Evans.

cc: Don Rumsfeld
Phil Buchen
Jack Calkins
Gwen Anderson



STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

OLYMPIA

DANIEL J. EVANS
GOVERNOR

October 3, 1975

Mrs. Gwen Anderson
Deputy Assistant to
Counselor Hartmann
West Wing - Basement
The White House
Washington, D. C. 20500

Dear Gwen:

I have been on the road much of the time since our meeting last month. However, I want to first of all thank you for your many courtesies, particularly the White House tour. For a boy from the provinces--and perhaps for any American--it is a real thrill to see and be in the offices and room in the presidential suite.

Secondly, I want to let you know that I had an excellent reception from Dick Allison in the Vice President's office and Dudley Chapman, Associate Counsel to the President. Dick indicated that he would get the matter of Executive Order 9066 on the agenda of the Domestic Council and Mr. Chapman expressed the belief (admittedly tentative) that there would be no legal bar to the rescission by the President of E.O. 9066. As I indicated to you, this action would have great meaning to all persons of Japanese descent, as well as to the rest of us who feel that the E.O. was and remains a terrible blot in our history.

It is also important that the matter of the E.O. be kept separate from the issue of "reparations". The two are not connected and in my judgment to tie them together would be completely unnecessary and divert us from the main effort of the rescission of the E.O.

Finally, I believe it is important that the Japanese-American Citizens League, which has been the moving force behind the rescission of the order, deal directly with those of you in the White House who are working on the issue. Mich Matsudaira, Executive Director of our Asian-American Affairs Commission, has been in touch with the Washington, D. C. representative of the JACL, Wayne Horiuchi, and I understand he either has or will be in touch with your office. The Governor and this office will,



STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

OLYMPIA

DANIEL J. EVANS
GOVERNOR

October 3, 1975

Mrs. Gwen Anderson
Deputy Assistant to
Counselor Hartmann
West Wing - Basement
The White House
Washington, D. C. 20500



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Finally, I believe it is important that the Japanese-American Citizens League, which has been the moving force behind the rescission of the order, deal directly with those of you in the White House who are working on the issue. Mich Matsudaira, Executive Director of our Asian-American Affairs Commission, has been in touch with the Washington, D. C. representative of the JAACL, Wayne Horiuchi, and I understand he either has or will be in touch with your office. The Governor and this office will,

Mrs. Gwen Anderson

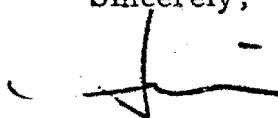
Page Two

October 3, 1975

of course, lend any assistance possible in this effort, but I believe the citizens of Japanese heritage rather than this office should be the moving force.

Best regards,

Sincerely,

A handwritten signature in dark ink, appearing to be 'J. Dolliver', with a horizontal line extending to the right.

James M. Dolliver
Administrative Assistant

JMD:ks

cc: Dick Allison
Dudley Chapman
Martin M. Matsudaira

THE WHITE HOUSE

WASHINGTON

October 10, 1975

MEMORANDUM FOR: BOB HARTMANN
FROM: PHIL BUCHEN
SUBJECT: Recision of Executive Order
Authorizing Japanese Internment
Camps

Governor Dan Evans of Washington has requested that the President revoke E.O. 9066 under which the Japanese Internment Camps were established during World War II, and that he do so on February 19, 1976, which will be the 34th anniversary of the Order.

The Order (Tab A) did not itself establish the camps, but authorized the Secretary of War to prescribe military areas from which any persons may be excluded and delegated to the Secretary of War or a military commander full authority to restrict the right of any person to enter, remain in or leave the areas.

After E.O. 9066 was issued, Congress gave it legislative sanction under a law still in force as 18 U.S.C. 1383 (Tab B) which makes it an offense to enter or remain in a military zone prescribed in an Executive Order of the President. The internment program was later sustained by the Supreme Court.

As a delegation of authority under a statute still in force, it is understandable that non-lawyers could believe there is still something in existence that could be rescinded. Legally, however, the Order was expressly based upon "the successful prosecution of the War", and under established judicial precedents would be deemed to have expired by its own terms upon the conclusion of that emergency. Any number of executive orders as well as statutes expire or become "functus officio" when their purpose is accomplished without the need for any rescinding or repealing action. To purport to take such an action here would be legally pointless and risk making the President

look foolish. It would also prompt additional requests of this kind that could be politically embarrassing.

As an alternative to rescinding an already defunct order, the President could issue a commemorative statement on the anniversary date. This could be in the form of a proclamation praising the loyalty of Japanese Americans, expressing his regret for a blot on our history, noting that the Roosevelt order expired with the War, and disclaiming the use of such a practice in the future.



the Civil Service Act (22 Stat. 404), it is hereby ordered as follows:

1. The United States Civil Service Commission is authorized to adopt and prescribe such special procedures and regulations as it may determine to be necessary in connection with the recruitment, placement, and changes in status of personnel for all departments, independent establishments, and other Federal agencies, except positions in the field service of the postal establishment. The procedures and regulations thus adopted and prescribed shall be binding with respect to all positions affected thereby which are subject to the provisions of the Civil Service Act and Rules.

2. Persons appointed solely by reason of any special procedures adopted under authority of this order to positions subject to the provisions of the Civil Service Act and Rules shall not thereby acquire a classified (competitive) civil-service status, but, in the discretion of the Civil Service Commission, may be retained for the duration of the war and for six months thereafter.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 16, 1942.

EXECUTIVE ORDER 9064

AUTHORIZING THE GOVERNOR OF THE PANAMA CANAL TO FURNISH CERTAIN TRANSPORTATION TO PERSONS ENGAGED FOR SERVICE ON THE ISTHMUS OF PANAMA

By virtue of the authority vested in me by section 81 of title 2 of the Canal Zone Code, as amended by section 3 of the act of July 9, 1937, c. 470, 50 Stat. 487, it is hereby ordered as follows:

1. Notwithstanding the provisions of paragraph 3 of Executive Order No. 1838 of February 2, 1914, relating to conditions of employment in the Panama Canal service, the Governor of The Panama Canal is authorized (1) to furnish free transportation, or to make reimbursement of cost thereof, from any point within the continental United States to the port of departure for the Isthmus of Panama, to any person engaged for service with The Panama Canal on the Isthmus; (2) to furnish free transportation from the port of departure to the Isthmus; and (3) to pay to such person a subsistence allowance

not in excess of six dollars a day while en route to the port of departure and awaiting transportation therefrom.

2. The Governor of The Panama Canal may prescribe such regulations as may be necessary to carry out the provisions of this order.

3. This order shall be effective as of February 1, 1942, and shall remain in force during the continuance of the present war and for six months after the termination thereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 16, 1942.

EXECUTIVE ORDER 9065

AMENDMENT OF SECTION 11 OF THE REGULATIONS GOVERNING HIGHWAYS, VEHICLES, AND VEHICULAR TRAFFIC IN THE CANAL ZONE

By virtue of the authority vested in me by sections 5 and 321 of title 2 of the Canal Zone Code, it is ordered that section 11 of Executive Order No. 7242 of December 6, 1935, prescribing regulations governing highways, vehicles, and vehicular traffic in the Canal Zone, be, and it is hereby, amended to read as follows:

SEC. 11. Governor authorized to make regulations. The Governor is hereby authorized to make, alter, and amend, from time to time, rules and regulations for the purpose of carrying out the provisions of this order, and in time of war in which the United States is engaged or when in the opinion of the Governor war is imminent, the Governor is hereby authorized, subject to the provisions of Executive Order No. 8232 of September 5, 1939, to amend, modify, supplement, or suspend this order, or any provision thereof, for the duration of any such period, when in his judgment such action is necessary in the public interest.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 17, 1942.

EXECUTIVE ORDER 9066

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against

sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agen-

cies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 19, 1942.

EXECUTIVE ORDER 9067

PROVIDING FOR THE TRANSFER OF PERSONNEL TO WAR AGENCIES

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and by Section 1753 of the Revised Statutes of the United States (U.S.C., title 5, sec. 631), and in order to expedite the transfer of personnel to war agencies, it is hereby ordered as follows:

1. For the purpose of facilitating transfers of employees under the provisions of this Order, the Director of the Bureau of the Budget shall from time to time establish priority classifications of the several Executive departments and agencies, or of parts or activities thereof, in respect to their relative importance to the war program, and such classifications shall be controlling as to transfers under the provisions of this Order.

2. The Civil Service Commission is authorized to secure information as to employees of Executive departments and agencies who are deemed competent to perform essential war work in departments or agencies having a higher priority classification, and, with the consent

In Nebraska and the entire state of Nebraska constituted one judicial district, there was no question as to proper allegation of venue in each information and matter then became one of proof. *Holdridge v. U. S.*, C.A.Neb.1960, 282 F.2d 302.

In prosecution of defendants for re-entry into a military reservation after having been removed from it and ordered not to re-enter, evidence including government exhibits consisting of maps showing military reservation within Nebraska was sufficient to establish venue within the judicial district of Nebraska. *Id.*

3. Burden of proof

To sustain charge of an information alleging a violation of former section 97 of this title in that defendant reentered a Marine Corps Reservation Road after having been ordered not to do so by the commanding General, the Government had to show an absolute ownership or an exclusive right to possession of the road, and proof of criminal jurisdiction of the road is not enough. *U. S. v. Watson*, D.C.Va.1948, 80 F.Supp. 649.

4. Evidence—Admissibility

In prosecution for re-entry into a military reservation after having been removed therefrom and ordered not to re-enter, trial court did not err in denying admission of evidence by defendant as to purpose of re-entry. *Holdridge v. U. S.*, C.A.Neb.1960, 282 F.2d 302.

5. — Weight and sufficiency

In prosecution for re-entering naval reservation after being ordered by com-

mander not to re-enter, testimony by chief of detectives of naval shipyard that areas in question, though outside perimeter fence, were within perimeter area of reservation and were patrolled by military police of shipyard that there were signs at entrance to the areas, that the areas were United States property and that no peddling or soliciting was allowed was sufficient to prove ownership or possession by United States. *U. S. v. Packard*, D.C.Cal.1964, 236 F.Supp. 585, affirmed 339 F.2d 887.

Evidence that Fuller Road was within the area taken for the Quantico Marine Corps Reservation did not alone justify inference that the taking destroyed the strip as a road and dissolved all rights of user theretofore held by the public or by persons having a special interest therein but merely established the authority of the United States to police the road and to punish a defendant for improper conduct thereon. *U. S. v. Watson*, D.C.Va.1948, 80 F.Supp. 649.

6. Instructions

In prosecution for re-entry into military reservation after having been removed therefrom, instruction of court which included a reading from two informations after court had carefully pointed out that reading was solely for the purpose of informing jury of the exact charges made, was not erroneous as constituting undue emphasis on what was not evidence upon issue of venue. *Holdridge v. U. S.*, C.A.Neb.1960, 282 F.2d 302.

§ 1383. Restrictions in military areas and zones

Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both. June 25, 1948, c. 645, 62 Stat. 765.

Historical and Revision Notes

Reviser's Note. Based on Title 18, U.S.C., 1940 ed., § 97a (Mar. 21, 1942, c. 191, 56 Stat. 173).

Words "be guilty of a misdemeanor" were deleted as unnecessary in view of definitive section 1 of this title.



OCT 23 1975

THE WHITE HOUSE
WASHINGTON

October 23, 1975

MEMORANDUM FOR:

JACK MARSH ✓
JIM LYNN
BRENT SCOWCROFT

FROM:

JIM CONNOR

SUBJECT:

Internment of Japanese-Americans
in World War II

I'd appreciate getting your reaction to the attached material
and the issue raised by Bob Hartmann. Thanks.

Encl.

10/27

Recommend expediting Attorney General's inquiry - if he supports
Buchen finding, strongly recommend taking action suggested in
Buchen memo - would prefer, however, to keep our memorials
separated from our mistakes, i. e., if possible have President
do this on West Coast and not at Peral Harbor (to do it at latter
location might create as many problems as it solves.)

Jack Marsh



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

NOV 5 1975

MEMORANDUM FOR: JIM CONNOR
FROM: JIM LYNN
SUBJECT: Internment of Japanese-Americans
in World War II

The Japanese-American internment program was not established by Executive Order No. 9066. That program was implemented under the authority of Executive Order No. 9102, which established the War Relocation Authority. The War Relocation Authority was abolished and the program ended by Executive Order No. 9742 of June 25, 1946.


Executive Order No. 9066 authorized orders excluding persons from, or regulating their movement within, designated military areas. The exclusion orders were revoked more than six months before the end of the war with Japan. The Executive Order was self-terminating. It authorized the creation of military areas only for the purpose of prosecuting World War II. The United States had declared war against Japan on December 8, 1941 (55 Stat. 795).

Executive Order No. 9066 automatically terminated with the cessation of hostilities marking the ending of the war. The President issued Proclamation No. 2714 of December 31, 1946, which formally proclaimed the cessation of the hostilities of World War II. Executive Order No. 9066 is now dead. It is as dead as the declaration of war against Japan (55 Stat. 795), which has never been revoked.

Any Presidential Executive Order, proclamation, or statement related to Executive Order No. 9066 would be a hollow gesture.

THE WHITE HOUSE
WASHINGTONACTION
November 10, 1975

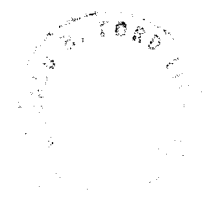
MEMORANDUM FOR JIM CONNOR

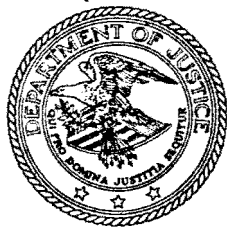
FROM: BRENT SCOWCROFT 

SUBJECT: Internment of Japanese-Americans in World War II

Executive Order 9066 dealt with the internment of Japanese-Americans during World War II. A symbolic Presidential gesture rescinding the Executive Order could have a mildly positive public relations impact in Japan. The alternative of a Presidential message praising the loyalty and contribution of Japanese-Americans may also meet a favorable reception there.

There has been, however, a large number of visits and symbolic gestures over the past year relegating old animosities with Japan to obscurity. I do not think the impact of this particular gesture, or the alternative of a Presidential message, would therefore be significant in terms of our foreign policy interests. If the President chooses to act on this issue, he should base his decision primarily on its domestic impact, and as a gesture to Americans of Japanese ancestry.





Office of the Attorney General
Washington, D. C. 20530

November 13, 1975

MEMORANDUM FOR:

JAMES E. CONNOR
SECRETARY OF THE CABINET
THE WHITE HOUSE

FROM:

EDWARD H. LEVI *EL*
ATTORNEY GENERAL

The question which has been raised is my view on the proposal that Executive Order 9066 be revoked or rescinded on February 19, 1976, as a symbolic gesture on the 34th anniversary of the issuance of this order.

It can be urged that the prologue to the Order makes the Order self-terminating. But, on balance, both because of the nature of this Order and because of the general implications which would follow elsewhere if executive orders are to be read as normally self-terminating, there is sufficient ground for justifying a formal revocation of the Order.

It also can be urged that the operative Executive Order was really not 9066 but rather 9102, which established the War Relocation Authority. I believe the answer to this is, however, that it was Executive Order 9066 which permitted the establishment of the prohibited zones and thus became the basis for the forced movement of Americans of Japanese ancestry out of these areas.

It has been urged that a better occasion for the revocation might be an anniversary relating to the attack on Pearl Harbor, and the place be in Hawaii.

My view of the matter is that if something symbolic is to be done, it should be linked to the anniversary of the Executive Order. Whatever one may think of this internment of American citizens, it is regarded, as Mr. Hartmann says, as an "unfortunate chapter." I suggest that if any point is to be made about it, the date for its revocation should not attempt to carry with it the implication that all of this was due to the attack on Pearl Harbor. I believe the symbolic generosity or reconciliation of the move is lost by surrounding it with the more general aspect of the war with Japan.

THE WHITE HOUSE

WASHINGTON

November 24, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: PHIL BUCHEN *P.*

SUBJECT: Internment of Japanese-Americans
in World War II

I have three comments on the latest round of papers:

(1) The whole point is the political value of a symbolic Presidential gesture repudiating the Japanese internment program. This can be done either through an executive order purporting to repeal the obsolete E.O. 9066 as proposed by the Japanese-American Citizens League, or through a proclamation as suggested in my memorandum of October 10. The Citizens League has no firm views on the technical legalities and would be satisfied by any Presidential document declaring a formal end to the legal authority for such a program. The difference between the alternatives is that the proclamation would both accomplish this purpose and be above criticism; purporting to terminate the executive order risks criticism as a rather inept, legally pointless political gesture.

(2) I find nothing in the Attorney General's memorandum that is inconsistent with this conclusion; but the President should be aware of the light in which the issue was presented to the Attorney General. My memorandum of October 10 which questioned the utility of revoking an obsolete executive order was based upon informal consultation with the Department of Justice and oral advice based upon their own research. Questions as minor as this do not ordinarily come to the personal attention of the Attorney General. When the whole package came back from the White House to the same office that had advised me, including my opinion reflecting that advice, and with the unusual request that this minor technicality receive the

TAB
C



THE WHITE HOUSE

WASHINGTON

November 26, 1975

MEMORANDUM TO: ROBERT T. HARTMANN *RTA*

FROM: JACK CALKINS *JK*

My contacts today on the subject of Presidential action concerning Executive Order No. 9066 reveal the following.

Wayne Horiuchi, Washington representative of the Japanese-American Citizens League, strongly advised that any Presidential action not be taken on December 7. He was convinced that this would more than negate any positive feeling toward the President if that date were chosen for his announcement. Pearl Harbor Day is still, he says, "A day that will live in infamy" in the minds of Japanese-Americans even more than others, and they are extremely sensitive on this point. Horiuchi mentioned that he had collected a group of letters endorsing the action of the JACL in urging the President to rescind EO 9066. He had delivered a group of these to Mark Morse of the Vice President's shop (Ray Shafer's office). I obtained these letters from Morse and they are attached.

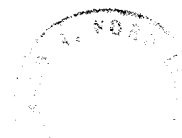
In talking with Morse on the subject, he mentioned that there is a very small, but very militant, group of Japanese-Americans who have been agitating for reparations for the internment action. Therefore, we should be aware of the slight possibility of this problem rearing its head down the line.

Ed Brennan, National Committeeman from Hawaii, said he thought Presidential action in this area would be most desirable and would be both politically and socially advantageous. Again, he strongly recommended against using Pearl Harbor site and day for such a pronouncement, saying that it would have negative impact. Like Horiuchi, he recommended February 19 if the President decided to go ahead with this action.

personal attention of the Attorney General, the clear implication was that a different opinion was desired. No important issue of legal principle is involved and the Attorney General apparently chose to be cooperative -- as I would have in the same circumstances. I believe the earlier advice reflects a more objective analysis and better advice.

(3) The suggestion that the time and place for this Presidential action be set for December 7 in Hawaii appears wholly inappropriate, and likely to offend the Japanese-Americans.

cc: Bob Hartmann ✓
Jack Marsh



Exec order

THE WHITE HOUSE
WASHINGTON

September 16, 1975

MEMORANDUM FOR: DUDLEY CHAPMAN

FROM: PHILIP BUCHEN *P.W.B.*

Attached is a copy of a memorandum from
Gwen Anderson to Robert Hartmann concerning
Executive Order 9066 and Bob's note to me.

Kindly review and prepare a response for me
to send to Bob Hartmann.

Attachments

cc: Barry Roth



Exec Order

THE WHITE HOUSE
WASHINGTON

From: Robert T. Hartmann

To: Phil Bucher

Date: 9/12/75 Time a.m.
p.m.

Please advise me of
your reaction to
this, both legally
and on its merits.
Thank you.

RTH



THE WHITE HOUSE
WASHINGTON

September 12, 1975

Memorandum to: Robert T. Hartmann

From: Gwen Anderson *GA*

Subject: Japanese Internment Executive Order 9066

It has been brought to my attention that Executive Order 9066 has never been rescinded. The Order, signed February 19, 1942 provides for setting up of internment camps and provides for interring American citizens. The sentiment of sympathy for the Japanese, on the West Coast particularly, is strong, according to Jim Dollever (A. A. to Governor Evans).

Our Legal Office, of course, must check this out, but politically it would be smart, if the President would sign a rescinding Order in the Bicentennial year on February 19, 1976. (34 years later).

The action would have many overtones.

I believe Mr. Dollever spoke to Dunham (?) ² the legal counsel in Vice President Rockefeller's office on this subject.



THE WHITE HOUSE
WASHINGTON

December 17, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.W.B.*
SUBJECT: Delegation of Presidential Authority

As you recall, an orientation and training program for new senior Government executives has been initiated jointly by the Presidential Personnel Office, the Civil Service Commission and the Office of Management and Budget. At the present time, you are required by 5 U.S.C. 4102(a)(2)(B) to personally authorize participation by Presidential appointees in such training programs. Doug Bennett recommends, and I concur, that you sign a proposed Executive Order (at Tab A) which delegates this authority to the Civil Service Commission.

The Commission has no objection to the proposed Order, which has also been approved by the Director of OMB, the Presidential Personnel Office and the Department of Justice.

The fall segment of the orientation program has already been held and accordingly it is necessary that you separately authorize the participation of the Presidential appointees in that program.

Recommendation

That you sign the Executive Order at Tab A and the letter to Chairman Hampton at Tab B.

Attachments

DELEGATING AUTHORITY OF THE PRESIDENT
TO DESIGNATE INDIVIDUALS APPOINTED
BY THE PRESIDENT TO
RECEIVE TRAINING

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1. Except as provided in Section 2 of this Order, the United States Civil Service Commission is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) of Title 5, United States Code, to designate individuals appointed by the President for training under Chapter 41 of Title 5, United States Code.

Section 2. The Attorney General is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) to designate individuals appointed by the President as United States Attorneys and United States Marshals for training under Chapter 41 of Title 5, United States Code.

Section 3. Executive Order No. 11531 of May 26, 1970, is hereby superseded.

THE WHITE HOUSE

WASHINGTON

Dear Chairman Hampton:

The following named individuals are hereby designated, pursuant to 5 U. S. C. Section 4102(2) (B) to participate in training programs with the coverage of Chapter 41 of title 5, United States Code:

Robert O. Aders
Under Secretary
Department of Labor

Frank R. Barnako
Chairman
Occupational Safety and Health Review Commission

James Blair
Assistant Secretary of Equal Opportunity
Department of Housing and Urban Development

Davis S. Cook
Assistant Secretary for Housing Production and
Mortgage Credit
Department of Housing and Urban Development

John Hart Ely
General Counsel
Department of Transportation

Ronald E. Gerevas
Associate Director of Domestic Operations
ACTION

James D. Keast
General Counsel
Department of Agriculture

Stanley W. Legro
Assistant Administrator for Enforcement
Environmental Protection Agency

David A. Lucht
Deputy Administrator
National Fire Prevention and Control Administration
Department of Commerce

Burton Gordon Malkiel
Member
Council of Economic Advisers

John Meier
Director
Office of Child Development
Department of Health, Education and Welfare

Willard H. Meinecke
Assistant Director for Administration and Finance
ACTION

Charles J. Orlebeke
Assistant Secretary for Policy Development and Research
Department of Housing and Urban Development

Travis Edwin Reed
Assistant Secretary for Domestic and International
Business Administration
Department of Commerce

Yan M. Ross
Alternate Executive Director
Inter-American Development Bank

Abner Woodruff Sibal
General Counsel
Equal Employment Opportunity Commission

Chris Sylvester
Member
Renegotiation Board

John M. Teem
Assistant Administrator for Solar, Geothermal and
Advanced Energy Systems
Energy Research and Development Administration

Richard L. Thornburgh
Assistant Attorney General (Criminal Division)
Department of Justice

Howard D. Tipton
Administrator
National Fire Prevention and Control Administration
Department of Commerce

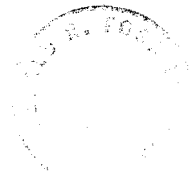
Michael Uhlman
Assistant Attorney General (Legislative Affairs)
Department of Justice

Charles M. Walker
Assistant Secretary for Tax Policy
Department of the Treasury

Edwin H. Yeo, III
Under Secretary for Monetary Affairs
Department of the Treasury

Sincerely,

The Honorable Robert E. Hampton
Chairman
Civil Service Commission
Washington, D.C. 20415



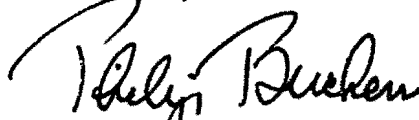
E. O.
THE WHITE HOUSE
WASHINGTON

February 24, 1976

Dear Mr. Adams:

Your letter of January 24, 1976, to the President urges that he take action to terminate Executive Order 9066. I am pleased to be able to reply by furnishing you a copy of the President's action in response to the concerns that you and many others have raised. Enclosed are copies of the President's Proclamation of February 19, 1976, and of his signing statement, which make clear his desire to remove all doubt that Executive Order 9066 ceased to be effective with the termination of hostilities.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Brock Adams
House of Representatives
Washington, D.C. 20515

FOR IMMEDIATE RELEASE

FEBRUARY 19, 1976

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON THE SIGNING OF A PROCLAMATION
FORMALLY RECOGNIZING EXECUTIVE ORDER 9066
AS NULL AND VOID

THE CABINET ROOM

11:54 A.M. EST

February 19th is the anniversary of a very, very sad day in American history. It was on that date in 1942 that Executive Order 9066 was issued resulting in the uprooting of many, many loyal Americans. Over 100,000 persons of Japanese ancestry were removed from their homes, detained in special camps and eventually relocated.

We now know what we should have known then -- not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home the names of Japanese-Americans have been and continue to be written in America's history for the sacrifices and the contributions they have made to the well-being and to the security of this, our common Nation.

Executive Order 9066 ceased to be effective at the end of World War II but there was no formal statement of its termination. There remains some concern among Japanese-Americans that there yet may be some life in that obsolete document. The proclamation I am signing here today should remove all doubt on that matter.

I call upon the American people to affirm with me the unhyphenated American promise that we have learned from the tragedy of that long ago experience -- forever to treasure liberty and justice for each individual American and resolve that this kind of error shall never be made again.

END (AT 11:56 A.M. EST)

FEBRUARY 19, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

AN AMERICAN PROMISE

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

In this Bicentennial Year, we are commemorating the anniversary dates of many of the great events in American history. An honest reckoning, however, must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.

February 19th is the anniversary of a sad day in American history. It was on that date in 1942, in the midst of the response to the hostilities that began on December 7, 1941, that Executive Order No. 9066 was issued, subsequently enforced by the criminal penalties of a statute enacted March 21, 1942, resulting in the uprooting of loyal Americans. Over one hundred thousand persons of Japanese ancestry were removed from their homes, detained in special camps, and eventually relocated.

The tremendous effort by the War Relocation Authority and concerned Americans for the welfare of these Japanese-Americans may add perspective to that story, but it does not erase the setback to fundamental American principles. Fortunately, the Japanese-American community in Hawaii was spared the indignities suffered by those on our mainland.

We now know what we should have known then -- not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home, Japanese-Americans -- names like Hamada, Mitsumori, Marimoto, Noguchi, Yamasaki, Kido, Munemori and Miyamura -- have been and continue to be written in our history for the sacrifices and the contributions they have made to the well-being and security of this, our common Nation.

The Executive order that was issued on February 19, 1942, was for the sole purpose of prosecuting the war with the Axis Powers, and ceased to be effective with the end of those hostilities. Because there was no formal statement of its termination, however, there is concern among many Japanese-Americans that there may yet be some life in that obsolete document. I think it appropriate, in this our Bicentennial Year, to remove all doubt on that matter, and to make clear our commitment in the future.

more

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim that all the authority conferred by Executive Order No. 9066 terminated upon the issuance of Proclamation No. 2714, which formally proclaimed the cessation of the hostilities of World War II on December 31, 1946.

I call upon the American people to affirm with me this American Promise -- that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of February, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundredth.

GERALD R. FORD

#



February 11, 1976

Dear Mr. Adams:

This will acknowledge receipt and thank you for your January 28 letter to the President recommending that Executive Order 9066, issued on February 19, 1942, be rescinded.

Please be assured your suggestion will be called promptly to the President's attention. I am certain it will be fully reviewed.

With kind regards,

Sincerely,

Vernon C. Loen
Deputy Assistant
to the President

The Honorable Brock Adams
House of Representatives
Washington, D. C. 20535

✓ bcc: w/incoming to Dudley Chapman for DRAFT REPLY

VCL:JEB:VO:emu



4
BROCK ADAMS
7TH DISTRICT, WASHINGTON

2-6
CHAIRMAN
COMMITTEE ON THE BUDGET

COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE

TRANSPORTATION AND COMMERCE
SUBCOMMITTEE

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 28, 1976

The Honorable Gerald R. Ford
White House
Washington D.C. 20500

Dear Mr. President:

ME
The totally unjustified uprooting and imprisonment during World War II of all Pacific Coast residents of Japanese ancestry is generally recognized by historians as one of the darkest chapters in American history. It is disturbing to realize that 30 years later, Executive Order 9066 remains in effect as one of the laws of our nation.

As we approach February 19, 1976, the 34th anniversary of the issuance of Executive Order 9066, I would urge you to rescind this offensive order in a goodwill gesture to our many Japanese American citizens. It is certainly long past time to end this tragic chapter of American history.

Yours very truly,


BROCK ADAMS, M. C.

BA:n

*file
copy to
Sany*

April 6, 1976

MEMO FOR: **General Counsel
President Ford Committee**

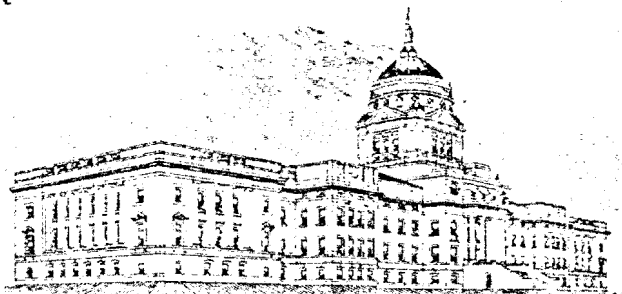
FROM: **Roland L. Elliott**

Attached for your information and appropriate handling are letters to the President from the Secretary of State of the State of Montana dated April 1, 1976, and the Bureau of Registration and Elections, Dauphin County, Harrisburg, Pennsylvania. Thank you.

Attachments

cc: Mr. Linder
cc: Legal Counsel's Office





STATE OF MONTANA

OFFICE OF THE

SECRETARY OF STATE

FRANK MURRAY
SECRETARY OF STATE

GAIL M. DEWALT
CHIEF DEPUTY

HELENA, MONTANA 59601

April 1, 1976

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RL
The Honorable Gerald R. Ford
The White House
Washington, DC 20500

Dear Mr. President:

Your name has been placed in nomination as a Republican Party candidate for the Montana Presidential Preference Primary on June 1, 1976 by the filing in my office of petitions of nomination bearing at least 1000 signatures of registered voters from both the First and Second Congressional Districts.

This letter is your official notice, as required by section 23-3327, Revised Codes of Montana, that your name will be placed on the presidential preference primary election ballot unless you file a notarized affidavit that you are not a candidate for president with my office.

If you wish to file such an affidavit it must be received in my office by 5:00 p.m., April 22, 1976. Affidavits will not be accepted for filing if not received in my office by the deadline even though they are postmarked before that time.

Sincerely yours,

Frank Murray
FRANK MURRAY
Secretary of State

FM/wmc



BUREAU OF REGISTRATION AND ELECTIONS

DAUPHIN COUNTY
HARRISBURG, PENNSYLVANIA

Dear Candidate:

Listed below is your Lever Number on the Machine Ballot for the April 27th. 1976, Primary Election in Dauphin County.

LEVER NUMBER

1-F


Each candidate is entitled to one copy of the Voter Street List in all Districts in which he or she is a Candidate for Office in Dauphin County. This must be done by written request to the OFFICE OF REGISTRATION AND ELECTIONS, ROOM ## DAUPHIN COUNTY COURT HOUSE, FRONT & MARKET STREETS, HARRISBURG, PENNSYLVANIA, 17101, not later then April 5th. 1976.

Street Lists will be available as soon as completed.

All Candidates must request also in writing SAMPLE BALLOTS of the District in which he or she is a Candidate in Dauphin County

If you wish other information please Call

236-3353


William E. Barnes
Director.

[ca. July 1976]

THE BICENTENNIAL OF OUR NATION'S INDEPENDENCE
BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The Continental Congress on July 2, 1776, adopted a resolution declaring the colonies free and independent States. Two days later, on the Fourth of July, the representatives in the Congress of the newly created United States of America adopted the Declaration of Independence which proclaimed to the world the birth of this nation.

In the two centuries that have since passed, we have matured as a nation and as a people. We have gained the wisdom that age and experience bring. Yet, we have preserved the vigor, exuberance and resiliency which is the essence of youth.

In this year of our Nation's Bicentennial, we enter our third century with pride in our past achievements as a nation and with the satisfaction that those achievements have contributed to the good of humankind everywhere. We face the future with renewed dedication to the principles enshrined in our Declaration of Independence, and with renewed gratitude for those who pledged their lives, their fortunes and their sacred honor to preserve individual liberty on this continent.

In recognition of the two hundredth anniversary of the great historical events in 1776, and in keeping with the resolution of the Congress adopted in 1963 (77 Stat. 944) for the public observance of each anniversary of the Declaration of Independence, I ask that all Americans join in an extended period of celebration, thanksgiving and prayer on the second, third, fourth and fifth days of July in this our Bicentennial year.

~~To commemorate the adoption of the Declaration of Independence, the Congress, by concurrent resolution agreed to June 26, 1963 (77 Stat. 944), declared that its anniversary be observed by the ringing of bells throughout the United States.~~

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim that the period July second through July fifth of the year Nineteen Hundred Seventy-Six be set aside for special nationwide observances of the two hundredth anniversary of the founding of this nation and that these observances shall include:

One: Public participation in the many different community events being held throughout the nation in celebration of the Nation's Bicentennial.

Two: The simultaneous ringing of bells throughout the United States and on our flagships at sea, to take place at the hour of two o'clock, eastern daylight time, on the afternoon of July 4, 1976, for a period of two minutes.

~~Three:~~
Three: Individual, family and group expressions of gratitude and thanksgiving for all the signers of the Declaration of Independence and for all men and women who have contributed to the founding, preservation and advancement of the United States of America as a strong and independent nation dedicated to the principles set forth in the Declaration of Independence.

~~Four:~~
Four: Prayers by people of all religious faiths to declare their belief in, and their hopes and resolves for, the future of this Nation that it

shall remain steadfast in its purpose and shall grow and become stronger in its pursuit of the ideals and aspirations of its founders.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of in the year of our Lord Nineteen
Hundred Seventy-Six, and of the Independence of the United
States of America the two hundredth.

Tuesday 10/26/76

11:20

Carol Brennan called to say they are having an adoption conference starting tomorrow in Minneapolis. She said the Family Week proclamation has already been written and they would love to have a copy of the text to read at the conference tomorrow.

(212) 697-4955

The President has already sent a congratulatory message to the Congress but she would like to read the proclamation also.

I asked Ron Kienlen to have someone in his office get in touch with Ms. Brennan and he said he would do so.



Pres. Proclamation

THE WHITE HOUSE
WASHINGTON

September 9, 1976

Dear John:

This letter confirms the conversation which we had on September 8 when you and Martha visited in my office.

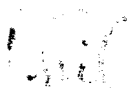
It has been the President's policy not to issue commemorative proclamations except when he is requested to do so by joint congressional resolution. Also the week of November 22, 1976 is already involved in a request by joint resolution of the Congress that it be proclaimed "National Family Week."

It is probable that the Child Welfare League of America and other agencies and organizations interested in adoption can use the occasion of National Family Week to publicize the needs of thousands of youngsters who are without a family of their own and who would be available for adoption.

When the President's proclamation for National Family Week is drafted, I will urge that a reference be made to this subject in the proclamation.

It was good to meet with you and Martha, and I send both of you my best regards.

Sincerely,


Philip W. Buchen
Counsel to the President

The Honorable John P. Steketee
Judge of Probate
Kent County Juvenile Court
1501 Cedar Street, NE.
Grand Rapids, Michigan 49503



Friday 12/17/76

9:30 Volney Morin said there is a Presidential proclamation for Expo 81 which is here at the White House awaiting the President's signature -- and it was thought he would be signing it before he leaves for Vail.

Apparently General Doolittle has talked to the President about it.

It is a proposed proclamation for Expo 81 to be a World's Fair to be held at the Ontario Speedway in 1981 -- 200th anniversary of L.A.

He was wondering where it is.

He will be leaving home very shortly to go (213) 879-1131 to a Board of Directors meeting (at Everest & Jennings -- world's largest manufacturers of wheelchairs (whom they represent) -- and any time after 11:15 our time and before 3:15 our time, he would appreciate our letting him know how this stands.

He said to tell you that it is a perfectly legitimate operation. He knows the people involved, and it would not bring any discredit on the President. It is a very good thing.

He is leaving Saturday to go to Vail, himself and be there with his family -- hoping to ski.

[If you have an opportunity, he would like to wish you Merry Christmas over the phone. And wish you the best in the future.]

*Mr. Bucher
said there are
problems —
said not to call him back —
just let it ride*



Friday 12/17/76

9:45 Called Bill Nichols and he said they have not seen anything of the proposed proclamation.

Suggested either the speechwriters might have it or Marsh's shop.

I find it is in the Domestic Council's shop and that Allen Moore has been working on it. Apparently Ed Schmults knows the background.

Mr. Moore says there is a law which requires that the President grant Federal recognition for events of this type and this decision, like any decision, has gone through the White House staffing process and it is expected that the issue will go to the President in the next day or two. (I mentioned to him that Mr. Morin said General Doolittle had been talking with the President about it, and it was the understanding that the President would be acting on it before leaving for Vail.)

Mr. Moore said he wasn't too sure that Gen. Doolittle had indeed talked with the President -- but he did know that it was his intention to do so. That was the word yesterday from some of the other principals involved in this.

Mr. Moore said I could tell Mr. Morin that the matter is in the White House and the decision is expected to go to the President before he goes to Vail. We don't know what the President will decide and he said the issue is a little complicated.

He said you should know that Ed Schmults' position -- which is noted as the Counsel's position -- is for withholding recognition. It would be a statement of support of the group and the idea but a few more things need to be in place before formal recognition can be granted (((for our information))).

[Apparently Mr. Schmults has a copy of the package -- there was one informal memo to him from Moore and the formal one went out Wednesday.

(more)
He will be glad to talk with you if you have any questions or will talk with Volney Morin.

DO YOU WANT ME TO CALL VOLNEY AND SAY THAT IT IS EXPECTED TO GO TO THE PRESIDENT FOR HIS CONSIDERATION BEFORE HE LEAVES FOR VAIL?

